

GAHC010028862018



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

Case No. : WP(C)/946/2018

LALITA ARJYA @ KHUKI BALA ARJYA
W/O LT. MANINDRA ARJYA @ MANINDRA CHANDRA ARJYA
R/O VILL- JAKHILIBIL PATHAR (UTTAR ATHIYABARI)
P.S. GOBARDHANA
DIST. BAKSA, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE HOME SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA,
NORTH BLOCK,
CENTRAL SECRETARIAT,
NEW DELHI- 110001.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

HOME DEPARTMENT
ASSAM SECRETARIAT

DISPUR
GUWAHATI - 781006.

3:THE ADDL. DIRECTOR GENERAL OF POLICE (BORDER)
ASSAM
ASSAM POLICE BORDER ORGANISATION
SRIMANTAPUR

GUWAHATI - 781032

4:THE DEPUTY COMMISSIONER

BARPETA DISTRICT

P.O.
P.S. AND DIST. BARPETA
ASSAM
PIN - 781301.

5:THE SUPERINTENDENT OF POLICE (BORDER)
BARPETA ASSAM POLICE BORDER ORGANISATION
BARPETA
P.O. AND P.S. BARPETA

DIST. BARPETA
ASSAM - 781301

6:THE STATE CO-ORDINATOR

NATIONAL REGISTER OF CITIZENS
ASSAM
DISPUR
GUWAHATI - 781006.

7:THE ELECTION COMMISSION OF INDIA

NEW DELHI
PIN - 110001

Advocate for the Petitioner : MR. A GOYAL

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE NELSON SAILO

O R D E R

13.06.2023

(A.M. Bujor Barua, J)

Heard Mr. A Goyal, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as

well as for the authorities in the NRC, Ms. A Verma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India and Mr. NK Das, learned counsel for the Deputy Commissioner, Barpeta.

2. The petitioner Lalita Arjya @ Khuki Bala Arjya had been referred to the Foreigners Tribunal No. 9, Barpeta for rendering an opinion as to whether she is a foreigner within the meaning of foreigner under the Foreigners Act, 1946, resulting in registration of FT Case No. 64/2017, wherein an opinion dated 10.01.2018 was rendered declaring the petitioner to be a foreigner. Being aggrieved, this writ petition is instituted.

3. At the outset, it is stated that the proceeding as well as the notices were issued in the name of Lalita Arjya wife of Manindra Arjya of village Athiyabari. The petitioner upon receiving notice, entered appearance before the Tribunal and took the stand that she is actually Khuki Bala Arjya, wife of Manindra Arjya and that Lalita Arjya and Khuki Bala Arjya are in fact the same person. To prove her citizenship, the petitioner relies on the voters list of 1966 of village Pachim Balikuri (Nonke) under Baghbar police station in the Kamrup district, which contains the name of Khukibala Arjya wife of Manindra at serial No. 71 and that of Manindra Arjya son of jaldhar at serial No. 70. It is claimed that Khuki Bala Arjya of the 1966 voters list is the petitioner herself.

4. An issue is raised as to whether Khuki Bala Arjya and Lalita Arjya of village Athiyabari are one and the same person, and if yes, whether she is Khuki Bala Arjya of village Pachim Balikuri (Nonke) of the 1966 voters list inasmuch as, the present address would be that of Athiyabari.

5. In view of the above, we direct the petitioner to appear before the

Tribunal, render appropriate evidence to firstly show that Lalita Arjya and Khuki Bala Arjya both wife of Manindra Arjya are one and the same person and secondly, Khuki Bala Arjya of village Pachim Balikuri (Nonke) of the 1966 voters list and the proceedee petitioner Lalita Arjya of village Athiyabari are one and the same person i.e. whether Khuki Bala Arjya of village Pachim Balikuri (Nonke) had later on moved to village Athiyabari, so that notices were served upon Lalita Arjya or Khuki Bala Arjya of village Athiyabari. The petitioner to specifically prove the stand she has taken in paragraph 9 of her evidence in affidavit. The respondents in the Home Department, Government of Assam shall also make their own verification as required by law. Upon doing the needful, the Tribunal shall pass a reasoned order thereon.

6. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 10.01.2018 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioners shall appear before the concerned Foreigners Tribunal on 17.07.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

9. Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant