

GAHC010108442019



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

Case No. : WP(C)/6658/2019

MULUKJAN BIBI @ MOLLEKA BIBI
D/O- LT SAMAN ALI SK @ SAMAN ALI, W/O- LT HASSEN ALI @ HASEN
ALI, VILL- GUTIPARA PT-IV, P.O. GUTIPARA, P.S. BILASIPARA, DIST-
DHUBRI, ASSAM, PIN- 783349

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. OF THE MINISTRY OF HOME AFFAIRS, NEW DELHI-01

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI-01

3:THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPTT.
DISPUR
GHY-6

4:THE DY. COMMISSIONER
DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783301

5:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783301

6:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GHY-0

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : ASSTT.S.G.I. (R1)

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

ORDER

Date : 09.05.2023
(AM Bujor Barua, J)

Heard Mr. HR Ahmed, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 6 being the authorities under the Union of India and NRC respectively, Mr. T Pegu, learned counsel for the respondent no. 2 being the authorities under the Election Commission of India, Ms. A Verma, learned counsel for the respondents no. 3 and 5 being the authorities under the Home Department of Government of Assam and Ms. U Das, learned counsel for the respondent no. 4 being the Deputy Commissioner, Dhubri.

2. The petitioner Mulukjan Bibi @ Molleka Bibi had been referred to the Foreigners' Tribunal No. 7, Dhubri at Bilasipara 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 F.T 7th Dhubri Case No. 36/BLP/18. An opinion dated 18.09.2018 had been rendered declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.
4. In the writ proceeding the petitioner relies on the voters' list of 1970 of village Gutipara Pt. VI which contains the name of Saman Ali Sk, S/O Ahadali Sk at Sl. No. 31. It is claimed that Saman Ali Sk of the voters' list of 1970 is the father of the petitioner. To substantiate the same, the petitioner relies on a school certificate issued by the Headmaster of Pub Pashuarkhal L.P. School which contains the information that Muluk Jan is the daughter of Saman Ali Sk of village Gutipara Pt. VI. The Headmaster of the school has also deposed before the Tribunal as DW7 by exhibiting the school register and stating that the information that the father of Mulukjan is Saman Ali Sk of village Gutipara Pt. VI has been derived from the information contained in the school records. It is noticed that DW7 has not been cross examined by the State authorities. Saleha Khatun, W/O Saman Ali Sk of village Gutipara Pt. VI has also deposed as DW3 stating that Molleka Bibi @ Muluk Jan Bibi is her own daughter. It is noticed that DW3 has also been not cross examined.
5. In the circumstance the matter is remanded back to the Tribunal to enable the State of Assam through the Home Department to cross examine the DW3 and DW7 as regards the veracity of the information contained in the deposition.
6. The Home Department may also make their own verification as to whether Saman Ali Sk of the voters' list of 1970 of village Gutipara Pt. VI and Saman Ali Sk referred in the school certificate as well as in the evidence of DW7 are one and same person. Upon doing the needful, the Tribunal to pass a reasoned order.
7. The petitioner to appear before the Tribunal on 17.06.2023.
8. If the reasoned order is in favour of the petitioner, the same shall prevail

over the opinion dated 18.09.2018 passed in F.T 7th Dhubri Case No. 36/BLP/18 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant