

GAHC010079802018



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

Case No. : WP(C)/2688/2018

UJALA BEGUM @ UJALA KHATUN
W/O, LATE JEL HUSSAIN,
R/O, VILLAGE - BASANTAPUR, P.S. MATIA, DISTRICT- GOALPARA, ASSAM.

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SASTRI BHAWAN, NEW DELHI, PIN - 110001

2:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI - 6

3:THE SUPERINTENDENT OF POLICE (B)
GOALPARA
DISTRICT- GOALPARA
ASSAM
PIN - 783101

4:THE DEPUTY COMMISSIONER
GOALPARA
P.O. GOALPARA
DISTRICT- GOALPARA
ASSAM
PIN - 78310

Advocate for the Petitioner : MR. M A SHEIKH

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

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

ORDER

Date : 12.05.2023
(AM Bujor Barua, J)

Heard Ms. F Intaz, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 being the authorities under the Union of India, Mr. J Payeng, learned counsel for the respondents no. 2 and 3 being the authorities under the Home Department of Government of Assam and Ms. U Das, learned counsel for the respondent no. 4 being the Deputy Commissioner, Goalpara.

2. The petitioner Ujala Begum @ Ujala Khatun had been referred to the Foreigners' Tribunal No. 5, Goalpara for rendering an opinion as to whether she is a person who entered the State of Assam from the specified territory on or after 25.03.1971, resulting in registration of F.T. Case No. F.T /5/379/MA/2016. The Tribunal rendered an opinion dated 13.03.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding the petitioner relies on the voters' list of 1966 of village Chaysimona under PS Baghbor in the present Barpeta district which contains the name of Abdur Rejjak, S/O Jubbar at Sl. No. 553. The petitioner claims that she is the daughter of Abdur Rejjak. To substantiate the said claim,

reliance is placed on a jamabandi in respect of a plot of land in village Chaysimona wherein reference is made to an order dated 03.06.2017 of the Circle Officer in Mutation Case No. BAR/BAG/2016-17/3986/FMUT in respect of a plot of land of Dag No. 923 by providing that it had been mutated in the name of Ujala Begum, daughter of Late Abdur Rejjak in place of Abdur Rejjak. If the petitioner had inherited the land of Abdur Rejjak in respect of a plot of land in village Chaysimana, it may be a prima facie indication that she is the daughter of Abdur Rejjak of village Chaysimana.

5. In the circumstance, the matter stands remanded back to the Tribunal to examine the voters' list of 1966 of village Chaysimana in the Barpeta district as well as the order dated 03.06.2017 of the Circle Officer in Mutation Case No. BAR/BAG/2016-17/3986/FMUT and thereafter, pass a reasoned order. The petitioner to produce the complete order dated 03.06.2017 passed in Mutation Case No. BAR/BAG/2016-17/3986/FMUT.

6. The petitioner to appear before the Tribunal on 27.06.2023.

7. If the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 13.03.2018 passed in F.T. Case No. F.T /5/379/MA/2016 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant