

GAHC010064292022



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

Case No. : WP(C)/2398/2022

MARJINA BEGUM @ MARJINA KHATUN
W/O- SALAM ALI, D/O- MUNTAZ ALI, R/O- VILL.- JAHIRPUR, P.S.
CHHAYGAON, DIST.- KAMRUP, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, SHASTRI BHAWAN NEW DELHI-110001.

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

3:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSION
NIRVACHANSADAN
ASHOKA ROAD
NEW DELHI-110001.

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S. ROAD
BHANGAGARH
GUWAHATI
ASSAM
PIN- 781005.

5:THE FOREIGNERS TRIBUNAL NO. 2
KAMRUP
BOKO
ASSAM
DIST. KAMRUP
PIN- 781123.

6:THE DEPUTY COMMISSIONER
KAMRUP
P.O. AMINGAON
DIST. KAMRUP
ASSAM
PIN- 781031.

7:THE SUPERINTENDENT OF POLICE (BORDER)
KAMRUP
P.O. AMINGAON
DIST. KAMRUP
ASSAM
PIN- 781031.

8:THE OFFICER-IN-CHARGE OF CHHAYGAON
POLICE STATION
P.O. CHHAYGAON
DIST.- KAMRUP
ASSAM
PIN-781124

Advocate for the Petitioner : MS. D GHOSH

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

BEFORE

**HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR
HON'BLE MRS. JUSTICE MITALI THAKURIA**

11.09.2023

(Lanusungkum Jamir, J)

ORDER

Heard Mrs. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned CGC as well as the learned Standing Counsel, NRC for respondent Nos.1 and 4; Mr. J. Payeng, learned Standing Counsel, FT for respondent Nos.2, 7 and 8; Mr. A.I. Ali, learned Standing Counsel, ECI for respondent No.3 and Mr. H. K.

Hazarika, learned Government Advocate, for respondent No.6.

2. On a reference being made by the Superintendent of Police (B), Kamrup (Rural) under the Foreigners Act, 1946 on the nationality of the petitioner/proceedee, BFT Case No.4200/2016 was registered. Thereafter, the petitioner appeared before the Tribunal and submitted her written statement and also exhibited 16 documents during the proceedings before the Foreigners Tribunal No.2, Kamrup (Rural) at Boko, Assam. Amongst the Exhibits, Ext. C is the land revenue receipt for the year 1971, Ext. D is the land *Jamabandi* copy and Ext. P is the *chitha* copy.

3. On a perusal of the opinion dated 31.08.2021 passed by the Foreigners Tribunal No.2, Kamrup (Rural) at Boko in BFT Case No.4200/2016, we find that the Tribunal has failed to consider the land documents in respect of the petitioner, particularly, Ext. C, Ext. D and Ext. P.

4. Therefore, without entering into the merits, the matter is remanded to the Foreigners Tribunal No.2, Kamrup (Rural), Boko to consider the land documents of the petitioner, particularly, Ext. C, Ext. D and Ext. P and, thereafter, come to a conclusion as to whether the petitioner is an Indian national or a foreigner.

5. At this stage, learned counsel for the petitioner submits that the petitioner would like to adduce additional evidence before the Tribunal. If that is so, the petitioner may file an affidavit, which the Tribunal shall consider and, thereafter, pass appropriate order(s).

6. Accordingly, the opinion dated 31.08.2021 passed by the Foreigners Tribunal No.2, Kamrup (Rural) at Boko in BFT Case No.4200/2016 is set aside and quashed.

7. The petitioner shall appear before the Foreigners Tribunal No.2, Kamrup (Rural), Boko on 09.10.2023 and the Tribunal will proceed afresh to decide the claim of the petitioner that the petitioner is not a foreigner but a citizen of India in accordance with law.

8. The writ petition is, accordingly, disposed of.

JUDGE

JUDGE

Comparing Assistant