

GAHC010095132023



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

Case No. : WP(C)/2537/2023

SONA BHANU
WIFE OF NOOR MAHAMMAD @ NUR MAHAMMAD
VILLAGE- AMGURI,
PS- KALGACHIA (PREVIOUSLY SORBHOG)
DIST. BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS
NEW DELHI.

2:THE CHIEF ELECTION COMMISSIONER

ELECTION COMMISSION OF INDIA

ASHOKA ROAD
NEW DELHI- 110001.

3:THE STATE OF ASSAM
REPRESENTED BY ITS SECRETARY
GOVT. OF ASSAM

HOME DEPARTMENT
DISPUR

GUWAHATI-6.

4:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI

GUWAHATI- 781007.

5:THE STATE COORDINATOR

OFFICE OF THE STATE COORDINATOR OF NATIONAL REGISTER OF
CITIZENS (NRC)
ASSAM

1ST FLOOR
ACHYUT PLAZA
G.S. ROAD

BHANGAGARH
GUWAHATI- 781005.

6:THE DEPUTY COMMISSIONER
BARPETA
DIST.- BARPETA
ASSAM.

7:THE SUPERINTENDENT OF POLICE (BORDER)
BARPETA
DIST.- BARPETA
ASSAM

Advocate for the Petitioner : MR. A S TAPADER

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 05.06.2023
(A.M. Bujor Barua, J)

Heard Mr. A.R. Sikdar, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 5, being the Union of India and the State Co-ordinator of NRC, respectively. Also heard Mr. A.I. Ali, learned counsel for the respondent No. 2, being the authorities in the Election Commission of India; Mr. J. Payeng, learned counsel for the respondents No. 3,

4 and 7, being the authorities in the Home Department and Ms. U. Das, learned counsel for the respondent No. 6, being the Deputy Commissioner, Barpeta.

2. The petitioner Sona Bhanu was referred to the Foreigners' Tribunal No. 5, 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 and accordingly Case No. FT(5th)525/2017 was registered. The Tribunal had rendered its opinion dated 15.03.2023 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 1966 of village Dhakaliapara, Mouza Ghilazari in the Barpeta district which contains the name of Munnaaf Kha son of Abadat Kha at Sl. No. 76 and that of Rousana Khatun wife of Munnaaf Kha at Sl. No. 77 and both are shown to be residing in the same house No. 22. The petitioner also relies upon the voters' list of 1985 of village Dhakaliapara, Mouza Ghilazari in the Barpeta district which contains the names of Munnaaf Khan son of Abadat Ali at Sl. No. 455, Roushana Khatun wife of Munnaaf Ali at Sl. No. 456 and Akbar Ali Khan son of Munnaaf at Sl. No. 459 and all of them are shown to be residing in the same house No. 106. It is claimed that Munnaaf Khan of the aforesaid voters' lists is the father of the petitioner. To substantiate the same, the petitioner intends to examine Akbar Ali Khan son of Munnaaf whose name appears in the voters' list of 1985 of village Dhakaliapara. The petitioner also intends to examine certain other elderly persons of the same village to prove that she is the daughter of Munnaaf Khan.

4. In order to enable the petitioner to examine Akbar Ali Khan and other elderly persons of village Dhakaliapara, we remand the matter back to the Foreigners' Tribunal No. 5, Barpeta to enable the petitioner to examine the

aforesaid persons. The State respondents in the Home Department may cross-examine the witnesses, as may be advised. The State respondents in the Home Department through the Superintendent of Police(B), Barpeta may also make their own verification in the household of Munnaf Khan and Akbar Ali Khan of village Dhakaliapara as to whether Sona Bhanu is the daughter of Munnaf Khan and thereafter submit a report the Tribunal.

5. 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 15.03.2023 in Case No. FT(5th)525/2017 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 11.07.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

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Comparing Assistant