

GAHC010049532018



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

Case No. : WP(C)/1525/2018

RAHIMA KHATUN
W/O KADER ALI, VILL- KAJIAMATI, PO MAINAMATI, DIST. BAKSA (BTAD),
ASSAM, PIN-781330

VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF HOME AFFAIRS, NEW DELHI-1

2:THE STATE OF ASSAM
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE DEPUTY COMMISSIONER
BAKSA
PO MUSHALPUR
DIST. BAKSA
ASSAM
PIN-781330

4:THE SUPERINTENDENT OF POLICE (B)
BAKSA
PO-MUSHALPUR
DIST. BAKSA
ASSAM
PIN-781330

5:THE ELECTION COMMISSIONER OF INDIA

NEW DELHI

6:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
BHANGAGARH
GUWAHATI-

Advocate for the Petitioner : MR. S ALI

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

07.06.2023

(AM Bujor Barua, J)

Heard Mr. S Ali, learned counsel for the petitioner. Also heard Mr. G Sarma, learned counsel for the respondents in the Home Department of Government of Assam as well as The Superintendent of Police (B), Baksa, Ms. L Devi, learned CGC appearing for the respondents in the Union of India as well as for the respondents in the NRC, Ms. U Das learned counsel appearing for the Deputy Commissioner, Baksa, and Mr. AI Ali, learned counsel for the respondents in the Election Commission of India.

2. The petitioner Abdul Rejak had been referred to the Foreigner Tribunal No. 10th Barpeta, Assam, for rendering opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971, resulting in the Registration of FT Case No. 19/2017 wherein the Tribunal rendered an opinion dated 12.12.2017 declaring the petitioner to be a foreigner.

Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters list of 1965 of village Shahpur Sorbhog P.S Barpeta, Kamrup district, which contains the name of Ajgar Ali Akanda son of Kasim at Sl. No. 80, as well as a voters' list of 1970 of village Shahpur which contains the name of Ajgar Ali Akanda son of Kasim at Sl. No. 98. Ajgar Ali Akanda son of Kasim had rendered evidence as DW-2 stating that the petitioner Rahima Khatun is his daughter and that his own name appears in the voters' list of 1965 and 1970 of village Shahpur.

4. In view of the above, the matter stands remanded back to the Tribunal to enable the Home Department, Govt. of Assam, to cross-examine DW-2 in an appropriate manner, if so advised, to extract veracity of the evidence rendered that the petitioner Rahima Khatun is the daughter of Ajgar Ali Akanda in the voters' list of 1965 and 1970 of village Shahpur.

5. The respondents in the Home Department may make further verification, if so advised, and thereupon submit the report before the Tribunal and upon doing the needful, the Tribunal shall pass a reasoned order thereon.

6. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 27.12.2018 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioner shall appear before the concerned Foreigners Tribunal on 11.07.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

9. Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant