

GAHC010073322018



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

Case No. : WP(C)/2389/2018

MAYFUL BEGUM @ MAYFUL NESSA
D/O- LATE ISAB ALI SHEIKH @ ISAB ALI, W/O- MOZIBAR RAHMAN, VIL-
GOBARDHANA, P.S- BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, SHASTRI BHAWAN,, TRILOK MARG, NEW DELHI- 1

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER
BBARPETA
P.O
P.S AND DIST- BARPETA
ASSAM
PIN- 781301

4:THE SUPERINTENDENT OF POLICE(B)
BARPETA
P.O AND DIST- BARPETA
ASSAM
PIN- 781301

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI

6:THE ASSAM STATE COORDINATOR OF NRC
BHANGAGARH

GUWAHATI- 0

Advocate for the Petitioner : MR N AHMED

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

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

ORDER

Date : 10.05.2023

(A.M. Bujor Barua, J)

Heard Mr. A.R. Sikdar, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 6, being the Union of India and the State Coordinator of NRC, respectively. Also heard Ms. A. Verma, learned counsel for the respondents No. 2 and 4, being the authorities in the Home Department; Ms. U. Das, learned counsel for the respondent No. 3, being the Deputy Commissioner, Barpeta and Mr. A.I. Ali, learned counsel for the respondent No. 5, being the authorities in the Election Commission of India.

2. The petitioner Mayful Begum @ Mayful Nessa was referred to the Foreigners' Tribunal No. 9, Barpeta 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.^{9th} Case No. 343/2015 was registered. The Tribunal rendered its opinion dated 22.02.2018 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 1965 of village Gobardhana, P.S. Sorbhog in the present Barpeta district which contains the name of Isab Ali Sheikh son of Rosul at Sl. No. 124. In order to establish

that the petitioner is the daughter of Isab Ali Sheikh, reliance is placed on a kabin nama of marriage which contains the information that Musstt. Mayful Nessa is the daughter of Md. Isab Ali of village Gobardhana, P.S. Barpeta Road in the Barpeta district.

4. As the petitioner is relying on the information contained in a kabin nama, it would be more appropriate to examine the Kazi who had solemnized the marriage along with the original records of the marriage which may contain the aforesaid information.

5. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 9, Barpeta to enable the petitioner to examine the Kazi of the marriage who had issued the kabin nama which has been relied upon. The State respondents in the Home Department of the Government of Assam through the Superintendent of Police(B), Barpeta may also make their own verification on the claim made by the petitioner and submit a report before the Tribunal. The petitioner may also produce any further material before the Tribunal, if so advised. 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 22.02.2018 in F.T.9th Case No. 343/2015 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 22.06.2023. 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