

GAHC010120872019



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

Case No. : WP(C)/3650/2019

NURJAHAN NESSA
W/O JESAR UDDIN, D/O LT. SAHAR ALI MIA, VILL. AMBARI KADOTIKA,
P.O. AMBARI, P.S. BAGUAN, DIST.-GOALAPARA, ASSAM, PIN-783123

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, NEW DELHI-1

2:THE ELECTION COMMISSION OF INDIA
NEW DELHI-1

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

4:THE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
BHANGAGARH
GUWAHATI-05

5:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM
PIN-783121

6:THE SUPERINTENDENT OF POLICE (BORDER)
GOALPARA
DIST. GOALPARA

ASSAM
PIN-783121

7:THE OFFICER IN CHARGE
BAGUNA POLICE STATION
DIST.-GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR. M ALI

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

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

ORDER

Date : 20.03.2023
(AM Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. P Swargiary, learned counsel for the respondent no. 1 being the Union of India, Mr. AI Ali, learned counsel for the respondent no. 2 being the Election Commission of India, Ms. A Verma, learned counsel for the respondents no. 3, 6 and 7 being the authorities under the Home Department of the Government of Assam, , Ms. L Devi, learned counsel for the respondent no. 4 being the authorities under the NRC and Ms. K Phukan, learned counsel for the respondent no. 5 being the Deputy Commissioner, Goalpara.

2. The petitioner Nurjahan Nessa had been referred to the Foreigners' Tribunal No. 4, Goalpara for rendering an opinion as to whether she is a person who entered the State of Assam from the specified territory on or after 25.03.1971 which resulted in registration of F.T. Case No. FT (G-4) 641/2016

wherein an opinion dated 29.12.2018 had been rendered by which the petitioner was declared to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. The petitioner Nurjahan Nessa relies upon the voters' list of 1966 of village Ambari Gaon Panchayat Ambari of Goalpara district which contains the name of Shohorali Bepari, S/O Toripuddin Sheikh at Sl. No. 37 and that of Srotjan Nessa, W/O Shohor Ali at Sl. N. 38 and both of them of the same House No. 19. The petitioner also refers to the voters' list of 1985 of village (132) Ambari which contains the name of Sahar Ali Sheikh, S/O Lt. Tarik at Sl. No. 81 and that of Surotjan, W/O Sahar at Sl. No. 82 and that of Jelal Hussain, S/O Sahar at Sl. No. 84.

5. Jelal Hussain, S/O Sahar Ali of village Ambari had made a deposition before the Tribunal stating that the petitioner Nurjahan Nessa is his sister and that she is also the daughter of Sahar Ali Sheikh of village Ambari whose name appears in the voters' lists of 1966 and 1985 along with that of Jelal Hussain. It is noticed that the State respondents through the Home Department had not cross examined Jelal Hussain. In the circumstance, the matter stands remanded back to the Tribunal to enable the State respondents through the Home Department to examine the said Jelal Hussain and upon cross examination and taking note of the implication of the original evidence rendered by Jelal Hussain conjointly with the voters' lists of 1966 and 1985 of village Ambari, the Tribunal to pass a reasoned order.

7. If the reasoned order is in favour of the petitioner, the same may prevail over the opinion/order dated 29.12.2018 passed in F.T. Case No. FT (G-4) 641/16 and if against, consequence under the law is applicable to the petitioner.

The petitioner to appear before the Tribunal on 27.04.2023.

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

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant