

GAHC010072932023



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

Case No. : WP(C)/1937/2023

MUSSTT MALLIKA BEGUM
D/O- SAHAR ALI, W/O- MD. INNAS ALI, R/O- VILL- N.K. DARRANGA
(DARANGAMELA), P.S. TAMULPUR, DIST.- BAKSA (BTAD) ASSAM

VERSUS

THE UNION OF INDIA AND 6 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 DEPTT.
DISPUR
GHY-06

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 CITIZEN
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S.ROAD
BHANGAGARH
GUWAHATI
ASSAM
PIN- 781005

5:THE DEPUTY COMMISSIONER
BAKSA
P.O. TAMULPUR
DIST.- BAKSA
ASSAM
PIN- 781367

6:THE SUPERINTENDENT OF POLICE (BORDER)
BAKSA
P.O. BAKSA
DIST.- BAKSA
ASSAM

7:THE OFFICER-IN-CHARGE
OF POLICE STATION- TAMULPUR
DIST.- BAKSA (BTAD)
ASSA

Advocate for the Petitioner : MS. D GHOSH

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

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

ORDER

Date : 19.05.2023
(A.M. Bujor Barua, J)

Heard Ms. N. Deka, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 4, being the Union of India and the State Coordinator 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; Mr. A.I. Ali, learned counsel for the respondent No. 3, being the authorities in the Election Commission of India and Ms. U. Das, learned counsel for the respondent No. 5, being the Deputy Commissioner, Baksa.

2. The petitioner Musstt Mallika Begum was referred to the Foreigners'

Tribunal, Baksa, Tamulpur 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 F.T. Case No. 1644/BAKSA/2016 was registered. The Tribunal rendered its opinion dated 21.04.2020 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 Tangla, Mouza Bhabanipur in the present Barpeta district which contains the name of Sahar Ali son of Salim at Sl. No. 258. It is claimed that Sahar Ali son of Salim is the father of the petitioner. To substantiate the same, reliance is placed on a Chitha pertaining to a plot of land at village Tangla, wherein the name of Mallika Begum daughter of Sahar Ali had been mutated, amongst others, in place of Sahar Ali. By referring to the mutation as reflected in the Chitha, a claim is made that Mallika Begum is the daughter of Sahar Ali of village Tangla and therefore she has discharged the burden under Section 9 of the Foreigners Act, 1946 that she is an Indian citizen.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal, Baksa, Tamulpur to examine the voters' list of 1966 of village Tangla containing the name of Sahar Ali as well as the Chitha containing the mutation where the name of Mallika Begum had been mutated in place of Sahar Ali in respect of a plot of land at village Tangla. To further substantiate the same, the petitioner to produce the appropriate order of the Circle Officer granting the mutation as well as the complete voters' lists of village Tangle from the year 1966 onwards before the Tribunal for its examination. The State respondents in the Home Department of the Government of Assam through the Superintendent of Police(B), Baksa may also make their own verification as to whether Sahar Ali

father of Mallika Begum as reflected in the Chitha in respect of a plot of land at village Tangla and Sahar Ali of the voters' list of 1966 of village Tangla are one and the same person as well as to whether the petitioner Musstt Mallika Begum and Mallika Begum daughter of Sahar Ali referred in the Chitha are also one and the same person.

5. Upon doing the needful, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 21.04.2020 in F.T. Case No. 1644/BAKSA/2016 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 03.07.2023. 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