

GAHC010073842019



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

Case No. : WP(C)/2272/2019

JUSNARA BEGUM @ JUTSNARA BEGUM
D/O- LT KERAMAT ALI @ KERAMAT @ KERAMAT ALI MORAL, W/O-
ABDUL JABBAR, VILL- CHITALMARI PATHER, P.O. DOLOIGAON, MOUZA-
MOIRABARI, P.S. BHELOWGURI, DIST- MORIGAON, ASSAM, PIN- 782126

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF INDIA, HOME DEPTT.,
NEW DELHI-1, INDIA

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
ACHYUT PLAZA
BHANGAGARH
GHY-5
ASSAM

4:THE ELECTION COMMISSION OF INDIA
TO BE REP. BY THE COMM.
NIRVACHAN SADAN
ASHOKA ROAD
DELHI
110001

5:THE DY. COMMISSIONER
MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782121

6:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
DIST- MORIGAON
ASSAM
PIN- 78212

Advocate for the Petitioner : MR. Z HAMMAD

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

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

ORDER

Date : 20.03.2023
(AM Bujor Barua, J)

Heard Mr. Z Hammad, learned counsel for the petitioner. Also heard Ms. P Swargiary, learned counsel for the respondent no. 1 being the Union of India, Ms. A Verma, learned counsel for the respondents No. 2 and 6 being the authorities under the Home Department of the Government of Assam, Ms. L Devi, learned counsel for the respondent No. 3 being the authorities under the NRC, Mr. AI Ali, learned counsel for the respondent no. 4 being the Election Commission of India, and Ms. K Phukan, learned counsel for the respondent No. 5 being the Deputy Commissioner, Morigaon.

2. The petitioner Jusnara Begum had been referred to the Foreigners Tribunal No. 5, Morigaon for rendering an opinion as to whether she is a person who entered the State of Assam from the specified period on or after 25.03.1971,

resulting in registration of Case No. F.T.(D) 1002/2017. The Tribunal rendered an opinion dated 20.02.2019 that the petitioner is a foreigner who entered the State of Assam on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. The petitioner relies upon the voters' list of 1965 of village Chitalmari Pather P.S. Laharighat Mouza Moirabari which contains the name of Keramat Ali, S/O Ajit at Sl. No. 244 and also the voters' list of 1970 of village Chitalmari Pather which contains the name of Keramat Ali, S/O Ajit at Sl. No. 219 and that of Serban Nessa, W/O Keramat at Sl. No. 220. The petitioner also refers to the voters' list of 1989 of village Kha) Chitalmari Pather P.S. Laharighat district Nagaon which contains the name of Keramat Ali Mo:, S/o Ajit at Sl. No. 529 and that of Serban Nessa, W/O Keramat at Sl. No. 530 and that of Jusnara Begum, D/O Keramat at Sl. No. 536 and all the three persons are indicated to be of the same household No. 105. As the name of the petitioner Jusnara Begum appears along with Keramat Ali whose name appears in the voters' list of 1965 and 1970 of the same village Chitalmari Pather, prima facie it appears that the petitioner has established that she is a citizen of India.

5. But however, to verify the authenticity of the aforesaid voters' lists of 1965, 1970 and 1989 of village Chitalmari Pather, the matter is remanded back to the Tribunal. It is provided that the limited extent for which the matter is remanded back is to enable the Tribunal to examine the authenticity of the said voters' lists and not to venture into any other issue and accordingly, pass a reasoned order.

6. If the reasoned order is in favour of the petitioner, the same may prevail over the opinion/order dated 20.02.2019 passed in F.T.(D) 1002/2017 and if

against, consequence under the law is applicable to the petitioner.

7. The petitioner to appear before the Tribunal on 27.04.2023.

8. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant