

GAHC010064972018



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

Case No. : WP(C)/2000/2018

CHAMARUN NESSA
D/O- FARMUJ ALI, W/O- MD. KHALILUDDIN, R/O- VILL- NAM DOBOKA
GAON, P.S- DOBOKA, DIST- HOJAI, ASSAM, PIN- 782440

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, NEW DELHI

2:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GHY- 06

3:THE DEPUTY COMMISSIONER
HOJAI
DIST- HOJAI
ASSAM
PIN- 782435

4:THE CHIEF ELECTION OFFICER
ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

5:THE OFFICE OF THE STATE COORDINATOR
OF NRC
ASSAM
REP. BY ITS COORDINATOR

1ST FLOOR ACHYUT PLAZA
BHANGAGARH
GUWAHATI
ASSAM
781005

6:THE SUPERINTENDENT OF POLICE(B)
HOJAI
DIST- HOJAI
ASSAM
PIN- 782435

7:THE OFFICER-IN-CHARGE
DOBOKA POLICE STATION
DIST- HOJAI
ASSAM
PIN- 78244

Advocate for the Petitioner : G UDDIN

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

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

ORDER

Date : 27.03.2023

(A.M. Bujor Barua, J)

Heard Mr. G. Uddin, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 5, being the Union of India and the State Co-ordinator of NRC, respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 6 and 7, being the authorities in the Home Department; Ms. K. Phukan, learned counsel for the respondents No. 3, being the Deputy Commissioner, Hojai and Mr. T. Pegu, learned counsel for the respondent No. 4, being the authority in the Election Commission of India.

2. The petitioner Chamarun Nessa was referred to the Foreigners' Tribunal at

Sankardev Nagar, Hojai for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly F.T.(D) Case No. 995/2015 was registered. The Tribunal rendered its opinion dated 26.02.2018 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village Nam Doboka Gaon, P.S. Jamunamukh in the Nagaon district wherein at Sl. No. 22 the name of Farmuj Ali son of Umed appears. To establish that the petitioner Chamarun Nessa is the daughter of Farmuj Ali, reliance is placed on the kabin nama which is already available in the LCR which shows that Chamarun Nessa is the daughter of Farmuj Ali of village Nam Doboka Gaon.

4. If the information contained in the voters' list of 1966 and that of the kabin nama is correct, a prima facie case may have been made out by the petitioner that she is the daughter of Farmuj Ali whose name appears in the voters' list of 1966 of village Nam Doboka Gaon.

5. In view of the above, we remand the matter back to the Foreigners' Tribunal at Sankardev Nagar, Hojai to examine the authenticity and acceptability of the kabin nama relied upon which is available at page 47 of the LCR and as to which authority had issued and whether the information contained therein are from the public records. The petitioner may also adduce any further evidence, if so advised. The State authorities in the Home Department through the Superintendent of Police(B), Hojai shall also make a verification on the materials produced by the petitioner as regards its authenticity. Considering the matter in its entirety, the Tribunal to pass reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier

opinion dated 26.02.2018 in F.T.(D) Case No. 995/2015 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 04.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant