

GAHC010081412018



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

Case No. : WP(C)/2615/2018

AMINA KHATUN @ AMINA BEGUM
W/O- NAJIR HUSSAIN @ NAJIR ALI, VILL- CHARABARI, P.O-
HUKANIKUCHI, P.S- HAJO, DIST- KAMRUP(R), ASSAM, PIN- 781102

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE MIN OF HOME AFFAIRS, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GUWAHATI- 781006

3:THE DEPUTY COMMISSIONER
DIST- KAMRUP(R)
ASSAM
PIN- 781031

4:THE SUPERINTENDENT OF POLICE(B)
KAMRUP(R)
ASSAM
PIN- 781031

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GUWAHATI- 78103

Advocate for the Petitioner : MR H R A CHOUDHURY

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

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

ORDER

Date : 26.05.2023

(A.M. Bujor Barua, J)

Heard Mr. A. Matin, 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 Mr. G. Sarma, learned counsel for the respondents No. 2 and 4, being the authorities in the Home Department; Ms. K. Phukan, learned counsel for the respondent No. 3, being the Deputy Commissioner, Kamrup and Mr. A.I. Ali, learned counsel for the respondent No. 5, being the authorities in the Election Commission of India.

2. The petitioner Amina Khatun @ Amina Begum was referred to the Foreigners' Tribunal No. 4, Kamrup(R), Hajo 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 accordingly HFT Case No. 448/2015 was registered. The Tribunal had rendered its opinion dated 07.03.2018 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 Lalong Gaon, Mouza Juria in the Nagaon district which contains the name of Md. Waz Uddin son of Khawaz Ali at Sl. No. 162. It is claimed that Md. Waz Uddin is the grandfather of the petitioner. The petitioner also relies upon the

voters' list of 1970 of village Lalong Gaon, Mouza Juria in the Nagaon district which contains the names of Md. Wazuddin son of Khawaz at Sl. No. 164, Amina Khatun wife of Wazuddin at Sl. No. 165 and Hashim son of Waz Uddin at Sl. No. 166. The petitioner thereupon relies upon the voters' list of 1985 of village Lalong Gaon, Mouza Juria in the Nagaon district which contains the name of A. Rahim son of Waz at Sl. No. 518 and that of Maleka Khatun wife of Rahim at Sl. No. 519. It is claimed that A. Rahim of the voters' list of 1985 of village Lalong Gaon is the father of the petitioner. The petitioner further relies upon the evidence of Abdul Rahim son of late Wajuddin of village Lalong Gaon as DW3 wherein he had deposed that the petitioner Amina Khatun is his daughter. The said reiteration is also noticed in the cross-examination of DW3 by the State authorities.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 4, Kamrup(R), Hajo, to examine the voters' lists of 1965, 1970 and 1985 of village Lalong Gaon as regards the claim that A. Rahim is himself is an Indian citizen as well as the evidence of DW3 wherein he stated that the petitioner Amina Khatun is his daughter. If necessary, the State authorities in the Home Department may further cross-examine DW3 and also would be at liberty to make their own verification as to whether Amina Khatun is the daughter of A. Rahim of the voters' list of 1965 of village Lalong Gaon and the submit a report before the Tribunal.

5. The petitioner seeks to rely upon a will of Abdul Rahim of village Lalong Gaon to substantiate the claim that she is the daughter of Abdul Rahim. The petitioner be allowed to also exhibit a copy of the will for examination of the Tribunal.

6. 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 07.03.2018 in HFT Case No. 448/2015 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 24.07.2023. 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