

GAHC010116722023



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

Case No. : WP(C)/3139/2023

AJIFA BEGAM @ AZIFA BEGUM
W/O MD. MAHINOOR RAHMAN @ MD. MAHINUR RAHMAN, R/O VILL-
SINGIMARI, P.S.-ABHAYAPURI, DIST- BONGAIGAON, ASSAM, PIN-783384

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY SECRETARY OF THE MINISTRY OF HOME AFFAIRS,
UNION OF INDIA, NEW DELHI

2:THE STATE OF ASSAM
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE ELECTION COMMISSIONER
ASSAM STATE ELECTION COMMISSION
DISPUR
GUWAHATI-6

4:THE STATE COORDINATOR
NRC
ASSAM

5:THE DIRECTOR GENERAL OF POLICE (ADMN.)
ASSAM
ULUBARI
GUWAHATI-7

6:THE DEPUTY COMMISSIONER

BONGAIGAON
DIST- BONGAIGAON
ASSAM
PIN-783380

7:THE SUPERINTENDENT OF POLICE (B)
BONGAIGAON
P.O. AND DIST- BONGAIGAON
ASSAM
PIN-783380

8:THE MEMBER
FOREIGNER TRIBUNAL
BONGAIGAON AT ABHAYAPURI
FT NO-02
P.S.-ABHAYAPURI
P.O.-ABHAYAPURI
DIST-BONGAIGAON
ASSAM
PIN-78338

Advocate for the Petitioner : MR. K R PATGIRI

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

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

ORDER

Date : 19.07.2023
(A.M. Bujor Barua, J)

Heard Mr. K.R. Patgiri, learned counsel for the petitioner and Mr. B. Sarma, learned counsel for the respondent No. 1, being the Union of India. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 5, 7 and 8, being the authorities in the Home Department; Mr. A.I. Ali, learned counsel for the respondent No. 3, being the authorities in the Election Commission of India; Ms. L. Devi, learned counsel for the respondent No. 4, being the State Co-ordinator of NRC and Mr. P.K. Medhi, learned counsel for the respondent No. 6, being the

Deputy Commissioner, Bongaigaon.

2. The petitioner Ajifa Begam @ Azifa Begum was referred to the Foreigners' Tribunal No. 2, Bongaigaon at Abhayapuri for rendering an opinion as to whether she is a foreigner under the Foreigners Act, 1946 and accordingly Case No. BNGN/FT-2/APR/354/2017 was registered. The Tribunal had rendered its opinion dated 10.04.2023 by arriving at its conclusion that the petitioner is a foreigner under the Foreigners Act, 1946. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village 250 Bijni, PS Bijni in the present Chirang district which contains the name of Osiruddin son of late Gofuruddin at Sl. No. 138. It is claimed that Osiruddin is the father of the petitioner. To substantiate the same, Osiruddin son of late Gofuruddin of village Purona Bijni had rendered evidence as DW2 before the Tribunal stating that the petitioner Azifa Begam is his daughter. But in the evidence rendered by DW2, it is stated that Hajifa is his daughter.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 2, Bongaigaon at Abhayapuri to examine the aforesaid voters' list of 1966 of village 250 Bijni as well as the evidence rendered by DW2. The State respondents in the Home Department may cross-examine the DW2 to extract the veracity of the evidence rendered by him as well as may make any further verification, if so advised and thereafter submit a report before the Tribunal. Further the discrepancy in the name given by DW2 as Hajifa and the petitioner proceedee Ajifa Begam @ Azifa Begum be also appropriately decided by the Tribunal.

5. Upon doing the needful, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail

over the earlier opinion dated 10.04.2023 in Case No. BNGN/FT-2/APR/354/2017 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 14.08.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant