

GAHC010115412018



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

Case No. : WP(C)/3532/2018

DULABJAN BIBI @ DULABJAN BEGUM @ DULUBI BIBI
D/O- SIRAI UDDIN LASKAR, R/O- VILL AND P.O. DAYAPUR PT-I, P.S.
UDHARBOND, DIST- CACHAR, ASSAM

VERSUS

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

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

3:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF HOME
DISPUR
GHY-6

4:THE STATE CO-ORDINATOR
OF NATIONAL REGISTER OF CITIZENS (NRC)
GOVT. OF ASSAM
DISPUR
GHY-6

5:THE DY. COMMISSIONER
CACHAR
P.S. CACHAR
SILCHAR
DIST- CACHAR
ASSAM

6:THE SUPERINTENDENT OF POLICE (B)
CACHAR
P.S. CACHAR
SILCHAR
DIST- CACHAR
ASSAM

7:THE ENQUIRY OFFICER OF REFERENCE I.M.D.T. CASE NO 9712/1998
ON THE BASIS OF WHOSE REPORT THE PRESENT PROCEEDING HAS
BEEN REGISTERED AGAINST THE PETITIONER

Advocate for the Petitioner : MR. S ISLAM

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

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

ORDER

26.04.2023

(AM Bujor Barua, J)

Heard Mr. AM Barbhuiyan, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Mr. A Kalita, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam the Superintendent of Police (B) Cachar Silchar as well as the Enquiry Officer of Reference I.M.D.T. Case No.9712/1998 and Mr. PK Medhi, learned Government Advocate for the Deputy Commissioner, Cachar.

2. The petitioner, Dulabjan Bibi @ Dulabjan Begum @ Dulubi Bibi was

referred to the Foreigners Tribunal 3rd Silchar, for rendering an opinion as to whether she is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T.(D) Case No.79/2015 with reference to I.M.D.T Case No. 9712/98 wherein an opinion dated 20.03.2017 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding, the petitioner relies upon the voters list of 1965 of village Dayapur Pt.I in the Cachar district which contains the name of Majmil Ali, son of Mastan Ali at Sl.No.223. The petitioner also relies upon the voters list of 1985 of village Dayapur Pt.I which contains the name of Sirai Mia Laskar, son of Majmil Ali Laskar at Sl.No.642 and also the voters list of 1993 of village Dayapur Pt.I which contains the name of Sirai Mia, son of Majmil Ali at Sl.No.244 and that of Dolobjan Begum, daughter of Sirai Mia at Sl.No.247. Accordingly, the petitioner claims that the burden under Section 9 of the Foreigners Act, 1946 has been discharged to prove that she is a citizen of India.

5. If Majmil Ali of 1965 voters list is the father of Sirai Mia Laskar of the 1985 voters list and the name of the petitioner Dulabjan Bibi @ Dulabjan Begum @ Dulubi Bibi appears along with Sirai Mia in the 1993 voters list in respect of village Dayapur Pt I, perhaps the burden has been discharged by the petitioner. But a question would remain as to whether Sirai Mia of 1993 voters list and Sirai Mia Laskar of 1985 voters list and that of Majmil Ali Laskar referred in the 1985

voters list and Majmil Ali of the 1965 voters list in respect of village Dayapur Pt I are one and the same person.

6. A further determination would also have to be made as to whether Dolobjan Begum of the 1993 voters list in respect of Dayapur Pt I and the present petitioner Dulabjan Bibi @ Dulabjan Begum @ Dulubi Bibi are one and the same person.

7. In the circumstance, the matter stands remanded back to the Tribunal for a determination as to whether Majmil Ali referred in the 1965 voters list and Majmil Ali Laskar of the 1985 voters list of village Dayapur Pt I are one and the same person and as to whether Sirai Mia Laskar of 1985 voters list and Sirai Mia of 1993 voters list in respect of village Dayapur Pt I are also one and the same person.

8. Accordingly, the petitioner shall appear before the Tribunal on 06.06.2023.

9. The respondents in the Home Department, Government of Assam shall also make a verification as to whether Dolobjan Begum of the 1993 voters list in respect of Dayapur Pt I and the present petitioner Dulabjan Bibi @ Dulabjan Begum @ Dulubi Bibi are one and the same person and accordingly submit a report before the Tribunal.

10. The Tribunal after undertaking the aforesaid exercises and upon examining the evidences and materials on record shall pass a reasoned order. In

the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 20.03.2017 of the Foreigners Tribunal 3rd Silchar in F.T.(D) Case No.79/2015 with reference to I.M.D.T Case No. 9712/98 and if it is against the petitioner, consequential action under the law shall follow.

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

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

JUDGE

JUDGE

Comparing Assistant