

GAHC010035902017



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

Case No. : WP(C)/5076/2017

RAHIMA BEGUM
D/O LT.MANI SHEIKH W/O SULTAN ALI VILL- SARIHTALI P.S. and DIST.
NALBARI, ASSAM

VERSUS

THE UNION OF INDIA and 3 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, TILOK MARG, NEW DELHI.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI - 781006.

3:THE SUPERINTENDENT OF POLICE B
NALBARI
P.O.NALBARI
DIST. NALBARI
ASSAM

4:THE DEPUTY COMMISSIONER
NALBARI
P.O. and DIST. NALBARI
ASSA

Advocate for the Petitioner : MR.M H TALUKDAR

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

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

ORDER

Date : 27-03-2023

(A.M. Bujor Barua, J)

Heard Mr. AR Sikdar, 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 appearing for the Home Department of Government Assam for the respondent No.2 & 3 and Ms. K. Phukan, learned Advocate for the respondent No.4 being the Deputy Commissioner, Nalbari.

2. The petitioner, namely, Rahima Begum has been referred to the Foreigners' Tribunal No.1, Nalbari 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 F.T. (Nal) Case (N) No.224/2011. The Tribunal rendered an opinion on 26.04.2017 declaring the petitioner to be a foreigner. Being aggrieved this Writ Petition being instituted.

3. The petitioner before the Writ Court relies on the Voters List of 1965 of Village Kahimpur, Police Station Nalbari, Mouza Natun Dehar of Nalbari District, containing the name of Md. Mani Sheikh, son of Hamed Ali at Sl. No.69. The petitioner also relies upon a marriage certificate issued by the East Barpeta District Emarat-E-Shariah and Naduatut Tameer, which contains the information that Tahima Begum is the Daughter of Mani Sekh, who is a resident of Village Kachimpur in Nalbari District.

4. The matter stands remanded back to the enable the petitioner to produce any evidence from any authorized person of the East Barpeta District Emarat-E-Shariah and Naduatut Tameer along with the contemporaneous original records of the period when the marriage had taken place and to place it before the Tribunal from the contents of such record that the petitioner is the daughter of Mani Sekh who is the resident of Kachimpur. Upon such material being produced, the Tribunal to examine the same and to pass a reasoned order thereon.

5. The petitioner to appear before the Tribunal on 04.05.2023. In the event, a reasoned order is passed in favour of the petitioner, the same would prevail over the order dated 26.04.2017, passed in F.T. (Nal) Case (N) No.224/2011 and if it is against her, the implications 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