

GAHC010040902018



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

Case No. : WP(C)/1290/2018

TULABANU BEGUM
W/O. MD. AKBAR ALI, D/O. MD. ABDUL HEKIM, R/O. VILL. NARSINGBORI,
P.O. DATIALBORI, P.S. MOIRABARI, PIN-782126, DIST. MORIGAON, ASSAM.

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI

2:THE CHIEF ELECTION COMMISSIONER
ELECTION COMMISSION OF INDIA
ASHOKA ROAD
NEW DELHI-110001

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

4:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-781007

5:THE STATE COORDINATOR
OFFICE OF THE STATE COORDINATOR OF NATIONAL REGISTER OF
CITIZENS (NRC)
ASSAM
1ST FLOOR

ACHYUT PLAZA
G.S. ROAD
BHANGAGARH
GUWAHATI-781005

6:THE DEPUTY COMMISSIONER
MORIGAON
DIST. MORIGAON
ASSAM.

7:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
DIST. MORIGAON
ASSAM.

8:THE OFFICER-IN-CHARGE
MOIRABARI POLICE STATION
MORIGAON
DIST. MORIGAON
ASSAM

Advocate for the Petitioner : MR. K LAHKAR

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

31.07.2023

(A.M. Bujor Barua, J)

Heard KM Hasan, 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 respondents in the NRC, Mr. G Sarma, 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 Ms. K Phukan, learned counsel for the Deputy Commissioner, Morigaon.

2. The petitioner Musstt. Tulabanu Begum had been referred to the Foreigners Tribunal No.5, Morigaon for rendering an opinion as to whether she is a foreigner within the meaning of foreigner under the Foreigners Act, 1946, resulting in registration of Case No. FT (D) 578/2016, wherein an ex-parte opinion dated 26.05.2017 was rendered by the Tribunal declaring the petitioner to be a foreigner. Being aggrieved, this writ petition is instituted.

3. Mr. KM Hasan, learned counsel for the petitioner states that although the petitioner appeared before the Tribunal, filed written statement and had provided a list of documents to be relied upon, but none of the documents could be exhibited by the petitioner and no reason is forthcoming as to why the petitioner had not exhibited the required documents. It is also submitted that there may be some further material available with the petitioner, which may prove that she is not a foreigner.

4. In the circumstance, we do not notice any infirmity in the opinion of the Tribunal dated 26.05.2017 inasmuch as it is the petitioner on her own volition without any compelling reason had not exhibited the required documents as well as the required evidence that may prove her citizenship.

5. In view of the above, we remand the matter back to the Tribunal to enable the petitioner to produce any further material as well as exhibit any document that the petitioner may desire to rely upon.

6. However, for the laches on the part of the petitioner in not doing the needful when the proceeding was carried forward, a cost of Rs. 7,500/- is imposed on the petitioner to be deposited before the Gauhati High Court Bar Association Welfare Fund and upon showing the proof of payment to appear before the Tribunal.

7. In view of the above, the ex-parte order dated 26.05.2017 is set aside.
8. Accordingly, the petitioner shall appear before the concerned Foreigners Tribunal on 28.08.2023. Upon appearance of the petitioner, the Tribunal may pass any order on merit.
9. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant