

GAHC010128502019



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

Case No. : WP(C)/3806/2019

KABERI SAH @ KABERI DHAR @ KABANI SHAH
D/O- LT KAJAL DHAR, W/O- SIBNATH DHAR, R/O- RANGAPARA TOWN,
WARD NO. 1, P.O. AND P.S. RANGAPARA, DIST- SONITPUR, ASSAM, PIN-
784505

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, DEPTT. OF HOME AFFAIRS,
NEW DELHI- 110001

2:THE ELECTION COMMISSION
GOVT. OF INDIA
NEW DELHI-110001

3:THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
HOME AND POLITICAL (B) DEPTT.
DISPUR
GHY-6

4:THE DY. COMMISSIONER
SONITPUR
PIN- 784001

5:THE SUPERINTENDENT OF POLICE (B)
SONITPUR
PIN- 784001

6:THE STATE CO-ORDINATOR OF NATIONAL REGISTRATION (NRC)
ASSAM
BHANGAGARH

GHY-

Advocate for the Petitioner : MR. B BANERJEE

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

BEFORE

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

O R D E R

22.02.2023

(A.M. Bujor Barua, J)

Heard Mr. A Mubaraque, learned counsel for the petitioner, Ms. L Devi, learned counsel for the respondents in the Union of India as well as for the NRC, Mr. G Sarma, learned counsel for the respondents in the Home Department of the Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India and Ms. U Das, learned counsel for the Deputy Commissioner, Nagaon.

2. The petitioner Kaberi Sah @ Kaberi Dhar @ Kabani Shah was referred to the Foreigners Tribunal No. 7 at Tezpur for rendering an opinion as to whether she entered the State of Assam subsequent to 25.03.1971 resulting in registration of FT (IMDT) Case No. 229/201.

3. The petitioner takes a stand that her grandfather is Manindra Chandra Dhar, whose name appeared in the voters list of 1966 of village South Jitpur, Mauza Pachim Jitpur police station Alipurduar in the State of West Bengal at serial No. 195 and that Anubala Dhar is her grandmother whose name appeared at serial No. 196 of the same voters list. The petitioner refers to a sale deed dated 30.01.1952 by which Manindra Chandra Dhar son of Angi Kumar Dhar of

village Alipurduar had purchased a plot of land at village Pachim Jitpur. The petitioner refers to a revenue paying receipt in respect of Khatian No. 3329 in respect of a plot of land of village Pachim Jitpur which was issued in the name of Kajal Dhar son of Manindra Chandra.

4. The petitioner also refers to a voters' list of 1997 of village Rangapara Town Ward No. 3 which provides the name of Kajal Dhar, S/O Manindra at Sl. No. 164. The petitioner also refers to the school certificate issued by the Headmaster of Rangapara Bengali MV School wherein it is provided that Kaberi Dhar is the daughter of Late Kajal Dhar inhabitant of Rangapara Ward No. 3.

5. By establishing the link with Kajal Dhar of Rangapara Ward No. 3 through the school certificate with reference to the voters' list of 1993 and 1997 in respect of Rangapara Town providing the name of Kajal Dhar, S/O Munindra the petitioner also takes a stand that Kajal Dhar of Rangapara Town and Kajal Dhar of the revenue paying receipt in respect of Khatian No. 3329 is the one and same person and Kajal Dhar of the revenue paying receipt of Khatian No. 3329 can be related to Manindra Chandra Dhar of the voters' list of 1966 of village South Jitpur in the State of West Bengal. In order to establish the link a question would remain as to whether Kajal Dhar of Rangapara Town of voters' list of 1993 and 1997 and Kajal Dhar of the revenue paying receipt of Khatian No. 3329 of the State of West Bengal are one and the same person.

6. The petitioner takes a stand that the younger brother of Kajal Dhar of Khatian No. 3329 is still alive and is residing at their original village in West Bengal and he can render evidence before the Tribunal that Kajal Dhar of the revenue paying receipt of Khatian No. 3329 of West Bengal and Kajal Dhar of Rangapara Town are one and same person.

7. Considering the aforesaid aspect, we remand the matter back to the Tribunal to enable the petitioner to adduce any evidence through the younger brother of Kajal Dhar of the revenue paying receipt of Khatian No. 3329 of West Bengal to establish that Kajal Dhar of voters' list of 1993 and 1997 of Rangapara Town and Kajal Dhar of the revenue paying receipt of Khatian No. 3329 are one and the same person. The petitioner may also bring in any further material that may be relevant for the purpose to establish the same before the Tribunal. The petitioner shall appear before the Tribunal on 29.03.2023.

8. Any reasoned order that the Tribunal may pass if in favour of the petitioner shall prevail over the order/opinion dated 21.01.2019 in Case No. FT (IMDT) 229/16 by the Foreigners Tribunal No. 7 at Tezpur and if against, the implication of law shall prevail.

Send back the LCR forthwith.

Till the reasoned order is passed by the Tribunal no coercive action be taken against the petitioner.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant