

GAHC010052122021



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

Case No. : WP(C)/1952/2021

SAHERA KHATUN

W/O- ABDUL KALAM @ A. KALAM, @ MD. ABUL KALAM, D/O- LT. TAHER
AI @ TAHER ALI PARAMANIK, R/O- VILL- NALDOBA, P.S. ABHAYAPURI,
DIST.- BONGAIGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, TILOK MARG, NEW DELHI-1

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE SUPERINTENDENT OF POLICE (B)
BONGAIGAON
P.O. AND DIST.- BONGAIGAON
ASSAM
PIN- 781365

4:THE DY. COMMISSIONER
BONGAIGAON
P.O. AND DIST.- BONGAIGAON
ASSAM
PIN- 781365

5:THE ELECTION COMMISSIONER OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NIRVACHAN ASHOKA ROAD

NEW DELHI- 110001

6:THE NATIONAL REGISTER OF CITIZEN
REP. BY THE STATE COORDINATOR
ACHYUT PLAZA
BHANGAGARH
GHY-05
DIST.- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR N AHMED

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

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

ORDER

23.06.2023

[A.M.Bujor Barua, J.]

Heard Mr. N. Ahmed, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the NRC and Union of India; Mr. G. Sarma, learned counsel for the Foreigners' Tribunal; Mr. T. Pegu, learned counsel for the Election Commission of India; and Ms. U. Das, learned counsel for the Deputy Commissioner.

2. The petitioner Sahera Khatun had been referred to the Foreigners' Tribunal, No. 2, Bongaigaon at Abhayapuri for rendering an opinion as to whether she is a foreigner under the Foreigners' Act, 1946 resulting in registration of Case No. BNGM/FT-2/APR/CASE NO.79/2016, wherein an opinion dated 04.11.2019 had been rendered 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

1966 of village Kandulia Police Station Baghbar in the Barpeta district, which contains the name of Taher Ali, son of Mohammad Ali at serial no. 252 and that of Laljan Nessa, wife of Taher Ali at serial no. 253 and both are shown to be residing in the same house no. 82. It is claimed that Taher Ali is the father and Laljan Nessa is the mother of the petitioner and to substantiate the same the reliance is placed on the Jamabandi in respect of a plot of land at village Kandulia which shows that the name of Sahera Khatun, daughter of Late Taher Ali along with others had been mutated in place of Taher Ali son of Mohammad Paramanik.

4. A question would remain that Mohammad Ali being the father of Taher Ali in the Voters' List of 1966 and Mohammad Paramanik being the father of Taher Ali in the Jamabandi are one and the same person. The order of the Circle Officer dated 18.11.2018 also shows that the land has been mutated in favour of Sahere Khatun in place of Taher Ali in respect of a plot of land at village Kandulia.

5. In the circumstance, the matter is remanded back to the Foreigners' Tribunal, No. 2, Bongaigaon at Abhayapuri to examine the Voters' List of 1966 of village Kandulia as well as the Jamabandi relied upon by the petitioner. The respondents in the Home Department make their own verification as to whether Mohammad Ali, father of Taher Ali of the Voters' List of 1966 and Mohammad Paramanik, father of Taher Ali referred in the Jamabandi, are one and the same person as well as the petitioner Sahera Khatun and Sahera Khatun referred in the Jamabandi are one and the same person. Upon doing the needful the Tribunal may pass a reasoned order.

6. The petitioner to appear before the Tribunal on 28.07.2023.

7. Till the reasoned order is passed, no coercive action be taken

against the petitioner.

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant