

GAHC010043692023



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

Case No. : WP(C)/1173/2023

HAMIDA KHATUN
W/O AZIMUL RAHMAN @ AJIMUL
WARD NO. 7, DHUBRI (TOWN),
P.O., P.S. AND DIST. DHUBRI, ASSAM
PIN-783101

VERSUS

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

2:THE ELECTION COMMISSION OF INDIA

ASHOKA ROAD

NEW DELHI-110001.

3:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

4:THE STATE COORDINATOR

OFFICE OF THE STATE COORDINATOR
NRC ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S. ROAD

BHANGAGARH
GUWAHATI
ASSAM
PIN-781005

5:THE DEPUTY COMMISSIONER
DHUBRI

P.O. AND DIST. DHUBRI
ASSAM

PIN-783301

6:THE SUPERINTENDENT OF POLICE (BORDER)

DHUBRI
P.O. AND DIST. DHUBRI
ASSAM
PIN-783301

7:THE OFFICER-IN-CHARGE

DHUBRI POLICE STATION

P.O. AND DIST. DHUBRI
ASSAM
PIN-783101

8:THE ELECTORAL REGISTRATION OFFICER

23 NO. DHUBRI LAC
P.O. AND DIST. DHUBRI
ASSAM
PIN-78310

Advocate for the Petitioner : MR. M ISLAM

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

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

ORDER

20.03.2023

(AM Bujor Barua, J)

Heard Mr. M Islam, learned counsel for the petitioner. Also heard Ms. P Swargiary, 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, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Dhubri and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Dhubri.

2. The petitioner, Hamida Khatun, was referred to the Foreigners Tribunal No.1, Dhubri 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.3900/D/11 corresponding to Police Ref. 'D' Voter Case No.817/07 wherein an opinion dated 25.05.2022 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. In the writ proceeding, the petitioner relies upon the voters list of 1966 of Ward No.1 (107, Gauripur) in the Dhubri district containing the name of Namser, son of Janu Sheikh at Sl. No.132. The petitioner also relies upon the voters list

of 1977 which contains the name of Namser Ali, son of Janu in respect of Ward No.1, Gauripur at Sl.No.160 and Abdul Samad, son of Nomser at Sl.No.162. From the voters list of 1977, it appears that both Namser Ali and Abdul Samad are residing in the same house hold. The petitioner claims Abdul Samad of 1977 voters list to be her father.

5. The petitioner further relies upon a school certificate issued by the Headmistress of 2402 No.MR Memorial LP School, Gauripur which contains the information that Hamida Khatun is the daughter of Abdul Samad and Anowara Bibi of Ward No.1, Gauripur in the Dhubri district. The Headmistress of the school concerned has also deposed before the Tribunal in favour of the contents of the certificate on the basis of the school records. If the information contained in the school records is correct, the petitioner may have established that she is the daughter of Abdul Samad, son of Nomser of 1977 voters list in respect of Ward No.1, Gauripur and also that her father Abdul Samad is the son of Namser, son of Janu Sheikh whose name appears at Sl. No.132 of the 1966 voters list and accordingly she may have established her citizenship.

6. In view of the above, the matter stands remanded back to the Tribunal for examining as to the authenticity and acceptability of the voters list of 1966 and 1977 of Ward No.1 (107, Gauripur) in the Dhubri district as well as the school certificate and the evidence of the Headmistress of 2402 No.MR Memorial LP School, Gauripur that may have been rendered. To facilitate the process, the petitioner may also produce the complete voters list of the year 1966 up to the voters list subsequent to the year 1977 in respect of Ward No.1 (107, Gauripur) in the Dhubri district to establish her claim.

7. Accordingly, the petitioner shall appear before the Tribunal on 25.04.2023.
8. The Tribunal upon examining the aforesaid 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 25.05.2022 of the Foreigners Tribunal No.1, Dhubri in F.T. Case No.3900/D/11 corresponding to Police Ref. 'D' Voter Case No.817/07 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