

GAHC010131622019



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

Case No. : WP(C)/3970/2019

REJINA BIBI
W/O NAJRUL ISLAM, R/O VILL. MERAGANDRA, P.S. CHAYYAGAON, P.O.
HATIPARA, DIST.-KAMRUP, ASSAM

VERSUS

UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, NEW DELHI-1

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT. DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER
KAMRUP (R)
AMINGAON

4:THE SUPERINTENDENT OF POLICE (B)
AMINGAON
DIST.-KAMRUP (R)
ASSAM

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI

6:THE STATE COORDINATOR
NATIONAL REGISTRAR OF CITIZENS (NRC)
ASSA

Advocate for the Petitioner : MR. J LASKAR

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

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

ORDER

Date : 10-03-2023

(A.M. Bujor Barua, J.)

Heard Mr. J. Laskar, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel, appearing on behalf of respondents in the Union of India, Ms. A. Verma, counsel for the respondents No.2 and 4, being the authorities in the Home Department of the Government of Assam, Mr. A I Ali, learned counsel for the respondent No.5 being the Election Commission of India, Ms. L Devi, learned counsel for the respondent No.6 being the authorities in the NRC and Mr. J. Singh, learned counsel for the respondent No.3 being the Deputy Commissioner, Kamrup (R), Amingaon.

2. The petitioner, Rejina Bibi, had been referred to the Foreigners Tribunal, Kamrup (Rural) for rendering an opinion as to whether she is a person who entered the State of Assam subsequent to 25.03.1971 from the specified territory, resulting in registration of GFT (R) Case No.1695/2017. The Foreigners Tribunal by the opinion dated 30.04.2019 opined that the petitioner is a foreigner who entered the State of Assam subsequent to 25.03.1971. Being aggrieved, this writ petition is instituted.

3. In this writ proceeding, the petitioner relies upon the voters list of 1966 for village Nahira, Mouza – Pub Samaria, PS. Polashbari in the Kamrup district which contains the name of Hussain Ali, son of Satu at Serial No.2443. The petitioner also relies upon a school certificate of Satrapara Ideal High School issued by the Headmaster which contains the information that Regina Begum is the daughter of Md. Hussain Ali of village Satrapara. Although the voters list of 1966 is in respect of village Nahira and the school certificate of Satrapara Ideal High School is in respect of village Satrapara, by referring to the voters list of 1977, which is in respect of voting center No.2 Nahira Satrapara LP Shool, a contention is raised that Nahira and Satrapara are one and the same village.

4. Accordingly, we remand the matter back to the Tribunal to enable the petitioner to render evidence of the Headmaster of Satrapara Ideal High School who shall produce the original records to establish the information contained in the school certificate relied upon by the petitioner which is dated 11.06.1994. The Tribunal may also examine the aspect as to whether the village Nahira and Satrapara are one and the same village. Upon doing the needful, the Tribunal to pass a reasoned order and if the reasoned order is in favour of the petitioner, it shall prevail over the earlier opinion dated 30.04.2019 rendered by the Foreigners Tribunal, Kamrup (Rural) and if the order is against the petitioner, consequence as per law shall follow.

5. The petitioner shall appear before the Foreigners Tribunal, Kamrup (Rural) on 10.04.2023.

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

7. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant