

GAHC010124432023



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

Case No. : WP(C)/3306/2023

AMBIYA KHATUN @ AMBIYA BIBI
D/O- NIYAMAT ALI,
RESIDENT OF VILLAGE- SINDURAI PART-II,
P.S.- AGOMONI, DIST.- DHUBRI,
ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY ITS SECRETARY,
GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS,
NEW DELHI-110001.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM

HOME DEPARTMENT
DISPUR

GUWAHATI-6.

3:THE DIRECTOR GENERAL OF POLICE (ADMINISTRATION)
ASSAM
ULUBARI
GUWAHATI-07.

4:THE DISTRICT MAGISTRATE CUM DEPUTY COMMISSIONER
DHUBRI
P.O. AND DIST.- DHUBRI
ASSAM

PIN- 783301.

5:THE SUPERINTENENT OF POLICE (BORDER)
DHUBRI
P.O. AND DIST.- DHUBRI
ASSAM

PIN- 783301.

6:THE STATE COORDINATOR (NRC)
GUWAHATI
ASSAM
GHY-05.

7:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD

NEW DELHI- 110001

Advocate for the Petitioner : MR. M KHAN

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

23.06.2023

(A.M. Bujor Barua, J)

Heard Mr. M Khan, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Ms. A Verma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India and Ms. U Das, learned counsel for the Deputy Commissioner, Dhubri.

2. The petitioner Ambiya Khatun @ Ambiya Bibi had been referred to the Foreigners Tribunal No. 9, Dhubri for rendering an opinion as to whether she is a foreigner within the meaning of foreigner under the Foreigners Act, 1946, resulting in registration of FT Case No.9/184/GKJ/2018, wherein an opinion dated 02.06.2022 was rendered declaring the petitioner to be a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters list of 1966 of village Sindurai Part-II, which contains the name of Baburulla Sk son fo Dhero and Neto Bibi wife of Babrullah at serial No. 128 and 129 respectively and it is claimed that Baburulla Sk is the grandfather and Neto Bibi is the grandmother of the petitioner. 1971 voters list of village Sindurai Part-II contains the name of Niyamat Ali son of Baburullah at serial No. 134 along with Baburulla Sk and Neto Bibi and it is claimed that Niyamat Ali is the father of the petitioner. The voters list of 1997 of village Sindurai Part-II contains the name of Ambiya Khatun daughter of Niyamat at serial No. 1167 along with Niyamat Ali and it is claimed that accordingly the burden under section 9 of the Foreigners Act, 1946 had been discharged by the petitioner.

4. As required by the order of 09.06.2023, the Election Department has produced the complete voters list of village Sindurai Part-II of the years 1966, 1971, 1985 and 1997. Upon examining the complete voters list, the aforesaid information is found to be correct.

5. In view of the above, we remand the matter back to the Tribunal to examine the voters list of village Sindurai Part-II of the years 1966, 1971, 1985 and 1997. The Home Department of Government of Assam may also submit a report as to whether Ambiya Khatun of the 1997 voters list of village Sindurai Part-II and the writ petitioner Ambiya Khatun are one and the same person and

submit a report before the Tribunal. Upon doing the needful, the Tribunal shall pass a reasoned order thereon.

6. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 02.06.2022 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioners shall appear before the concerned Foreigners Tribunal on 28.07.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

JUDGE

JUDGE

Comparing Assistant