

GAHC010076462023



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

Case No. : WP(C)/2191/2023

AYMANA KHATUN @ MUSTT AIMANA KHATUN (B)
D/O- ALIM UDDIN DEWAN,
W/O- JOYEN UDDIN SAHAB,
R/O- VILLAGE CHENGLIMARI,
MOUZA- BIJNI, P.S.- PATACHARKUCHI,
DISTRICT BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS
THROUGH-
THE SECRETARY,
TO THE GOVERNMENT OF INDIA,
THE MINISTRY OF HOME AFFAIRS,
GRIHA MANTRALAYA, NEW DELHI.

2:THE STATE OF ASSAM
THROUGH THE SECRETARY

TO THE GOVERNMENT OF ASSAM

HOME DEPARTMENT
DISPUR

GUWAHATI- 781006.

3:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER OF INDIA

NIRVACHAN SADAN ASHOKA ROAD

NEW DELHI- 110001.

4:THE STATE CO-ORDINATOR
NATIONAL REGISTRATION OF CITIZEN
ASSAM
BHANGAGARH
GUWAHATI- 781005.

5:THE DEPUTY COMMISSIONER
BARPETA
P.O.- BARPETA

DISTRICT- BARPETA
ASSAM

PIN- 781301.

6:THE SUPERINTENDENT OF POLICE (BORDER)
BARPETA
P.O.- BARPETA

DISTRICT- BARPETA
ASSAM

PIN- 781301.

7:THE FOREIGNERS REGIONAL REGISTRATION OFFICER
BARPETA
DISTRICT- BARPETA
ASSAM

PIN- 781301

Advocate for the Petitioner : MR. F A HASSAN

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

26.04.2023

(A.M. Bujor Barua, J)

Heard Mr. FA Hussain, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the respondents in the NRC, Mr. A. Kalita, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. A.I Ali, learned counsel for the Election Commission of India and Mr. PK Medhi, learned counsel for the Deputy Commissioner, Barpeta.

2. The petitioner Aymana Khatun @ Mustt Aimana Khatun, was referred to the Foreigners Tribunal No. 9th, 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 resulting in the registration of F.T.9th (BPT) Case No.360/2018 in S.P.Ref.IM(DT) Case No.590/1997.

3. The Tribunal rendered the opinion dated 08.02.2023 that the petitioner is a person who had entered the State of Assam from the specified territory between 1966 and 1971. Accordingly the petitioner would now be covered by the provisions of Section 6A(3) of the Citizenship Act, 1955 (for short, the Act of 1955). Although, the petitioner has not raised any grievance against the said conclusion of the Foreigners Tribunal, but the limited grievance raised by the petitioner is that the time referred for getting registered with the Foreigners' Regional Registration Office had elapsed in the meantime.

4. In view of the limited grievance, the petitioner is allowed to register

herself as a person who had entered the State of Assam between the period 1966 and 1971 from the specified territory with the Foreigners' Regional Registration Office, Barpeta within a period of one month from today.

5. Upon the petitioner being registered as a person who had entered the State of Assam between the period 1966 and 1971, the implication thereof that the petitioner will not be entitled to vote for next 10(ten) years from the date of registration would be made applicable to her. As per Section 6A(3) of the Act of 1955, the Election Commission shall do the needful to delete the name of the petitioner from any voters list wherever her name may appear. Further the Foreigners' Regional Registration Office, Barpeta shall do the needful as may be required under the law in respect of the rights and entitlement of the petitioner being declared to be a person who had entered the State of Assam from the specified territory between 1966 and 1971. Consequently, the Voter Identity Card issued to the petitioner be taken back by the Foreigners' Regional Registration Office, Barpeta.

6. Writ petition stands disposed of with the above observation.

7. In the event, the petitioner does not get herself registered within the period as aforesaid, the implication of law that she is not a citizen of India would be made applicable in respect of the petitioner. Even in the event of the petitioner not appearing before the Foreigners' Regional Registration Office, Barpeta, the direction to the Election Commission of India to do the needful to delete the name of the petitioner from any voters list wherever her name may appear would remain and be complied with by the Election Commission. The direction issued to the Foreigners' Regional Registration Office, Barpeta to do the needful under the law as well as to take back the Voter Identity Card issued to the petitioner be complied with.

8. A copy of this order be furnished to Mr. AI Ali, learned counsel for the Election Commission of India as well as Mr. A Kalita, learned counsel for the Home Department, Government of Assam for onward transmission and necessary action.

The writ petition is allowed to the extent as indicated above.

JUDGE

JUDGE

Comparing Assistant