

GAHC010111812020



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

Case No. : WP(C)/3306/2020

RAMINA KHATUN
D/O LATE OMAR ALI,
W/O FALU MIYA,
R/O VILLAGE KANDAPARA, PS AND DIST BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF HOME AFFAIRS, SHASTRI BHAWAN, TILOK MARG, NEW DELHI 1

2:STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HONE DEPT. DISPUR
GHY 6

3:THE SUPERINTENDENT OF POLICE (B)
BARPETA
ASSAM
781301

4:THE DEPUTY COMMISSIONER
BARPETA
BARPETA ASSAM 781301

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI 1

6:THE ASSAM STATE COORDINATOR OF NRC
BHANGAGARH
GUWAHATI

Advocate for the Petitioner : MR. A R SIKDAR

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

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

ORDER

Date : 21.06.2023
(AM Bujor Barua, J)

Heard Mr. N 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. G Sarma, learned counsel for the respondents no. 2 and 3 being the authorities under the Home Department of Government of Assam, Mr. PK Medhi, learned counsel for the respondent no. 4 being the Deputy Commissioner, Barpeta and Mr. T Pegu, learned counsel for the respondent no. 5 being the authorities under the Election Commission of India.

2. The petitioner Ramina Khatun had been referred to the Foreigners' Tribunal No. 1, Barpeta for rendering an opinion as to whether she is a foreigner within the meaning of Foreigners Act, 1946, resulting in registration of F.T. Case No. 101/17. The Tribunal rendered an opinion dated 04.02.2019 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding the petitioner relies upon the voters' list of 1966 of village Kanda Para which contains the names of Jumar Ali S/O Jahur Uddin at Sl. No. 20 and Suraton Nessa W/O Jumar Ali at Sl. No. 21. It is claimed that Jumar

Ali is the grandfather and Suraton Nessa is the grandmother of the petitioner. Further reference is made to the voters' list of 1970 of village Kanda Para which contains the names of Jumar Ali S/O Jahuruddin at Sl. No. 24, Suraton Nessa W/O Jumar Ali at Sl. No. 25 and that of Omar Ali S/O Jumar Ali at Sl. No. 27 where all of them are shown to be residing in the same house no. 10.

5. Omar Ali had rendered evidence before the Tribunal as DW.2 stating that the petitioner Ramina Khatun is his daughter.

6. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' lists of 1966, 1970 of village Kanda Para where the voters' list of 1970 contains the names of Jumar Ali, Suraton Nessa and Omar Ali together as well as the evidence of Omar Ali as DW.2. The respondents in the Home Department to also make their own enquiry and verification and thereafter, submit a report before the Tribunal and the respondents may also cross examine DW.2 as may be advised. Upon doing the needful, a reasoned order be passed by the Tribunal.

7. The petitioner to appear before the Tribunal on 26.07.2023.

8. If the order of the Tribunal is in favour of the petitioner, the same shall prevail over the opinion dated 04.02.2019 passed in F.T. Case No. 101/17 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