

GAHC010020672023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/588/2023

KHODEJA KHATUN
D/O GOLAM HUSSEN @ GOLAM BHUYAN @ GOLAM HUSSEN BHUYAN,
W/O MOYNAL HOQUE,
PERMANENT RESIDENT OF VILL.- KADAMTALA NONKE,
P.S.- ALOPATI CHAR,
DIST.- BARPETA, ASSAM.
PRESENTLY RESIDING AT VILL.- BELTOLA NALDOBA,
P.S.- MORNIOI, DIST.- GOLAPARA, ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWAN, NEW DELHI- 110001.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI- 781006.

3:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001.

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA

G.S. ROAD
BHANGAGARH
GUWAHATI
ASSAM
PIN- 781005.

5:THE DEPUTY COMMISSIONER
GOALPARA
P.O.- GOALPARA

P.S.- GOALPARA

DIST.- GOLAPARA
ASSAM
PIN- 783101.

6:THE SUPERINTENDENT OF POLICE (BORDER)
GOALPARA

P.O.- GOALPARA

P.S.- GOALPARA

DIST.- GOALPARA
ASSAM
PIN- 783101.

7:THE OFFICER-IN-CHARGE OF MORMOI POLICE STATION
P.O.- GOLAPARA

DIST.- GOALPARA
ASSAM
PIN- 783101

Advocate for the Petitioner : MS. D GHOSH

Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

JUDGMENT & ORDER (ORAL)

Date : 22-02-2023

(AM Bujor Barua, J)

Heard Ms. H Betala, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Mr. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, the Superintendent of Police (B) Goalpara as well as the Officer-in-Charge Mornoi Police Station and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Goalpara.

2. The petitioner, namely, Khodeja Khatun was referred to the Foreigners Tribunal No.8 Goalpara for an opinion as to whether she is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971 resulting in the registration of F.T.(8) Case No.1257/2019 which earlier was registered as F.T.Case No.470/2010.

3. By the order dated 16.11.2022 of the Foreigners Tribunal No.8 Goalpara, an opinion was rendered that the petitioner is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971.

4. Being aggrieved this writ petition is instituted.

5. Before the Tribunal, the petitioner exhibited the voters list of 1966 of

village Saorachara Reserve, P.S.Baghbar which contains the name of Abdul Rashid son of Sheetal at Sl. No.47, Suraton Nessa wife of Abdul Rashid at Sl.No.48 and A Majid Bhuyan, son of Sheetal at Sl.No.49.

6. The petitioner also exhibited the voters list of 1997 of village Saorachara Reserve, P.S.Baghbar wherein at Sl.No.932 the name of A Rashid Bhuyan son of Sheetal appears, at Sl.No.933 the name of Suraton Nessa wife of Rashid appears and at Sl.No.936 the name of Golam Hussain son of Rashid appears. The petitioner claims that Golam Hussain son of Rashid of 1997 voters list is her father. To substantiate her claim, the petitioner relies upon a transfer/leaving certificate issued by the Shawrachara Mazar Gaon Nabajagoran Girls' M.E. Madrassa under the signature of Headmaster of the school which was exhibited as Exhibit 'J', wherein the information contained is that Khodeja Khatun is the daughter of Golam Hussain Bhuyan of village Shawrachara Reserve PO: Chikni, PS Kalgachia, in the Barpeta district and the mother of the petitioner is shown as Jelaton Nessa.

7. The petitioner also examined Osman Goni Bhuyan, the Headmaster of Shawrachara Mazar Gaon Nabajagoran Girls' M.E. Madrassa as DW-4. The Headmaster deposed before the Tribunal that the petitioner Khodeja Khatoon is the daughter of Gulam Hussain Bhuyan and Jelaton Nesa of Shawrachara Reserve, P.O. Chikoni, P.S. Kalgachia in the Barpeta district and that she studied up to 6th Standard and left the Madrassa on 31.12.1997 and was promoted to 7th Standard. The Headmaster as a witness also produced the admission register of the school to substantiate the information contained in the school

certificate that was issued to the petitioner which was exhibited as Exhibit 'J' before the Tribunal.

8. The law regarding the evidentiary value of a school certificate and the procedure to be adopted for projecting such certificate has been laid down by this Court in WP(C)No.3056/2018 vide judgment and order dated 03.01.2019.

9. Accordingly, in view of the evidence of DW-4, Osman Goni Bhuyan, the Headmaster of Shawrachara Mazar Gaon Nabajagoran Girls' M.E. Madrassa as well as the school certificate that had been exhibited and further taking note of the admission register and original documents that had been placed before the Tribunal, we are satisfied that the information contained in the school certificate, exhibited as Exhibit 'J' can be taken into consideration for establishing the fact that the petitioner intends to establish by exhibiting such school certificate.

10. The information contained in the school certificate shows that the petitioner Khodeja Khatun is the daughter of Gulam Hussain Bhuyan and Jelaton Nesa of Shawrachara Reserve, P.O. Chikoni, P.S. Kolgachia in the Barpeta district. We also take note of the voters list of 1997 of village Saorachara Reserve, P.S. Baghbar wherein at Sl.No.932 the name of A Rashid Bhuyan son of Sheetal appears, at Sl.No.933 the name of Suraton Nessa wife of Rashid appears and at Sl.No.936 the name of Golam Hussain son of Rashid appears. The information contained in the voters list of 1997 is consistent with the information contained in the transfer/leaving certificate exhibited by the petitioner as Exhibit 'J' that Jelaton Nessa is the wife of Golam Hussain Bhuyan

where in the certificate it is shown that Khodeja Khatun is the daughter of Gulam Hussain Bhuyan and Jelaton Nesa of Shawrachara Reserve, P.O. Chikoni, P.S. Kolgachia in the Barpeta district. Further the voters list of 1966 of village Shawrachara Reserve, the name of A.Majid Bhuyan, son of Sheetal appears at Sl.No.49. A Mazid Bhuyan being the son of Sheetal and Abdul Rashid son of Sheetal both appearing in the voters list of 1966 of village Shawrachara Reserve also gives an indication that Abdul Rashid son of Sheetal of village Shawrachara Reserve and Abdul Rashid Bhuyan also of the village Shawrachara Reserve are one and the same person. The aforesaid materials on record is clinching enough to arrive at a satisfaction that the petitioner Khodeja Khatun is the daughter of Golam Hussain and Jelaton Nesa of Shawrachara Reserve, P.O. Chikoni, P.S. Kolgachia in the Barpeta district, where Golam Hussain Bhuyan is the son of Abdul Rashid Bhuyan and where in the voters list of 1997 at Sl. No. 932 the name of A Rashid Bhuyan son of Sheetal appears and the name of Abdul Rashid son of Sheetal also finds place in the voters list of 1966 of the same Shawrachara Reserve, P.O. Chikoni, P.S. Kolgachia in the Barpeta district. In view of the aforesaid materials clinching the issue in favour of the petitioner, the petitioner deserves a declaration that she is a citizen of India and it is declared accordingly.

11. Consequently, all such legal rights that may accrue to the petitioner Khodeja Khatun upon such declaration that she is a citizen of India be made available to her.

12. Writ petition, accordingly, stands allowed.

JUDGE

JUDGE

Comparing Assistant