

GAHC010055842023



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

Case No. : WP(C)/1677/2023

MORIOM KHATUN
D/O- MOKRAM ALI,
W/O- NOOR ISLAM,
VILL.- BOGULAMARI,
P.S. AND DIST.- DHUBRI, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS, SHASTRI BHAWAN,
TRILOK MARG, NEW DELHI- 110001.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER

NEW DELHI- 110001.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM

HOME DEPARTMENT
DISPUR

GUWAHATI- 781006.

4:THE STATE COORDINATOR OF NATIONAL REGISTER OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA

G.S. ROAD
BHANGAGARH

GUWAHATI
ASSAM. PIN- 781005.

5:THE DEPUTY COMMISSIONER OF DHUBRI DISTRICT
AT DHUBRI
P.O.
P.S. AND DIST.- DHUBRI
ASSAM.
PIN- 783301.

6:THE SUPERINTENDENT OF POLICE
DHUBRI DISTRICT
AT DHUBRI
P.O.
P.S. AND DIST.- DHUBRI
ASSAM

PIN- 783301

Advocate for the Petitioner : MR. A T SARKAR

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

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

ORDER

24.03.2023

(AM Bujor Barua, J)

Heard Mr. AT Sarkar, learned counsel for the petitioner. Also heard Ms. B Sarma, 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. M Dutta, learned Government Advocate for the Deputy Commissioner, Dhubri.

2. The petitioner, Moriom 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.4287/D/11 corresponding to Police Reference D Voter Case No.644/D/07 wherein an opinion dated 27.01.2021 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. The petitioner relies upon the voters list of 1966 of village Bogulamari Bidyapara in the Dhubri district which contains the name of Moziron Bewa wife of Bandu Sheikh at Sl.No.82 and the voters list of 1970 also of village Bagulamari, Mouza Dhubri which contains the name of Moziron Bewa wife of Bandu at Sl.No.111. The petitioner thereupon relies upon the voters list of 1989 of village Bogulamari in the Dhubri district which contains the name of Mokram Ali, son of Babdu Sk at Sl.No.738 and Moziron Bewa wife of Bandhu Sk. at Sl.No.740.

5. By linking up with Moziran Bewa of 1966 voters list and 1970 voters list of

village Bogulamari Bidyapara in the Dhubri district, it is sought to be established that Mokram Ali is a citizen of India. The petitioner thereafter relies upon a school certificate dated 12.02.2021 of the Headmaster of Bogulamari ME Madrassa which contains the information that Moriom Khatun is the daughter Mokram Ali of village Bogulamari. Mokram Ali of village Bogulamari has also rendered evidence before the Tribunal as DW-2. Further the Headmaster of the Madrassa concerned had deposed before the Tribunal by exhibiting the school admission register to authenticate the information contained in the school certificate.

6. In the circumstance, the matter stands remanded back to the Tribunal. The Tribunal may examine the voters list of 1966, 1970 as well as 1989 of village Bogulamari by which Mokram Ali seeks to establish his citizenship and also the school certificate and evidence of the Headmaster as well as the evidence of Mokram Ali that Moriom Khatun is his daughter and arrive at its own satisfaction.

7. Accordingly, the petitioner shall appear before the Tribunal on 02.05.2023.

8. The respondents in the Home Department, Government of Assam are given the liberty to produce any material and also to make any verification upon the authenticity and correctness of the voters list as well as other materials that may be produced by the petitioner.

9. The Tribunal after examining the evidences and 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 27.01.2021 of the Foreigners Tribunal No.1 Dhubri in F.T. Case No.4287/D/11 corresponding to Police Reference D Voter Case No.644/D/07 and if it is against the petitioner, consequential action under the law shall follow.

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

11. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant