

GAHC010028882020



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

Case No. : WP(C)/894/2020

AIMONA KHATUN
D/O- LATE INTAZ ALI, W/O- KITAB ALI, R/O- VILL- SUNDARPARA PART-II,
P.S- FAKIRGANJ (EARLIER SOUTH SALMARA), DIST- DHUBRI, ASSAM,
PRESENT ADDRESS VILL- EKLASALBARI, P.S- LAKHIPUR, DIST-
GOALPARA, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE MIN OF HOME AFFAIRS, GOVT OF
INDIA, SHASTRI BHAWAN, TILOK MARG, NEW DELHI- 01

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE HOME DEPTT
DISPUR
GUWAHATI- 06

3:THE DEPUTY COMMISSIONER
DHUBRI
ASSAM
PIN- 781301

4:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
ASSAM
PIN- 781301

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI- 01

6:THE STATE COORDINATOR
NRC

ASSAM
BHANGAGARH
GUWAHATI- 0

Advocate for the Petitioner : MR. A R SIKDAR
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

07.06.2023

(A.M. Bujor Barua, J)

Heard Mr. AR Sikdar, 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, Mr. G Sarma, 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 Ms. U Das, learned counsel for the Deputy Commissioner, Dhubri.

2. The petitioner Aimana Khatun had been referred to the Foreigners Tribunal No. 10, Dhubri for rendering an opinion as to whether she is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of Case No. FT-10/FKJ/884/2018, wherein an opinion dated 06.08.2019 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies on the voters list of 1966 of village Balatari, which contains the name of Intaz Ali Sk son of Tomez at serial No. 219 and that of Ali Hussien Sk son of Intaz at serial No. 220 and both of them are shown to be residing in the same house No. 102. The names of Intaz

Ali Sk and Ali Hussen also appear in the voters list of 1970 of village Balatari. In the voters list of 1979, the names of Ali Hussen son of Intach Ali and Hikmot Ali son of Intach Ali appear at serial No. 185 and 186 respectively where both of them are shown to be residing in the same House No. 58.

4. Hikmat Ali of the 1979 voters list had rendered evidence before the Tribunal as DW-2 stating that the petitioner Aimana Khatun is his sister as well as daughter of Intaz Ali of the 1966 and 1970 voters list of village Balatari.

5. In view of the above, we remand the matter back to the Tribunal to examine the voters list of 1966, 1970 and 1979 of village Balatari as well as the evidence rendered by DW-2 Hikmat Ali. The respondents in the Home Department may also make their own verification as to whether and thereafter submit a report before the Tribunal. 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 06.08.2019 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioner shall appear before the concerned Foreigners Tribunal on 13.07.2023. 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