

GAHC010127502023



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

Case No. : WP(C)/3407/2023

SUMITRA DAS @ SUMITRA ARJYA
WIFE OF CHARAN DAS,
DAUGHTER OF PARESH CH ARJYA,
PERMANENT RESIDENT OF VILLAGE KHAIRABARI,
MOUZA- GOBARDHANA,
POLICE STATION- BARPETA ROAD,
IN THE BARPETA DISTRICT OF ASSAM,
PIN- 781315.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS,
NEW DELHI. PIN- 110001.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER.
NEW DELHI- 110001.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR

GUWAHATI- 781006.

4:THE DEPUTY COMMISSIONER
BARPETA
ASSAM- 781314.

5:THE SUPERINTENDENT OF POLICE (B)
BARPETA
ASSAM- 781314.

6:COORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GUWAHATI- 781004

Advocate for the Petitioner : A W AMAN

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

25.08.2023

(A.M. Bujur Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned CGC appearing on behalf of respondents in the Union of India and the authorities under the NRC being the respondent Nos.1 & 6, Mr. P. Sarma, learned Government Advocate for the State respondents being the respondent No.4, Mr. G. Sarma, learned Standing Counsel representing the respondents Nos. 3, & 5, being the authority of Home Department, and Mr. T. Pegu, learned counsel for the Election Commission of India being respondent No.2.

2. The petitioner Sumitra Das @ Sumitra Arjya had been referred to the Foreigners Tribunal No.-11, Barpeta, Assam for rendering an opinion as to whether she is a foreigner under the Foreigners Act, 1946 resulting in registration of (Bpt/11th) F.T. Case No.2584/2017. The Tribunal rendered an

opinion dated 16.06.2022 declaring the petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the Writ Proceeding, the petitioner relies on the Voters List of 1966 of Village No.2 Daranga Sub-Division Bijni in the present Chirang District, which contains the name of Makhan Ch Arjya son of Jadukanta at Sl. No.281, Kumudini Bala Rajya wife of Makhan at Sl. No.282 and that of Paresh Arjya son of Makhan at Sl.No.283, and they are residing in the same house No.94 and accordingly, it is claimed that Makhan Ch Arjya is the grandfather, Kumudini Bala Rajya is the grandmother and Paresh Ch. Arjya is the father of the petitioner.

The petitioner also relies on the voters list of the year 1997 of Village No.2 Daranga Sub-Division Bijni in the Chirang District which contains the name of Paresh Arjya son of Makhan at Sl.No.361, and that of Sukumar Arjya son of Paresh at Sl.No.365 and both are residing in the same house No.110. As Paresh Ch. Arjya son of Makhan and Sukumer Arjya son of Paresh are residing in the same house No.110, it itself indicates that they may be father and son and it is also claimed accordingly. Sukumar Arjya had stated before the Tribunal as DW-2 that the petitioner Sumitra Das @ Sumitra Arjya is his sister and she is also the daughter of Paresh Arjya. Her maiden name is Sumitra Arjya and after marriage she adopted the name of Sumitra Das. Although, Sukumer Arjya has been cross examined, the Home Department intends to further cross examine DW-2 Sukumer Arjya to extract the veracity of the evidence rendered that Sumitra Das @ Sumitra Arjya is his sister.

4. In view of above, the matter is remanded back to the Tribunal. The petitioner is to produce the complete and continuous Voters List of Village No.2 Darang Sub-Division Bijni in the Chirang District of the year 1966 onwards. The

respondents in the Home Department may further make verification and submit a report before the Tribunal. The petitioner, if desires may adduce any further material. Upon doing the needful a reasoned order be passed. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 16.06.2022 and if it is against the petitioner, consequential action shall follow.

5. The petitioner shall accordingly appear before the Tribunal on 22.09.2023. Till the reasoned order is passed, no coercive action shall be taken against the petitioner.

6. The petition stands allowed as indicated above. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant