

GAHC010124412019



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

Case No. : WP(C)/3972/2019

JAHANARA BEGUM @ JAHANARA KHATUN
D/O. FAZIAL HOQUE @ FAZUL HOQUE, W/O. MOHIR UDDIN, VILL.
DUMURIA PART-II, P.S. ABHAYAPURI, DIST. BONGAIGAON, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS.
THROUGH- THE SECRETARY, TO THE GOVT. OF INDIA, THE MINISTRY OF
HOME AFFAIRS, GRIHA MANTRALAYA, NEW DELHI.

2:THE STATE OF ASSAM
THROUGH- THE SECRETARY
TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

3:THE ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN ASOKA ROAD
NEW DELHI-110001.

4:THE STATE CO-ORDINATOR

NATIONAL REGISTRATION OF CITIZEN
ASSAM
BHANGAGARH
GUWAHATI.

5:THE DY. COMMISSIONER

BONGAIGAON

P.O. BONGAIGAON
DIST. BONGAIGAON
ASSAM.

6:THE SUPDT. OF POLICE (B)

BONGAIGAON
P.O. BONGAIGAON
DIST. BONGAIGAON
ASSAM

Advocate for the Petitioner : MR. S C BISWAS

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

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

ORDER

Date : 27.01.2023
(A.M. Bujor Barua, J)

Heard Mr. S C Biswas, learned counsel for the petitioner. Also heard Mr. B Chakraborty, learned counsel for the respondent no. 1 being the Union of India, Ms. A Verma, learned counsel for the respondents no. 2 and 6 being the Home Department of the Government of Assam, Mr. A Ali, learned counsel for the respondent on. 3 being the Election Commission of India, Ms. L Devi, learned counsel for the respondent no. 4 being the NRC and Ms. U Das, learned counsel for the respondent no. 5 being the Deputy Commissioner, Bongaigaon.

2. The petitioner had been referred for an adjudication as to whether he is a person who entered the State of Assam subsequent to 25.03.1971 to the Foreigner's Tribunal No. 2 Bongaigaon at Abhayapuri resulting in registration of BNGN/FT Case No. 3286/2007. Before the Tribunal the petitioner took the stand that she is the daughter of Fazlul Hoque, son of Moniruddin of village Tinkonia Part II and secondly exhibited the voters' list of 1966 of (285) of Tinkonia Part 2 village wherein at Sl. No. 148 the name of Fazlul Hoque, son of Moniruddin appears. The petitioner also exhibited the voters' list of 1970 of (284) Tinkonia Part II village wherein at Sl. No. 147 the name of Fazlul , son of Munirudin appears. The petitioner further

exhibited the voters' list of 1985 of village 234 Tinkonia Part II wherein at Sl. No. 227 the name of Fazlul Hoque, son of Mio-iraddin appears. The petitioner also exhibited the marriage certificate issued by the North East India Emarate Shoria & Nandawat of Bongaigaon branch which is stated to be a society registered under the Societies Registration Act.

3. The Kabin Nama which was exhibited by the petitioner shows her name to be Jahanara Khatun, daughter of Fazlul Hoque of village Tinkonia 2nd of Bongaigaon district. The name of Fazlul Hoque, son of Moniruddin having appeared in the voters' list of Tinkonia Part II village for the years 1966, 1970 and 1985 if read conjointly with the contents of the information in the Kabin Nama prima facie indicates that the petitioner may be a daughter of Fazlul Hoque whose name appeared in the voters' list of 1966 and 1970 and therefore, would be an Indian citizen by law. But the question for examination would be whether the registration of the marriage of the petitioner as per the Kabin Nama issued by the North East India Emarate Shoria & Nandawat, which is a society registered under the Societies Registration Act, would have any evidentiary value as per the marriage of the petitioner. But in this proceeding we are not concerned with the validity of the marriage of the petitioner and the relevance of the marriage certificate/Kabin Nama is only in respect of the information that it may contain as to who is the father of the petitioner.

4. In the circumstance we are of the view that the interest of justice would be met if the petitioner is allowed to adduce further evidence by bringing in the appropriate person of the North East India Emarate Shoria & Nandawat as well as to allow the petitioner to produce the original records of the marriage containing her personal information to substantiate that she is the daughter of Fazlul Hoque of Tinkonia Part II village whose name appeared in the voters' list of 1966.

5. For the aforesaid limited purpose we remand the matter back to the Tribunal for a fresh consideration.

6. The person who may appear before the Tribunal to adduce evidence on behalf of the North East India Emarate Shoria & Nandawat shall also produce all relevant documents to substantiate that he is an authenticated person of the society to render evidence as well as of further documents pertaining to the existence and validity of the said organization North East

India Emarate Shoria & Nandawat.

7. In doing so, the Tribunal shall also take note of the evidence of Fazlul Hoque, son of Moniruddin of Tinkonia Part II village that the petitioner Jahanara Khatun is his daughter. The reasoned order that may be passed by the Tribunal shall prevail over the earlier opinion rendered. The petitioner to appear before the Tribunal on 02.03.2023. 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