

GAHC010134342022



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

Case No. : WP(C)/7370/2022

MAJIRAN BEGUM@ MAJIRAN NESSA
D/O- LATE ABDUL AJIJ,
W/O- LATE ARFAN ALI,
R/O- VILLAGE HALONGBARI,
P.O- KATHALMURI,
P.S- PATACHARKUCHI, MOUZA- BIJNI, DIST- BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, SASTRI BHAWAN, NEW DELHI- 110001.

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

3: THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI-110001

4: THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S ROAD.
BHANGAGARH

GUWAHATI-05
DIST- KAMRUP (M)

5:THE FOREIGNERS TRIBUNAL
NO 10TH
BARPETA
DIST- BARPETA
ASSAM
PIN-781301

6:THE DEPUTY COMMISSIONER
BARPETA
DIST- BARPETA
ASSAM
PIN-781301

7:THE SUPERINTENDENT OF POLICE (B)
P.O- BARPETA
DIST- BARPETA
ASSAM
PIN-781301

8:THE OFFICER IN CHARGE
PATACHARKUCHI POLICE STATION
P.O- PATACHARKUCHI
DIST- BARPETA
ASSAM
PIN-78132

Advocate for the Petitioner : MS. D GHOSH

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

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

ORDER

Date : 10.04.2023
(A.M. Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner and Ms. L. Devi,
learned counsel for the respondents No. 1 and 4, being the Union of India and

the State Co-ordinator of NRC, respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 5, 7 and 8, being the authorities in the Home Department; Mr. A.I. Ali, learned counsel for the respondent No. 3, being authorities in the Election Commission of India and Ms. U. Das, learned counsel for the respondents No. 6, being the Deputy Commissioner, Barpeta.

2. The petitioner Majiran Begum @ Majiran Nessa was referred to the Foreigners' Tribunal No. 10, Barpeta 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 and accordingly F.T. Case No. 1874/2018 was registered. The Tribunal rendered its opinion dated 07.04.2022 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1965 of village Kasugaon, Mouza Gobardhana in the Barpeta district which contains the names of Ayeb Ali son of Kashar at Sl. No. 50 and the voters' list of 1970 of village Kasugaon, Mouza Gobardhana in the Barpeta district which contains the names of Hatem Shekh son of Kashar at Sl. No. 63, Ayeb Ali son of Kashar at Sl. No. 64 and Khadeja Khatun wife of Hatem at Sl. No. 67. The petitioner also relies upon the voters' list of 1997 of village Kasugaon, Mouza Gobardhana in the Barpeta district which contains the name of Abdul Ajij son of Tayeb at Sl. No. 203 and that of Ajiran Bewba wife of Tayeb Ali at Sl. No. 205 and they are shown to be residing in the house Nos. 91 and 92 respectively. The petitioner further relies upon the kabin nama which contains the information that Majiran Begum is the daughter of A. Ajij of village Kasugaon. Accordingly, the petitioner claims that she has established that she is a citizen of India by showing that she is the daughter of Abdul Ajij of the voters' list of 1997 of village Kasugaon where

Abdul Ajij is the son of Ayeb Ali of the voters' list of 1965. It is sought to be clarified by the petitioner that Tayeb Ali of the voters' list of 1997 and Ayeb Ali of the voters' list of 1965 are one and the same person.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 10, Barpeta to examine the voters' lists of 1965, 1970 and 1997 of village Kasugaon, Mouza Gobardhana in the Barpeta district as well as the kabin nama which contains the aforesaid information. It is also pointed out that the name of Khadeja Khatun wife of Hatem which appears in the voters' list of 1970 of village Kasugaon also appears in the voters' list of 1989 of village Kasugaon along with Abdul Ajij. The said voters' list may also be produced before the Tribunal for its examination. The petitioner further relies on the entries of a jamabandi which may also be relied upon. Upon the doing the needful, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 07.04.2022 in F.T. Case No. 1874/2018 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 23.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant