

GAHC010130112019



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

Case No. : WP(C)/3870/2019

AMELA PAUL
W/O- SRI BIMAL PAUL, R/O- VILL NAYAPARA PT-II (BAHATI SALMARA),
P.S- MATIA, DIST- GOALPARA, ASSAM, PIN- 783101

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, NEW DELHI 011

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY
GOVT OF ASSAM
HOME DEPTT AND POLITICAL DEPTT
DISPUR
GUWAHATI- 06

3:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

4:THE OFFICE OF THE STATE COORDINATOR
NRC
ASSAM
1ST FLOOR
ACHYUT PLAZA
G S ROAD
BHANGAGARH
GUWAHATI- 5
DIST- KAMRUP
ASSAM

PIN- 781005

5:THE DEPUTY COMMISSIONER
GOALPARA
P.O AND P.S- GOALPARA
ASSAM
PIN-

6:THE SUPERINTENDENT OF POLICE (B)
GOALPARA
DIST- GOALPARA
ASSAM
PIN- 78310

Advocate for the Petitioner : MR U DAS

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

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

ORDER

Date : 20.03.2023
(AM Bujor Barua, J)

Heard Mr. IH Saikia, learned counsel for the petitioner. Also heard Ms. P Swargiary, 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 authorities under the Home Department of the Government of Assam, Mr. AI Ali, learned counsel for the respondent no. 3 being the Election Commission of India, Ms. L Devi, learned counsel for the respondent no. 4 being the authorities under the NRC and Ms. K Phukan, learned counsel for the respondent no. 5 being the Deputy Commissioner, Goalpara.

2. The petitioner Amela Paul had been referred to the Foreigners Tribunal No. 5, Goalpara for rendering an opinion as to whether she is a person who entered

the State of Assam from the specified territory on or after 25.03.1971, resulting in registration of F.T. Case No. F.T/5/180/MA/2017 wherein an opinion dated 07.09.2018 was rendered that the petitioner is a person who entered the State of Assam on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding the petitioner relies upon the Relief Eligibility Certificate annexed as Annexure-1, page-13 which contains the name of Nagendra Paul, aged 45 years at Sl. No. 1 and that of Gobinda Paul, S/O Nagendra Paul aged 20 years at Sl. No. 3.

5. Gobina Paul rendered his evidence-on-affidavit stating that the petitioner Amela Paul is his sister and the daughter of Nagendra Paul who was born subsequently at village Dhumergat where Nagendra Paul settled after obtaining the Relief Eligibility Certificate. In cross examination by the State authorities the witness Gobinda Paul stated that he was born at Simultola, P.S. Nalitabari in Mymensingh district of present Bangladesh and after migration had lived at Matia camp and after two years sent to Dhudhnoi and thereafter, after 1 ½ years to Tengabari. Subsequently, the family shifted to Dhumergat where they had been residing for the last forty years. The petitioner Amela Paul was born at village Dhumergat where his father had purchased a plot of land about 38 years ago.

6. The examination-in-chief as well as the cross examination of the witness Gobinda Paul whose name also appears in the Relief Eligibility Certificate may establish that the petitioner is the citizen of India. But, however, Ms. A Verma, learned counsel for the respondents in the Home Department states that the State would like to further cross examine the witness Gobinda Paul.

7. In view of the above, the matter stands remanded back to the Tribunal to enable the State authorities to further cross examine the witness Gobinda Paul. Upon such cross examination, a reasoned order be passed.
8. If the reasoned order is in favour of the petitioner, the same may prevail over the opinion/order dated 07.09.2018 passed in F.T/5/180/MA/2017 and if against, consequence under the law is applicable to the petitioner.
9. The petitioner to appear before the Tribunal on 27.04.2023.
10. 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