

GAHC010028572017



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

Case No. : WP(C)/3837/2017

1. ANOWARA KHATUN
W/O. SAHAD ALI @ SAHAD, R/O. VILL. GOBINDAPUR, P.S. and DIST.
GOALPARA, ASSAM.

VERSUS

1. THE UNION OF INDIA and 4 ORS.
REP. BY THE SECERETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, TILOK MARG, NEW DELHI.

2:THE STATE OF ASSAM
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM
HOME AFFAIRS DEPTT.
DISPUR
GUWAHATI-6.

3:THE DY. COMMISSIONER
GOALPARA

4:THE SUPERINTENDENT OF POLICE B GOALPARA
P.O. GOALPARA
DIST. GOALPARA ASSAM.

5:THE OFFICER-IN-CHARGE
GOALPARA POLICE STATION
DIST. GOALPARA
ASSAM

Advocate for the Petitioner : MR. B BANERJEE

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

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

JUDGMENT

Date : 15-03-2023

(AM Bujor Barua, J)

Heard Mr. J. Laskar, learned counsel for the petitioner. Also heard Mr. S. Baruah, learned counsel for the respondent No.1 being the Union of India, Mr. G. Sarma, learned standing Counsel for respondents No. 2, 4 and 5 and Ms. K. Phukan, learned Government Advocate for the respondent No.3 being the Deputy Commissioner, Goalpara.

2. The petitioner, namely, Anowara Khatun on being referred to the Foreigners' Tribunal No.1, Goalpara for rendering an opinion as to whether she is a person who had entered in the State of Assam from the specified territory on or after 25.03.1971, resulting in the registration of F.T. Case No.7118/G/2016.

3. On 21.04.2017, the Foreigners' Tribunal No.1, Goalpara rendered an opinion in F.T. Case No.7118/G/2016, which was against her and being aggrieved by the said opinion, this Writ Petition was instituted by the petitioner.

4. In the Writ Proceeding, the petitioner relied upon the Voters List of 1970 of Village Hasilabil, under Goalpara Police Station in Goalpara District, which contains the name of Abdul Khaleque, Son of Sultan Miya at Sl. No.141 and claims him to be her father. To substantiate the same, the petitioner also relied upon the School Certificate issued by the Head Teacher of Karbala Sarkari Nimna Buniyadi Bidyalay which contains the information that Abdul Khaleque, resident of Hasilabil Village is the father of Anowara Khatun but it is stated that the Head Teacher of the School had not been examined.

5. The procedure to be adopted to rely upon a school certificate had been laid down in the judgment of this Court passed on 03.01.2019, in Writ Petition (C) No.3056/2018 (Smti. Anima Das vs. Union of India and 5 others).

6. As the Head Teacher has not been examined, the petitioner is required to re-appear before the Tribunal, to adduce necessary evidence of the Head Teacher who shall depose by producing the original School Record. Furthermore, the petitioner is also given the liberty to produce any other relevant materials, available with her before the Tribunal, to establish her citizenship.

7. The petitioner to appear before the Tribunal on 18.04.2023. In the event, a reasoned order is passed in favour of the petitioner, the same would prevail over the order dated 21.04.2017, passed by the Foreigners' Tribunal No.1, Goalpara in F.T. Case No.7118/G/2016 and if it is against her, the implications under the law may follow.

8. Till the reasoned order is passed no coercive action be taken against the petitioner.

9. The petition stands allowed as indicated above.

10. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant