

GAHC010039352018



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

Case No. : WP(C)/1259/2018

REJIA KHATUN @ REJIA BEGUM
W/O- MD. ABBAS ALI, D/O- MD. SOHRAB ALI, D/O- MD. SOHRAB ALI, R/O-
CHAULIABARI, P.O- SARUPETA, P.S- PATACHARKUCHI, DIST- BARPETA,
PIN- 781301, ASSAM

VERSUS

UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME AFFAIRS
(CENTRAL SECRETARIAT), P.O- NEW DELHI, PIN- 110001

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT.
ASSAM SACHIVALAYA
DISPUR
P.O- GUWAHATI
PIN- 781006

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

4:THE OFFICE OF THE STATE CO-ORDINATOR OF NRC
ASSAM
1ST FLOOR
ACHYUT PLAZA
G S ROAD
BHANGAGARH
GUWAHATI- 781005
DIST- KAMRUP(M)

ASSAM

5:THE DEPUTY COMMISSIONER
BARPETA DISTRICT
ASSAM
PIN- 781301

6:THE SUPERINTENDENT OF POLICE (B)
BARPETA DISTRICT
ASSAM
PIN- 78130

Advocate for the Petitioner : MR. A R SHOME

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

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

ORDER

24.03.2023

(AM Bujor Barua, J)

Heard Mr. AR Shome, learned counsel for the petitioner. Also heard Ms. B Sarma, learned CGC for the respondents in the Union of India, Ms. L Devi, learned counsel for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Mr. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, as well as the Superintendent of Police (B) Barpeta, and Ms. M Dutta, learned Government Advocate for the Deputy Commissioner, Barpeta.

2. The petitioner, Rejia Khatun@Rejia Begum, was referred to the Foreigners

Tribunal 10th Barpeta, for rendering an opinion as to whether she is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T. Case No.55/2016 wherein an opinion dated 04.10.2017 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. The petitioner relies upon the voters list of 1965 of village Chauliabari Mouza Hastinapur PS Patacharkuchi in the Kamrup district which contains the name of Husen Ali Mia, son of Kassimuddin at Sl.No.534 and that of Khayran Nesa, son of Husen Ali at Sl.No.535, where both of them are shown to be residing in the House No.151. The petitioner relies upon the voters list of 1997 of village Chauliabari Mouza Hastinapur PS Patacharkuchi in the Barpeta district which contains the name of Shorab Ali son of Husen at Sl.No.347 and that of Moymana Khatun wife of Shorab Ali at Sl.No.348.

5. The petitioner relies upon the Kabinama issued by the Assam State Jamiat Ulama & Emarat-E-Shariah which contains the information that the petitioner Rejia Khatun is the daughter of Sohrab Ali of village Chauliabari to establish that she is the daughter of Sohrab Ali. If the information contained in the voters list of 1965 and 1997 of village Chauliabari is correct and the petitioner through the Kabinama establishes that she is the daughter of Sohrab Ali of village Chauliabari, the petitioner may have made out that she is a citizen of India. But, however, a further investigation would be required as to whether the voters list

from 1965 up to 1997 of village Chauliabari which may also contain the name of Khayran Nesa wife of Husen Ali and Shorab Ali son of Husen together in the same voters list.

6. Accordingly, the petitioner shall appear before the Tribunal on 02.05.2023.
7. The Tribunal to also examine the authenticity of the Kabinama issued by the Assam State Jamiat Ulama & Emarat-E-Shariah. The Superintendent of Police (B) Barpeta may do the necessary verification of the aforesaid materials through the State Machinery to arrive at its own satisfaction on the aforesaid documents.
8. The Tribunal after examining the evidences and materials shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 04.10.2017 of the Foreigners Tribunal 10th Barpeta in F.T. Case No.55/2016 and if it is against the petitioner, consequential action under the law shall follow.
9. Till the reasoned order is passed, no coercive action be taken against the petitioner.
10. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant