

GAHC010134232019



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

Case No. : WP(C)/3995/2019

TOBINA BIBI @ TAMINA BIBI
D/O. LT. TOHU SHEIKH, W/O. AHMED ALI, VILL. UCHITA, P.S. GOLAKGANJ,
DIST. DHUBRI, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, TRILOK MARG, NEW DELHI-110001.

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

3:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-781006.

4:THE STATE COORDINATOR OF NATIONAL REGISTER OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
GUWAHATI SHILLONG ROAD
BHANGAGARH
GUWAHATI
ASSAM-781005.

5:THE DY. COMMISSIONER
DHUBRI DISTRICT
DHUBRI

P.O.
P.S. AND DIST. DHUBRI
ASSAM-783301.

6:THE SUPDT. OF POLICE
DHUBRI DISTRICT
DHUBRI P.O. AND P.S. DHUBRI
DIST. DHUBRI
ASSAM-783301

Advocate for the Petitioner : MR. A T SARKAR

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

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

JUDGMENT

Date : 20-03-2023

(AM Bujor Barua, J)

Heard Mr. AT Sarkar, learned counsel for the petitioner. Also heard Ms. P. Swargiary, learned counsel for the respondent No.1 being the Union of India, Mr. A.I. Ali, learned counsel for the respondent No.2 being the Election Commission of India, Mr. G. Sarma, learned Counsel appearing for the Home Department of Government Assam being the respondent No.3, Ms. L. Devi, learned counsel for the respondent No.4 being the authorities under the NRC and Ms. K. Phukan, learned Advocate for the respondent No.5 being the Deputy Commissioner, Dhubri.

2. The petitioner, namely, Tobina Bibi @ Tamina Bibi was referred to the Foreigners' Tribunal No.8, Dhubri for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971, resulting in registration of F.T. Case No.FT-8/75/GKJ/2018 and by the opinion rendered on 30.11.2018, declared the petitioner to be a foreigner. Being aggrieved this Writ Petition being instituted.

3. In the Writ Proceeding, the petitioner refers to the Voters List of 1966 of Village 187 Silghagri Part-I, Mouza Dhubri in Dhubri District, which contains the name of Tahu Sheikh, son of Khaiddi at Sl. No.65. The petitioner also refers to the Voters List of 1970 of Village 187 Silghagri Part-I, Mouza Dhubri in Dhubri District, which contains the name of Tahu Sheikh, son of Khaiddi at Sl. No.79 and that of Khatun Bibi, wife of Tahu at Sl. No.82. Khatun Bibi as DW.2 had deposed before the Tribunal that her daughter is Tobina Bibi who was born and brought up in village Silghagri Part-I in the Dhubri District and that she has two daughters and two sons, namely, Tobina Bibi @ Tamina Bibi, Nomina Bibi, Hasen Ali and Hussain Ali. She also stated in her evidence that Tahu Sheikh is her father and the name of her father-in-law is Khaiddi. In her cross-examination, the DW.2 had stated that the proceedee Tobina Bibi @ Tamina Bibi is her own daughter and she is not known by any other name and further that she has two sons and two daughters and the proceedee is the eldest among them.

4. In the examination-in-chief, the DW.2 is specific and clear that the proceedee Tobina Bibi @ Tamina Bibi is her elder daughter, which again could not be controverted in any manner by the State authorities in cross-examination where she had reiterated in clear terms that the petitioner Tobina Bibi @ Tamina Bibi is her elder daughter. Khatun Bibi as per the Voters List of 1980 of Village Silghagri, is the wife of Tahu Sheikh whose name also appeared in the Voters List 1970 and 1966 of the same village.

5. As Tahu Sheikh is a citizen and Khatun Bibi, his wife had established before the Tribunal that the petitioner/proceedee Tobina Bibi @ Tamina Bibi is her elder daughter, we accordingly declare the citizenship of the petitioner Tobina Bibi @ Tamina Bibi to be a citizen of India. Accordingly petitioner Tobina Bibi @ Tamina Bibi shall be entitled to all the rights and liberties, as may be entitled to a citizen of India.

6. The Writ Petition stands allowed as indicated above.

7. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant