

GAHC010043432019



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

Case No. : WP(C)/1402/2019

1. HASNA BEGUM @ HASNA BHANU
W/O JALIL ALI, D/O. LATE NALU MIA @ NALU SIKDAR, R/O. VILL. BATUA,
P.O. SARUPETA, P.S. PATACHARKUCHI, DIST.- BARPETA, ASSAM- 781318.

VERSUS

1. THE UNION OF INDIA
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI-1.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME AND POLITICAL (B) DEPTT.
DISPUR
GUWAHATI-6.

3:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI- 781007.

4:THE DEPUTY COMMISSIONER
BARPETA
P.O.
P.S. AND DIST.- BARPETA
ASSAM
PIN- 781301.

5:THE SUPERINTENDENT OF POLICE (B)
BARPETA
P.O.
P.S. AND DIST.- BARPETA

ASSAM
PIN- 781301.

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
1ST FLOOR
ACHYUT PLAZA
G.S. ROAD
BHANGAGARH
GUWAHATI-5.

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

Advocate for the Petitioner : MR. I H SAIKIA

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

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

JUDGMENT

Date : 13-03-2023

(AM Bujor Barua, J)

Heard Mr. IH Saikia, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 being the Union of India as well as respondent No.6 being the authorities under the NRC, Ms. A Verma, learned Special Standing Counsel, Foreigners' Tribunal for respondents No. 2, 3 and 5, Mr. A.I. Ali, learned counsel for the respondent No.7 being the Election Commission of India, and Ms. U. Das, learned Government Advocate for the respondent No.4 being the Deputy Commissioner, Barpeta.

2. The petitioner, namely, Hasna Begum @ Hasna Bhanu was referred to the Foreigners' Tribunal No.3, Barpeta for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971, resulting in the registration of F.T. Case No.176(III)/2007 (Ref: IMDT Case No.29/2005).

3. By the order dated 31.12.2018, in F.T. Case No.176(III)/2007 (Ref: IMDT Case No.29/2005), an opinion was rendered by the Foreigners' Tribunal No.3, Barpeta that the petitioner is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971.

4. In the Writ Proceeding, the petitioner relied upon the Voters List of 1966 of Village Bhoirarpam, under Baghbor Police Station of Mandia Mouza in Barpeta District, which contains the name of Abdul Rajjak, Son of Intaj at Sl. No.301. The petitioner also relied upon the Voters List of 1971 of the Bhairarpam Village, under Baghbar Police Station in the Barpeta District, which contains the name of Nalu Mia, Son of Abdur Rezzak at Sl. No.512. The petitioner claims that Nalu Mia of the Voters List of 1971 of village Bhairarpam is her father.

5. To substantiate her claim, that she is the daughter of Nalu Mia of Bhairarpam Village, the petitioner relies upon the zamabandi in respect of a plot of land in village Bhairarpam, where upon mutation, by deleting the name of Nalu Mia, amongst others, the name of the petitioner had been mutated. The zamabandi refers to an order dated 28.09.2018 of the Circle Officer in Mutation Case No.BAR/BAG/JB/2067/2018.

6. If the information contained in the Voters List of 1966 and Voters List of 1971 of village Bhairarpam and the zamabandi (annexed as Annexure-1, Page-21) is correct, a prima facie case may be made in favour of the petitioner to show that she is the daughter of Nalu Mia, of the Voters List of 1971 of village Bhairarpam and thereby, establish her citizenship.

7. In the circumstance, the matter is remanded back to the Foreigners Tribunal No.3, Barpeta to enable the petitioner to produce the Voters List of 1966 and Voters List of 1971 of village Bhairarpam, containing the name of Abdul Rajjak in the Voters List of 1966 and that of Nalu Mia, Son of Abdur Rezzak in the Voters List of 1971 of village Bhairarpam as well as the zamabandi, referred herein above. Further to substantiate the claim, the petitioner to also produce the copy of the order dated 28.09.2018 of the Circle Officer in Mutation Case No.BAR/BAG/JB/2067/2018, which may contain the details of the mutation.

8. The petitioner to appear before the Tribunal on 18.04.2023. In the event, a reasoned is passed in favour of the petitioner, the same would prevail over the order dated 31.12.2018, rendered in F.T. Case No.176(III)/2007, by the learned Member, Foreigners' Tribunal No.3, Barpeta and if it is against, the implications under the law may follow.

9. Till the reasoned order is passed no coercive action be taken against the petitioner.

10. The petition stands allowed as indicated above.

11. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant