

GAHC010023782016



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

Case No. : WP(C)/5132/2016

AJUFA KHATUN @ UJUFA KHATUN
W/O. KADDUS ALI, D/O. LT. AJAHAR ALI @ AJAHAR, VILL. BANGLAPARA,
MOUZA- RAMDIA, P.O. BHELKARBAZAR, P.S. HAJO, DIST. KAMRUP M,
ASSAM.

VERSUS

THE UNION OF INDIA and 4 ORS
REP. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI.

Advocate for the Petitioner : MR.H R A CHOUDHURY

Advocate for the Respondent : GA, ASSAM R-2-5

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

JUDGMENT

Date : 17-05-2023

(AM Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 being the Union of India, Mr. G. Sarma, learned counsel for the Home Department of Government of Assam being the respondent No.2, 4 & 5 and Ms. U. Das, learned Advocate for the respondent No.3 being the Deputy Commissioner, Kamrup.

2. The petitioner, namely, Ajufa Khatun @ Ujufa Khatun was referred to the Foreigners' Tribunal No.4, Kamrup at Hajo for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971, resulting in registration of Case No.H.FT. (D) Case No.325/2015 (new). The Tribunal rendered an opinion dated 08.08.2016, declaring the petitioner to be a foreigner. Being aggrieved this Writ Petition being instituted.

3. In the Writ Court, the petitioner relies on the Voters List of 1966 of village Bangalpara under Police Station Hajo in the Kamrup District, which contains the name of Ajahar Ali, son of Jabbar at Sl. No.187 and that of Tasikan Nessa, wife of Ajahar at Sl. No.188 and both are shown to be residing in the same House No.48. The petitioner also relies upon the Voters List of 1997 of village Bangalpara, which contains the names of Tosiron Nessa wife of Ajahar Ali at Sl. No.40 and that of Nur Islam son of Ajahar Ali at Sl. No.43, where both are shown to be residing in the same House No.13. It is claimed that Ajahar Ali is the father of the petitioner and Tosiron Nessa is the mother, where Nur Islam is his brother. Petitioner intends to examine Nur Islam as a witness in the proceeding to render evidence that the petitioner Ajufa Khatun is the daughter of Ajahar Ali of village Bangalpara.

4. In view of the above, the matter is remanded back to the Tribunal, to enable the petitioner to examine Nur Islam son of Ajahar Ali of the Voters List of 1997 of village Bangalpara. The respondents in the Home Department may cross-examine the same witness and may also make document verification and thereafter submit a report before the Tribunal. Upon the needful being done, the reasoned order be passed by the Tribunal. The petitioner may bring any further materials, if so advised.

5. The petitioner to appear before the Tribunal on 01.07.2023. In the event, the reasoned order is in favour of the petitioner, the same would prevail over the order dated 08.08.2016, passed in case No. H.FT. (D) Case No.325/2015 (new) and if it is against her, the

consequence under the law may follow.

6. Till the reasoned order is passed, no coercive action be taken against the petitioner.
7. The petition stands allowed as indicated above. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant