

GAHC010032692018



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

Case No. : WP(C)/1182/2018

ASHA BEGUM @ AYESHA KHATUN
W/O NURUL ALI @ NURUL ISLAM
R/O VILL- BARBALA
P.O. BHANGNAMARI- 781126,
P.S. SIALMARI
DIST. NALBARI, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS, SHASTRI BHAWAN,
TILAK MARG, NEW DELHI-1.

2:THE ELECTION COMMISSIONER OF INDIA
GOVT. OF INDIA
NEW DELHI.

3:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF HOME
DISPUR
GUWAHATI-6.

4:THE ASSAM COORDINATORS OF NRC
BHANGAGARH
GUWAHATI-5.

5:THE SUPERINTENDENT OF POLICE
NALBARI (B)
NALBARI
ASSAM

PIN - 781335.

6:THE DEPUTY COMMISSIONER
NALBARI
P.O. AND DIST. NALBARI
ASSAM
PIN - 781335

Advocate for the Petitioner : MR R DHAR

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

28.02.2023

(A.M. Bujor Barua, J)

Heard Mr. R Dhar, learned counsel for the petitioner, Ms. L Devi, learned counsel for the respondents in the Union of India as well as for the NRC, Ms. A Verma, learned counsel for the respondents in the Home Department of the Government of Assam, Mr. AI Ali, learned counsel for the respondents in the Election Commission of India and Mr. TR Gogoi, learned counsel for the Deputy Commissioner, Nalbari.

2. The petitioner Musstt. Asha Begum @ Ayesha Khatun was referred to the Foreigners Tribunal No. 3, Nalbari for rendering an opinion as to whether she is a person who entered the State of Assam subsequent to 25.03.1971 resulting in registration of FT (Nal)-3 Case No. 225/2017 corresponding to IM(D)T Case No. 2939/2004. The Tribunal by its opinion dated 29.11.2017 had rendered an opinion against the petitioner. Being aggrieved, this writ petition is instituted.

3. Before the Tribunal, the petitioner took the stand that she is the daughter

of Jeher son of Sobhan whose name appears in the voters list of 1970 of village Pazarbhanga, Mauza Nagaon, sub division Barpeta. To substantiate her claim, Johor son of Sobhan also deposed before the Tribunal as DW-3. In cross-examination, DW-3 Jeher Ali, son of Sobhan of village Pazarbhanga, police station Barpeta stated that the petitioner Ayesha Khatun is his eldest daughter and that she was born at Pazarbhanga and was married to Nurul Islam.

4. The said evidence rendered by the petitioner through her father was discarded by the Tribunal by noticing certain discrepancies in some other evidences that may have been produced before the Tribunal.

5. As the evidence rendered by Jeher Ali son of Sobhan had not been appropriately appreciated by the Tribunal, we remand the matter back for its re-appreciation and thereupon to pass a reasoned order. If the petitioner is advised, further materials may be produced before the Tribunal which may indicate that she is the daughter of Jeher Ali son of Sobhan of village Pazarbhanga.

6. If the reasoned order to be passed by the Tribunal is in favour of the petitioner, the same shall prevail over the earlier opinion dated 29.11.2017 in FT (Nal)-3 Case No. 225/2017. And if the reasoned order is against the petitioner, the consequence as per law shall follow.

7. The petitioner shall appear before the Foreigners Tribunal No. 3, Nalbari on 03.04.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. We are remanding the matter back on the limited question for appreciating the evidence rendered by DW-3 Jeher Ali son of Sobhan.

The writ petition is allowed to the extent as indicated above.

Send back the LCR forthwith.

JUDGE

JUDGE

Comparing Assistant