

GAHC010118032019



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

Case No. : WP(C)/3716/2019

MONOWARA BIBI
W/O- MD. SAMSUL HOQUE SK., R/O- VILL- DANGIRCHAR, P.S. GORIPUR,
DIST- DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA AND 3 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, JAISALMER HOUSE, 26 MANSINGH ROAD, NEW DELHI- 110011

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

3:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783301

4:THE ELECTION OFFICER
DHUBRI
DIST- DHUBRI
ASSAM
PIN- 78330

Advocate for the Petitioner : MR. U DUTTA

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

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

ORDER

Date : 31.05.2023

(A.M. Bujor Barua, J)

Heard Mr. U. Dutta, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondent No. 1, being the Union of India. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2 and 3, being the authorities in the Home Department and Mr. T. Pegu, learned counsel for the respondent No. 4, being the authorities in the Election Commission of India.

2. The petitioner Monowara Bibi was referred to the Foreigners' Tribunal No. 4, Dhubri 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. F.T.-4/26/GPR/2018 was registered. The Tribunal had rendered its opinion dated 30.10.2018 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 1970 of village Chalakura Char, P.S. South Salmara in the Goalpara district which contains the name of Chanullah Paramanik son of Jaynal at Sl. No. 106 and that of Basaton Bibi wife of Chanullah at Sl. No. 107 and both are shown to be residing in the same house No. 28. The petitioner also relies upon the voters' list of 1971 of village Chalakura Char, P.S. South Salmara in the Goalpara district which contains the name of Bahej Ali Pramanik son of Chanullah Ali at Sl. No. 119 and he is shown to be residing in the house No. 28 which is similar as that of Chanullah Paramanik of the voters' list of 1970 of village Chalakura Char. The

petitioner claims that Bahej Ali Pramanik of the voters' list of 1971 of village Chalakura Char is the father of the petitioner. To substantiate that the petitioner is the daughter of Bahej Ali Pramanik, Bahej Ali Pramanik had deposed before the Tribunal as DW2 wherein he stated that the petitioner Monowara Bibi is his daughter.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 4, Dhubri to examine the aforesaid voters' lists of 1970 and 1971 of village Chalakura Char as well as the evidence of DW2. The State respondents in the Home Department may cross-examine the DW2, if so advised, to extract the veracity of his deposition that the petitioner Monowara Bibi is his daughter.

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 30.10.2018 in Case No. F.T.-4/26/GPR/2018 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 05.07.2023. 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