

GAHC010065812019



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

**Case No. : WP(C)/2044/2019**

HAZERA KHATUN  
D/O- HEREZ MANDAL, W/O- AMZAD ALI, R/O- BAPUJI NAGAR, SALBARI,  
W/NO. 16, GOALPARA TOWN, P.O- BALADMARI, P.S- GOALPARA, DIST-  
GOALPARA, ASSAM, PIN- 783101

VERSUS

THE UNION OF INDIA AND 5 ORS  
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME  
AFFAIRS, NEW DELHI- 110001

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

3:THE ELECTION COMMISSION OF INDIA  
NEW DELHI- 110001

4:THE SUPERINTENDENT OF POLICE (B)  
BONGAIGAON  
DIST- BONGAIGAON  
PIN- 783385

5:THE DEPUTY COMMISSIONER CUM DISTRICT ELECTION OFFICER CUM  
DISTRICT ELECTORAL REGISTRATION OFFICER  
GOALPARA  
DIST- GOALPARA  
ASSAM  
PIN- 783101

6:THE CHIEF ELECTORAL OFFICER  
ASSAM  
HOUSEFED COMPLEX  
BELTOLA ROAD  
GUWAHATI- 78100

**Advocate for the Petitioner** : MR H R A CHOUDHURY

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

**BEFORE**  
**HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**Date : 06.02.2023**

Heard Mr. FU Barbhuiya, learned counsel for the petitioner. Also heard Ms. A Phukan, learned counsel for the respondent No. 1, Mr. G Sharma, learned counsel appears for the respondent Nos. 2 and 4 and Mr. AI Ali, learned counsel appears for the respondent Nos. 3 and 6. Mr. N Goswami, learned counsel appears for the respondent No. 5.

2. The grievance of the petitioner is the action of the authorities in marking 'D' against her name in the voter list of 37 Goalpara East Legislative Constituency of the year 2011.

3. It is the case of the petitioner that such marking was without any notice or information or even without verification of the documents. The petitioner contends that she is a permanent resident of Bapuji Nagar, Salbari, Ward No. 16, Goalpara Town. The name of her grandfather is Late Fazal Karim Mandal @ Fazal Karim and grandmother's name is Late Jarina Khatun. Her father's name has been stated to be Harez Mandal and mother's name as Sonabhanu Nessa.

4. Though the petitioner was born at Lakhipur in the district of Goalpara, in 1997, the father of the petitioner had shifted from village Damanipara to Lakhipur Town wherein

till date the father of the petitioner is residing. The petitioner got married on 09.09.2004 with one Amjad Ali after which she and her husband had shifted from village-Ambari Kadotika to Bapuji Nagar, Salbari, Ward No. 16, Goalpara Town where they are residing presently. Though prior to the marriage, name of the petitioner did not appear in the voter list, after her marriage her name had appeared for the first time in the voter list of 2005 and also in the subsequent voter list and surprisingly only in the year 2011, 'D' has been marked.

5. It is the case of the petitioner that a reference was made in the Foreigners Tribunal No.1, Goalpara suspecting the nationality of the petitioner which was registered as FT Case No. 8780/G/16 in which, after receipt of notice, the petitioner had appeared and had demonstrated that it was a case of wrong identity. The Tribunal accordingly directed the Superintendent of Police (Border) to inquire into the matter who accordingly made a report in which the contention of the petitioner appeared to be correct and accordingly the petitioner was released from the said proceeding. Shri Barbhuiya, learned counsel submits that since the name of the petitioner appeared in the proceeding, the initial of 'D' should be removed.

6. On the other hand, Shri Ali, learned counsel for the Election Commission submits that though a proceeding was there before the learned Foreigners Tribunal, that was in the context of the nationality of the petitioner and not as a consequence of marking of 'D' in the voter list. He submits that even prior to the present proceeding, 'D' was prefixed before her name in the voter list and therefore the release of the petitioner in the proceeding by the Foreigners Tribunal in FT Case No.8780/G/16 will not ameliorate the grievance of the petitioner nor can be held to be a conclusive finding for the present grievance.

7. The learned counsel accordingly submits that following the direction of this court in cases of similar nature, the matter can be disposed of by directing the Superintendent of Police ( Border) to examine and verify the case of the petitioner and if on such

verification, it is found that the case of the petitioner is yet to be referred to the concerned Foreigners Tribunal to immediately refer the case to the tribunal who would examine the claim of the petitioner.

8. The learned counsel for the respondents endorsed the view of Shri Ali.

9. In view of the aforesaid facts and circumstances, the Superintendent of Police (B) is directed to undertake the aforesaid exercise of factual verification and on such verification if it is found that the case of the petitioner is yet to be referred to the concerned Foreigners Tribunal to immediately make the reference which in turn will examine the claim of the petitioner.

10. If the reference is yet to be made, the same shall be made within a period of 2(two) months from the date of receipt of certified copy of this order and upon such reference being made, the petitioner shall participate in the proceeding to establish her claim before the proceeding.

Writ petition is accordingly disposed of.

**JUDGE**

**Comparing Assistant**