

GAHC010094012019



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

Case No. : WP(C)/2873/2019

KABITA HAJONG
D/O- LT SUNDAR HAJONG, W/O- SUKUMAR HAJONG, R/O- KATORI
CHAPORI, P.S. BOGINODI, DIST- LAKHIMPUR, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECY., HOME AFFAIRS, NEW DELHI, DELHI-01

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

3:THE ELECTION COMMISSION OF INDIA
NEW DELHI-01

4:THE SPECIAL COUNSEL FOR NRC
GOVT. OF ASSAM

5:THE SPECIAL COUNSEL OF FOREIGNERS TRIBUNAL
GOVT. OF ASSAM

6:THE SUPERINTENDENT OF POLICE
BORDER
LAKHIMPUR
ASSAM
PIN-

7:OFFICER-IN-CHARGE
BOGINODI P.S.

LAKHIMPUR
ASSAM
PIN-

8:THE DY. COMMISSIONER
DIST- LAKHIMPUR
ASSAM
PIN

Advocate for the Petitioner : MR. R C DAS

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

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

Date : 24-02-2023

JUDGMENT & ORDER (ORAL)

(AM Bujor Barua, J)

Heard Mr. S C Das, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India, Mr. KK Parashar, learned standing counsel for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, the Superintendent of Police (B) Lakhimpur and the Officer-in-Charge, Boginodi Police Station as well as Ms. U Das, learned Government Advocate for the Deputy Commissioner, Lakhimpur.

2. The petitioner, namely, Kabita Hajong was referred to the Foreigners

Tribunal II Lakhimpur, North Lakhimpur for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971 resulting in the registration of Lakhimpur F.T-II.Case No.642/2007.

3. By the order dated 31.12.2018 of the Foreigners Tribunal II Lakhimpur in Lakhimpur F.T-II. Case No.642/2007 an opinion was rendered that the petitioner is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971.

4. Being aggrieved this writ petition is instituted.

5. Before the Tribunal, the petitioner relies upon the voters list of 1970 of village No.1 Udalguri Jangal Gaon, Mouza Orang, under Udalguri (Sadar) Sub-Division which contains the name of Sundar son of Dunga at Sl.No.20. The petitioner claims that Sundar, son of Dunga of 1970 voters list of village No.1 Udalguri Jangal Gaon is her father. Although many such documents have been relied upon by the petitioner, amongst them, there is also a certificate by the Lat Gaonburah of No.1 Udalguri Janghal village. As the petitioner claims that Sundar son of Dunga of village No.1 Udalguri Jangal Gaon, Mouza Orang, under Udalguri (Sadar) Sub-Division appearing at Sl.No.20 of the voters list of 1970 is her father and the Lat Gaonburah of the same village has certified that Kabita Hajong is the daughter of Sundar Hajong of No.1 Udalguri Janghal PO Dhansiri Bazar, PS Orang in the Udalguri district, the presentation of the materials by the petitioner would be more complete if the Lat Gaonburah is brought before the

Tribunal to make his deposition as to on what material basis, the Gaonburah certifies that the petitioner proceedee Kabita Hajong is the daughter of Sundar Hajong of village No.1 Udalguri Janghal.

6. Upon the Lat Gaonburah coming forward to make his deposition, the State authorities under the Home Department, Government of Assam may also cross examine the Lat Gaonburah and ascertain the veracity and correctness of the contents of the certificate that Kabita Hajong is the daughter of Sundar Hajong of village No.1 Udalguri Janghal. If any other relevant material is available before the petitioner, the petitioner is at liberty to bring the same before the Tribunal.

7. Accordingly, the matter stands remanded back to the Tribunal for the limited purpose as indicated above. Upon consideration of the materials, the Tribunal shall pass a reasoned order on the claim of the petitioner. Any order that the Tribunal may pass, if in favour of the petitioner, shall prevail over the earlier order dated 31.12.2018 passed in Lakhimpur F.T-II.Case No.642/2007 and if it is against the petitioner, the implication under the law shall follow.

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

9. Send back the LCR.

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

JUDGE

JUDGE

Comparing Assistant