

GAHC010101382018



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

Case No. : WP(C)/3365/2018

RUKIA KHATUN @ RUKIA KHATOON
W/O- ABDUL JALIL @ JALIL, D/O- LT AMZAT ALI, VILL- UJANMARI, P.O.
SIMULIGURI, P.S. KACHUA, DIST- NAGAON (ASSAM), PIN-782426

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE MINISTRY 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
GHY-6

3:THE DY. COMMISSIONER
NAGAON
DIST- NAGAON
ASSAM
PIN-782001

4:THE SUPERINTENDENT OF POLICE (B)
NAGAON
ASSAM
PIN-782001

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI-110001

6:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
BHANGAGARH-78103

Advocate for the Petitioner : MR H R A CHOUDHURY

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

BEFORE

**HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN**

O R D E R

29.03.2023

(A.M. Bujor Barua, J)

Heard Mr. JM Sulaiman, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Ms. A Verma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India and U Das, learned counsel for the Deputy Commissioner, Nagaon.

2. The petitioner Rukia Khatun had been referred to the Foreigners Tribunal No. 2, Nagaon 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 FT Case No. 1786/2011, wherein an opinion dated 18.04.2018 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies on the voters list of 1965 of village Amlakhi, police station Dhing Mauza-Batadrava in the Nagaon district, which contains the name of Ajmat Ali, son of Najam Ali at serial No. 406. The petitioner also relies on a Jamabandi of a plot of land in village Amlakhi, which

contains an order of the Circle Officer dated 06.02.2018 providing that in place of the name of Ajmat Ali, mutation had been granted amongst others, in the name of Musst Rukia Khatun, daughter of Ajmat Ali.

4. As Rukia Khatun had inherited the land of Ajmat Ali by virtue of the aforesaid order of the Circle Officer, a claim is made that she is the daughter of Ajmat Ali of the voters list of 1965 of village Amlakhi.

5. If the information is correct, prima facie, the petitioner may have discharged the burden under section 9 of the Foreigners Act, 1946 that she is the daughter of Ajmat Ali, who again is an Indian citizen by virtue of his name having appeared in the voters list of 1965 of village Amlakhi.

6. In view of the materials being available on record, the matter is remanded back to the Tribunal to examine the authenticity and correctness of the voters list of 1965 of village Amlakhi as well as the mutation order of the Circle Officer dated 06.02.2018 and pass a reasoned order. In doing so, the State authorities may also make their own verification and enquiry on the authenticity of the aforesaid information.

7. Before the Tribunal, the petitioner to also produce the complete order of the Circle Officer dated 06.02.2018 to substantiate her claim. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 18.04.2018. If the reasoned order goes against the petitioner, consequence as per law shall follow.

8. The petitioner shall appear before the Foreigners Tribunal No. 2, Nagaon on 06.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

9. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant