

GAHC010038192019



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

Case No. : WP(C)/1855/2019

KULSUM BIBI
D/O MOMRUJ SHEIKH, W/O. LT. ANSAR ALI, R/O. VILL- LAKHOPARA, P.S.
MISSAMARI, DIST. SONITPUR, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS.
THROUGH- THE MINISTRY OF HOME AFFAIRS GRIHA MANTRALAYA,
NEW DELHI

2:THE STATE OF ASSAM
THROUGH- THE SECRETARY
TO THE GOVT. OF ASSAM
HOME DEPTT. DISPUR
GUWAHATI- 6

3:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN ASOKA ROAD
NEW DELHI-110001

4:THE STATE CO-ORDINATOR
NATIONAL REGISTRATION OF CITIZEN
ASSAM
BHANGAGARH
GUWAHATI-781005

5:THE DEPUTY COMMISSIONER
SONITPUR
P.O. TEZPUR
DIST.- SONITPUR
ASSAM
PIN-784001

6:THE SUPERINTENDENT OF POLICE (BORDER)
SONITPUR
P.O. TEZPUR
DIST.- SONITPUR
ASSAM
PIN-78400

Advocate for the Petitioner : MD. I HUSSAIN

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

03.05.2023

(A.M. Bujor Barua, J)

Heard Mr. I Hussain, 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, Sonitpur at Tezpur.

2. The petitioner Kulsum Bibi had been referred to the Foreigners Tribunal No. 8, Sonitpur at Tezpur 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 FT(8) Case No. 2058/2017, wherein an opinion dated 24.07.2018 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 1965 of

village Lakhopara, Mouza Missamari in Tezpur (Sadar) sub Division of Sonitpur district, which contains the name of Mamruj Ali son of Abdul at serial No. 94. The petitioner also relies upon a Jamabandi of a surveyed village Lakhopara wherein reference is made of an order dated 27.12.2018 of the Circle Officer, by which a land which earlier stood in the name of Mamruz Ali of Lakhopara village had been mutated in the name of Kulsum Bibi by stating her to be a daughter of Mamruz Ali.

4. The aforesaid material may prima-facie indicate that the petitioner had discharged the burden under section 9 of the Foreigners Act, 1946 that she is a citizen of India.

5. In view of the above, the matter is remanded back to the Tribunal to examine the voters list of 1965 of village Lakhopara, Mouza Missamari, Tezpur (Sadar) sub division in the Sonitpur district, which contains the name of Mamruj Ali son of Abdul at serial No. 94 as well as to examine the order of the Circle Officer dated 27.12.2018 by which the land at village Lakhopara had been mutated amongst others in favour of Kulsum Bibi in place of Mamruz Ali. The State authorities through the Home Department may also make their verification as to whether the information contained in the aforesaid two documents are correct and also whether Kulsum Bibi referred in the order of the Circle Officer dated 27.12.2018 and the petitioner proceedee Kulsum Bibi are one and the same person. Upon doing the needful, the Tribunal may pass its reasoned order.

6. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 24.07.2018 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioner shall appear before the Foreigners Tribunal No. 8, Sonitpur

on 15.06.2023. 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