

GAHC010084542022



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

Case No. : WP(C)/3493/2022

JARINA KHATUN @ ZORINA
D/O. LT. ISRAIL HAJI @ ISRAIL SHEIKH, W/O. ABDUL RASHID, VILL.
MOTONGA, P.O. NIMUA, P.S. SALBARI, MOUZA- GOBARDHANA, DIST.
BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA AND 7 ORS
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWAN, NEW DELHI-110001.

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

3:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI-110001.

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S. ROAD
BHANGAGARH
GUWAHATI
ASSAM
PIN-781005.

5:THE FOREIGNERS TRIBUNAL-III
BARPETA
DIST. BARPETA
ASSAM
PIN-781301.

6:THE DEPUTY COMMISSIONER
BARPETA
P.O. BARPETA
DIST. BARPETA
ASSAM
PIN-781301.

7:THE SUPDT. OF POLICE (B)
BARPETA
P.O. BARPETA
DIST. BARPETA
ASSAM
PIN-781301.

8:THE OFFICER IN CHARGE OF SALBARI POLICE STATION
P.O. BAGHBAR
DIST. BARPETA
ASSAM
PIN-781318

Advocate for the Petitioner : MS. D GHOSH

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

21.06.2023

[Achintya Malla Bujor Barua, J.]

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel appearing on behalf of Mr. R.K.D. Choudhury, learned Dy.S.G.I. for the

respondent No.1 and also appearing as standing counsel, NRC, for respondent No.4; Mr. G. Sarma, learned special counsel, FT, appearing for respondent Nos.2, 5, 7 and 8; Mr. A.I. Ali, learned standing counsel, ECI, for respondent No.3 and Ms. M. Dutta, learned Junior Government Advocate, Assam, appearing for respondent No.6.

2. The petitioner Jarina Khatun had been referred to the Foreigners' Tribunal-III, Barpeta, for rendering an opinion as to whether she is a foreigner under the Foreigners Act, 1946, which resulted in registration of F.T. Case No.41(III)/2017. The Tribunal rendered an opinion dated 02.01.2020 declaring the petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding before the Court, the petitioner relies upon the voters list of 1966 of village Gandharipara, Police Station-Barpeta, in the present Barpeta district, which contains the names of Israil Haji S/o Jalimuddin at Sl.no.341 and that of Navejan Nessa W/o Israil at Sl.No.342 and it is claimed that Israil Haji is the father and Navejjun Nessa is the mother of the petitioner. Further reliance is placed on the voters list of 1970 of village Gandharipara containing the names Israil Haji S/o Jalimuddin at Sl.No.334, Navejan Nessa W/o Israil at Sl.No.335 and Abdul Gani S/o Israil at Sl.No.337. Abdul Gani had rendered evidence before the Tribunal as DW-2, wherein he states that Jarina Khatun is his sister. A land document pertaining to village Gandharipara is also relied upon, which contains the information that the name of Jarina Khatun had been mutated in place of Israil Sheikh in place of a land of village Gandharipara vide order dated 04.02.2020 in Mutation Case No.BAR/SARR/2019-20/853/FMUT.

4. In view of above, the matter is remanded back to the Tribunal to examine the voters list of 1966 and 1970 of village Gandharipara as well as the evidence of DW-2 and also the Jamabandi of a plot of land at village Gandharipara. The respondent Home Department, Government of Assam, also to make their own enquiry as to whether Abdul Gani is actually the brother of the petitioner Jarina Khatun and

submit a report before the Tribunal as well as to enable the Home Department to cross-examine the DW-2 Abdul Gani, as may be advised. Upon doing the needful, the Tribunal shall pass a reasoned order. In the event, the reasoned order is passed in favour of the petitioner, the same shall prevail over the earlier opinion dated 02.01.2020 and if it is against the petitioner, consequential action shall follow.

5. The petitioner shall accordingly appear before the Tribunal on 28.07.2023. Till the reasoned order is passed, no coercive action shall be taken against the petitioner.

6. Send back the LCR immediately.

7. Writ petition stands disposed of in the above terms.

Sd/- Robin Phukan
JUDGE

Sd/- Achintya Malla Bujor Barua
JUDGE

Comparing Assistant