

GAHC010116892021



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

Case No. : WP(C)/3885/2021

NURJAHAN

D.O.- GOLAP KHAN @ GOLAP KHA @ GOPAL KHA, W.O.- ABDUL OAHAB
@ A. OAHAB, R/O- VILL- BILORTARI, P.S. KALGACHIA, DIST.- BARPETA,
ASSAM

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-06

3:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOK ROAD
NEW DELHI

4:THE DY. COMMISSIONER
BARPETA
DIST.- BARPETA
ASSAM

5:THE SUPERINTENDENT OF POLICE (B)
BARPETA
DIST.- BARPETA
ASSAM

6:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZEN
ASSAM

BHANGAGARH
GHY-0

Advocate for the Petitioner : MR S HOQUE

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

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

ORDER

Date : 10.04.2023
(A.M. Bujor Barua, J)

Heard Mr. S. Hoque, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 6, being the Union of India and the State Co-ordinator of NRC, respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2 and 5, being the authorities in the Home Department; Mr. T. Pegu, learned counsel for the respondent No. 3, being authorities in the Election Commission of India and Ms. U. Das, learned counsel for the respondents No. 4, being the Deputy Commissioner, Barpeta.

2. The petitioner Nurjahan was referred to the Foreigners' Tribunal No. 11, Barpeta for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly Case No. (Bpt/11th) F.T. 1469/2017 was registered. The Tribunal rendered its opinion dated 16.12.2019 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village Khelli, Mouza Titapani in the Barpeta district which contains the name of Golap Khan son of Jabbar at Sl. No. 25 and that of Kosiran Nessa wife of Golap

at Sl. No. 26. The petitioner also refers to a jamabandi in respect of a plot of land in village Khelli wherein as per the order of the Circle Officer dated 01.03.2011, the land in the name of Gopal Kha had been mutated, amongst others, in the name of Nurjahan.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 11, Barpeta to examine as to whether Gopal Kha referred in the jamabandi of a plot of land in village Khelli and Golap Khan of the voters' list of 1966 of village Khelli are one and the same person. The petitioner to produce the complete order of the Circle Officer dated 01.03.2011 before the Tribunal. The Tribunal to also examine as to whether the petitioner Nurjahan and Nurjahan whose name was mutated in place of Gopal Kha as per the order of the Circle Officer dated 01.03.2011 are one and the same person. The respondents in the Home Department through the Superintendent of Police(B), Barpeta may also make their own verification and thereafter submit report to the Tribunal. Upon the 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 16.12.2019 in Case No. (Bpt/11th) F.T. 1469/2017 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 26.05.2023. 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

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Comparing Assistant