

GAHC010116132020



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

Case No. : WP(C)/3416/2020

NUR BHANU
W/O- LT. MAHURUDDIN, D/O- LT. EYARUDDIN, R/O- VILL- PATLIKUCHI,
P.S. AND DIST.- BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. TO MINISTRY OF HOME AFFAIRS, THE GOVT. OF
INDIA, NEW DELHI-1

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE HOME DEPTT.
DISPUR
GHY-6

3:THE DY. COMMISSIONER
BARPETA
P.O. AND DIST.- BARPETA
ASSAM
PIN- 781301

4:THE SUPERINTENDENT OF POLICE (B)
BARPETA
P.O.
P.S. AND DIST.- BARPETA
ASSAM
PIN- 781301

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI-1

6:THE STATE CO-ORDINATE

OF NATIONAL REGISTRATION OF CITIZEN (NRC)
ASSAM
GHY-

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 MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 27.06.2023
(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, Ms. A Verma, learned counsel for the respondents no. 2 and 4 being the authorities under the Home Department of Government of Assam, Ms. U Das, learned counsel for the respondent no. 3 being the Deputy Commissioner, Barpeta and Mr. AI Ali, learned counsel for the respondent no. 5 being the authorities under the Election Commission of India.

2. The petitioner Nur Bhanu 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. 86/2018. The Tribunal rendered an opinion dated 03.10.2019 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 Pathlikuchi Mouza Jania in the present Barpeta district which contains the names Eyar Uddin S/O Maichan at Sl. No. 250 and that of Tahiran Nessa W/O Eyar Uddin at Sl. No. 252. It is stated that Eyar Uddin is the father and Tahiran Nessa is the mother of the petitioner where both are residing in the same house no. 158 (K). Further reference is made to the voters' list of 1997 of village Patlikuchi which contains the names of Hasmat Ali at Sl. No. 494 and that of Tahiran Bidhaba W/O Eyar Uddin at Sl. No. 497.

5. It is claimed that Hasmat Ali is the brother of the petitioner and Tahiran Bidhaba after the death of her husband as she is known at present is the mother of the petitioner.

6. Hasmat Ali has rendered evidence before the Tribunal as DW.2 stating that the petitioner Nur Bhanu is the daughter of Eyar Uddin as well as his sister.

7. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' lists from the year 1966 upto 1997 in respect of village Patlikuchi and the petitioner to produce the complete voters' lists of all the intervening period between 1966 and 1997 for examination of the Tribunal. The respondents in the Home Department of the Government of Assam to examine the DW.2 to extract the veracity of the evidence rendered that the petitioner Nur Bhanu is the daughter of Eyar Uddin of Patlikuchi village. The respondents in the Home Department to also make their own enquiry and verification and thereafter, submit a report before the Tribunal. Upon doing the needful, a reasoned order be passed by the Tribunal.

8. The petitioner to appear before the Tribunal on 03.08.2023.

9. If the order of the Tribunal is in favour of the petitioner, the same shall

prevail over the opinion dated 03.10.2019 passed in F.T. Case No. 86/2018 and if against, consequence under the law is applicable to the petitioner.

10. 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