

GAHC010039812018



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

Case No. : WP(C)/1257/2018

MONOWARA BEGUM
W/O- MOHOR ALI, D/O- LATE ABDUL HAKIM@ ABDUL HEKIM, R/O- VILL-
MIKIRATI HOW GAON, P.O- DOBOKA, P.S- DOBOKA, DIST- HOJAI, ASSAM,
PIN- 782440

VERSUS

THE UNION OF INDIA AND 10 ORS.
REP. BY THE MIN OF HOME AFFAIRS, GOVT OF INDIA, NEW DELHI- 01

2:THE STATE OF ASSAM
REP. BY CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GHY- 06

3:THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT.
DISPUR
GHY- 06

4:THE STATE CO-ORDINATOR
NRC
ASSAM
BHANGAGARH
GHY- 05

5:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI- 05

6:THE SUPERINTENDENT OF POLICE(B)

HOJAI
DIST- HOJAI
ASSAM
PIN- 782440

7:THE DEPUTY COMMISSIONER
HOJAI
DIST- HOJAI
ASSAM
PIN- 782440

8:THE SUPERINTENDENT OF POLICE(B)
HOJAI
DIST- HOJAI
ASSAM
PIN- 782440

9:THE DEPUTY COMMISSIONER
HOJAI
DIST- HOJAI
ASSAM
PIN- 782440

10:THE OFFICER-IN-CHARGE
DOBOKA POLICE STATION
DIST- HOJAI
ASSAM
PIN- 782440

11:THE ELECTORAL REGISTRATION OFFICER NO. 90
JAMUNAMUKH LAC
DIST- HOJAI
ASSAM
PIN- 78244

Advocate for the Petitioner : MR. M U MONDAL

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

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

ORDER

Date : 17.03.2023
(AM Bujor Barua, J)

Heard Mr. MU Mondal, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 4 being the authorities under the Union of India and NRC, Ms. A Verma, learned counsel for the respondents no. 2, 3, 5, 6, 8 and 10 being the Chief Secretary to the Government of Assam and the authorities under the Home Department, Ms. U Das, learned counsel for the respondents no. 7 and 9 being the Deputy Commissioner, Hojai and Mr. AI Ali, learned counsel for the respondent no. 11 being the authorities under the Election Commission of India.

2. The petitioner Monowara Begum had been referred to the Foreigners' Tribunal No. 10, Nagaon 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(D) Case No. 543/2015 wherein the Tribunal rendered its opinion dated 13.02.2017 holding the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. The petitioner refers to the voters' list of 1966 of village Jungle Block PS Jamunamukh in the Nagaon district which contains the name of Md. A. Hakim, S/O Rahim Uddin at Sl. No. 364. The petitioner claims that Md. A. Hakim is her father. To substantiate the claim the petitioner refers to the Kabin Nama of her marriage wherein Monowara Begum is stated to be the daughter of Abdul

Hakim of village Jungle Block of Jamunamukh Mouza. Accordingly, the petitioner claims to have established that she is the daughter of Abdul Hakim of the 1966 voters' list of village Jungle Block.

5. In the circumstance the matter stands remanded back to the Tribunal to examine the authenticity of the voters' list of 1966 of village Jungle Block as well as the Kabin Nama and upon considering the authenticity and examining the contents of two documents, to pass a reasoned order.

6. A certificate of the Gaon Burah is also referred. But it is stated that the Gaon Burah had not been examined and without examination, the certificate on its own would not have any evidentiary value. However, if the petitioner desires that the Gaon Burah may be examined. The Gaon Burah to not merely reiterate the contents of the certificate but also to depose on the source of the knowledge as regards the contents of the certificate and upon the source of the knowledge being stated, the Tribunal shall examine and verify whether the source of the knowledge so stated has any reasonable proximity with the existence of the fact that is sought to be proved by the certificate.

7. Any reasoned order be passed by the Tribunal may prevail over the opinion dated 13.02.2017 passed in FT(D) Case No. 543/2015. The petitioner to appear before the Tribunal on 21.04.2023.

8. Till such reasoned order is passed, no coercive action be taken against the petitioner in respect of the opinion dated 13.02.2017 in FT(D) Case No. 543/2015.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant