

GAHC010130982020



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

Case No. : WP(C)/3895/2020

NASHIRA BEGUM

D/O- LT. JAHUR UDDIN, W/O- FAJAR ALI, R/O- VILL- DAULATPUR, MOUZA-
LALUK, P.S. BIHPURIA- 787054, DIST.- LAKHIMPUR, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS.

REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, NEW DELHI- 110001

2:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.

DISPUR

GHY-06

3:THE MEMBER

FOREIGNERS TRIBUNAL-1

NORTH LAKHIMPUR

DIST.- LAKHIMPUR

ASSAM

PIN- 781001

4:THE ELECTION COMMISSION OF INDIA

NEW DELHI- 110001

5:THE COORDINATOR

NRC ASSAM

GHY-05

6:THE DY. COMMISSIONER

NORTH LAKHIMPUR

DIST.- LAKHIMPUR

ASSAM

PIN- 784001

7:THE SUPERINTENDENT OF POLICE (B)
NORTH LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 78700

Advocate for the Petitioner : MS. S G BARUAH

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

29.05.2023

(A.M. Bujor Barua, J)

Heard Ms. SG Baruah, 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 respondents in the NRC, Ms. A Verma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. T Pegu, learned counsel for the Election Commission of India and Mr. TR Gogoi, learned counsel for the Deputy Commissioner, Lakhimpur.

2. The petitioner Nashira Begum had been referred to the Foreigners Tribunal No.1, Lakhimpur, North Lakhimpur 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 LFT(1) Case No. 218 (D)/2008, wherein the Tribunal rendered an ex-parte opinion dated 17.12.2018 declaring the petitioner to be a foreigner.

3. The order of the Tribunal itself reveals that there was a report of the Electoral Registration Officer, North Lakhimpur as well as a police enquiry report expressing doubt on the nationality of the petitioner. Thereupon the reference

was registered on 21.12.2011, but no notice could be served as the petitioner was not found in the available address. Thereafter, notice was reissued on 26.11.2018 for service through pasting/affixing in the last known residence of the petitioner in the presence of the Government Gaonbura and two local peoples. The police report available before the Tribunal also showed that the petitioner was untraceable. In the circumstance, having no other option, the petitioner was declared to be a foreigner by the Tribunal. Being aggrieved, this writ petition is instituted.

4. As the petitioner is now available to answer to the Tribunal, we are of the view that the petitioner deserves another opportunity to establish on merit before the Tribunal that she is an Indian citizen.

5. However, for the conduct of the petitioner and also taking note that she had taken the advantage of the situation since the year 2008 by not appearing before the Tribunal, a cost of Rs. 7,500/- is imposed on the petitioner to be deposited before the District Legal Services Authority, Lakhimpur, North Lakhimpur and upon showing the proof of payment to appear before the Tribunal.

6. In view of the above, the ex-parte order dated 17.12.2018 is set aside.

7. Accordingly, the petitioner shall appear before the Foreigners Tribunal No.1, Lakhimpur, North Lakhimpur on 26.06.2023. Upon appearance of the petitioner, the Tribunal may pass any order on merit.

8. The writ petition is allowed as indicated above.

JUDGE

JUDGE

Comparing Assistant