

GAHC010123752019



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

Case No. : WP(C)/3736/2019

ANOWARA KHATUN @ ANOWARA BEGUM
D/O- LATE JAHIR UDDIN, W/O- ISUB ALI, VILL NO.2 TUPAMARI, P.O-
TUPAMARI, P.S- NAGARBERA, DIST- KAMRUP, ASSAM, PIN- 781127

VERSUS

THE UNION OF INDIA AND 9 ORS
REP. BY THE MIN OF HOME AFFAIRS, GOVT OF INDIA, NEW DELHI- 01

2:THE ELECTION COMMISSIONER OF INDIA
REP. BY COMMISSIONER
NEW DELHI- 01

3:THE STATE OF ASSAM
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GHY- 6

4:THE STATE COORDINATOR
NRC
ASSAM
BHANGAGARH
GHY- 05

5:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GHY- 06

6:THE DIRECTOR GENERAL OF POLICE
ASSAM

ULUBARI
GHY- 05

7:THE DEPUTY COMMISSIONER
KAMRUP (R)
ASSAM
PIN- 781031

8:THE SUPERINTENDENT OF POLICE(B)
KAMRUP (R)
ASSAM
PIN- 781031

9:THE OFFICER IN CHARGE
NAGARBERA POLICE STATION
DIST- KAMRUP(R)
ASSAM
PIN- 781127

10:THE ELECTORAL REGISTRATION OFFICER NO. 48
BOKO (SC) LAC
DIST- KAMRUP(R)
ASSAM
PIN- 78103

Advocate for the Petitioner : MR. M U MONDAL

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

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

JUDGMENT & ORDER (ORAL)

15.02.2023

(AM Bujor Barua, J)

Heard Mr. MU Mondal, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the

authorities under the NRC, Mr. T Pegu, learned counsel for the authorities under the Election Commission of India, Mr. G Sharma, learned Special Standing Counsel, Foreigners' Tribunal for the Home Department, Government of Assam, the Chief Secretary to the Government of Assam, the Director General of Police Assam, the Superintendent of Police (B) Kamrup(R) as well as the Officer-in-Charge, Nagarbera Police Station, and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Kamrup(R).

2. The petitioner, namely, Anowara Khatun @ Anowara Begum aged 48 years, daughter of Jahiruddin, wife of Isub Ali of village No.2 Tupamari, P.S. Nagarbera, District Kamrup(R) has instituted this writ petition assailing the notice dated 03.05.2019 of the Foreigners Tribunal No.1 Kamrup(R) in Case No.GFT(R)118/2017. According to the petitioner, she being the daughter of Late Jahiruddin, wife of Md. Isub Ali of village No.2 Tupamari PS Nagarbera, District Kamrup(R) was earlier noticed by the Foreigners Tribunal No.1 Kamrup(R) in GFT(R)Case No. 188/2017 F.T.Case No.282/2009 which was registered against Musstt. Anowara Begum wife of Md. Isub Ali, daughter of Lt. Sagar Ali. The petitioner appeared before the Tribunal in the said GFT(R)Case No.188/2017 F.T. Case No.282/2009 and took the stand that she is Anowara Khatun @ Anowara Begum wife of Esub Ali of village Tupamari PS Nagarbera, District Kamrup, Assam, but she is the daughter of Jahiruddin @ Jahoruddin and not the daughter of Lt. Sagar Ali. Accordingly, a stand was taken by the petitioner that the notice was issued to a person other than a person against whom the said F.T. Case was registered. Consequently, the order dated 05.12.2017 was passed in GFT(R)Case No.188/2017 F.T. Case No.282/2009 whereby an opinion was rendered that Anowara Khatun @ Anowara Begum, wife of Esub Ali, daughter

of Lt. Jahiruddin @ Jahoruddin of village Tupamari PS Nagarbera, District Kamrup(R) is not a proceedee in the said matter and accordingly the petitioner was released by the Tribunal from the proceeding.

3. In the circumstance, the impugned notice dated 30.05.2019 was issued against Anowara Begum @ Anowara Khatun daughter of Lt. Jahiruddin, wife of Md. Isub Ali of village No.2 Tupamari PS Nagarbera, District Kamrup(R). The petitioner now takes a stand that she was earlier proceeded in GFT(R)Case No.188/2017 F.T. Case No.282/2009 by the Foreigners Tribunal No.1 Kamrup(R) and the opinion was in her favour and therefore further notices would not be maintainable under the law.

4. We are unable to accept the said contention of Mr. MU Mondal, learned counsel for the petitioner, *inasmuch as* by the earlier order dated 05.12.2017 in GFT(R)Case No.188/2017 F.T. Case No.282/2009 no opinion in favour of the petitioner was rendered, but the petitioner was released from the said proceeding *inasmuch as*, it was the stand of the petitioner that she was not the person being the daughter of Jahiruddin @ Jahoruddin where the proceeding was against Anowara Begum @ Anowara Khatun daughter of Lt. Sagar Ali.

5. But, in the instant case, it is taken note of that the notice dated 30.05.2019 is against Anowara Begum @ Anowara Khatun daughter of Late Jahiruddin, wife of Md. Isub Ali of No.2 Tupamari, P.S. Nagarbera, District Kamrup, Assam and the said identification is that of the petitioner herself. If this time, the reference is actually proceeded against the petitioner, it is for the

petitioner to appear before the Tribunal, defend her case by taking any stand supported by any material as may be permissible under the law.

6. In view of the above, the writ petition stands dismissed. The petitioner to appear before the Tribunal on 21.03.2023 for further proceeding.

7. Upon her appearance before the Tribunal, it would be open for the petitioner to take any stand in her defence by adducing relevant materials.

8. The petitioner raises the grievance that the copy of the reference had not been furnished to her. The petitioner would be at liberty to inspect the copy of the reference case registered against her before the Tribunal to satisfy herself on the contents of the same.

9. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant