

GAHC010071632022



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

Case No. : WP(C)/2637/2022

GULJAN NESSA
D/O LATE KURPAN BHUYAN
W/O LATE KUTOB UDDIN @ KUTO MIA
R/O VILL- NOONMATI, P.S. HOWLY, DIST. BARPETA, ASSAM

VERSUS

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

2:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE ELECTION COMMISSION OF INDIA

REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
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. 10TH

BARPETA
DIST. BARPETA
ASSAM
PIN-781301

6:THE DEPUTY COMMISSIONER

BARPETA
P.O. BARPETA
DIST. BARPETA
ASSAM
PIN-781301

7:THE SUPERINTENDENT OF POLICE (BORDER)

BARPETA
P.O. BARPETA
DIST. BARPETA
ASSAM
PIN-781301

8:THE OFFICER-IN-CHARGE OF HOWLY POLICE STATION

P.O. BAGHBAR
DIST. BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MS. D GHOSH

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

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

ORDER

21.07.2023

[A.M.Bujor Barua, J.]

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Mr. G. Sarma, learned counsel for the Home Department; Ms. L. Devi, learned counsel for the NRC and UoI; Ms. K. Phukan, learned counsel for the DC; and Mr. T. Pegu, learned counsel for the ECI.

2. The petitioner Guljan Nessa had been referred to the Foreigners' Tribunal, No. 10, at Barpeta for rendering an opinion as to whether she is a foreigner under the Foreigners' Act, 1946 resulting in registration of F.T. Case No. 302/2017, wherein an opinion dated 27.12.2021 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 Hala Pakuri Mouza Howly in the Barpeta district, which contains the name of Kurpan Bhuyan, son of Azim at serial no. 235 and that of Joygan Nessa, wife of Kurpan at serial no. 236 and both are shown to be residing in the same house no. 71. It is claimed that Kurpan Bhuyan, son of Azim and Joygan Nessa, wife of Kurpan of the Voters' List of 1966 of village Hala Pakuri is the father and mother of the petitioner respectively. To substantiate the same the Jamabandi in respect of a plot of land of village Hala Pakuri is relied upon, which contains the information that in place of Kurpan Bhuyan land had been mutated in favour of Guljan Nessa. The order of the Circle Officer dated 05.11.2019 is also available in the Jamabandi which contains the information

that in the earlier mutation order of the Circle Officer the name of Gulbanu Nessa, daughter of Kurpan Ali Bhuyan had been corrected to be Guljan Nessa, daughter of Kurpan Bhuyan.

4. In the circumstance, the matter is remanded back to the Foreigners' Tribunal, No. 10 at Barpeta to examine the Voters' List of 1966 of village Hala Pakuri as well as the Jamabandi produced by the petitioner which contains the information that in place of Kurpan Bhuyan land had been mutated in favour of Guljan Nessa. The petitioner to produce the complete Voters' List of village Hala Pakuri as well as the order of the Circle Officer by which the name was initially mutated in the name of Gulbanu Nessa in place of Kurpan Bhuyan. The Home Department also to make their own verification and submit the report before the Tribunal. Upon doing the needful the Tribunal may pass a reasoned order.

5. The petitioner to appear before the Tribunal on 17.08.2023.

6. 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