

GAHC010134362019



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

Case No. : WP(C)/4182/2019

KHODEJA KHATUN
D/O. SUKUR ALI, W/O. ANOWAR HOSSAIN, R/O. VILL. BHALUKMARI,
REVENUE VILLAGE CHOTOKOLIA PART-II, P.S. FAKIRGANJ, DIST. DHUBRI,
ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS.
THROUGH- THE MINISTRY OF HOME AFFAIRS GRIHA MANTRALAYA,
NEW DELHI.

2:THE STATE OF ASSAM

THROUGH- THE SECRETARY
TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

3:THE ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN ASOKA ROAD
NEW DELHI-110001.

4:THE STATE CO-ORDINATOR

NATIONAL REGISTRATION OF CITIZEN
ASSAM BHANGAGARH
GUWAHATI.

5:THE DY. COMMISSIONER

DHUBRI
P.O. DHUBRI
DIST. DHUBRI
ASSAM.

6:THE SUPDT. OF POLICE (B)

P.O. DHUBRI
DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MR. B CHOWDHURY

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

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

ORDER

Date : 06.02.2023

(A.M. Bujor Barua, J)

Heard Mr. B. Chowdhury, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 4, respectively being the Union of India and the authority in the National Registration of Citizenships, Assam. Also heard Ms. A. Verma, learned counsel for the respondents No. 2 and 6, being the authorities in the Home Department, Mr. A. Ali, learned counsel for the respondent No. 3, being the Election Commission of India and Ms. K. Phukan, learned counsel for the respondent No. 5, being the Deputy Commissioner, Dhubri.

2. The petitioner Khodeja Khatun had been referred to the Foreigners Tribunal No. 2 at Dhubri for an opinion as to whether she is a person who entered the State of Assam subsequent to 25.03.1971 resulting in registration of F.T. Case No. 595/F/15 (corresponding to Ref. F.T. Case No. 792/2009). Before

the Tribunal, the petitioner exhibited the voters' list of 1966 of village 139 Chotokolia Part-II, P.S. South Salmara in the Dhubri Sub-Division which contains the name of Sukur Ali Sheikh, son of Fazar at Sl. No. 131. The petitioner claims that she is the daughter of Sukur Ali Sheikh having subsequently married to Anowar Hussain of village Bhalukmari. To verify the assertion of the petitioner, the Tribunal also called for a report from the Officer-in-charge of Fakirganj P.S. in the Dhubri district and as per the report dated 11.06.2018, the Officer-in-charge stated that Khodeja Khatun, wife of Anowar Hussain of village Bhalukmari, P.S. Fakirganj in the Dhubri district and Khodeja Khatun, wife of Anowar Hussain of village Chotokolia Part-II, P.S. Fakirganj in the Dhubri district are one and the same person. However, while rendering its opinion, the Tribunal had ignored the said report.

3. As the petitioner claims to be the daughter of Sukur Ali Sheikh of village Chotokolia Part-II, whose name appears in the voters' list of 1966, we required the petitioner to produce a copy of the marriage certificate to indicate as to whose daughter she is. Accordingly, a copy of the Nikahnama is produced before the Court which indicates that the petitioner Khodeja Khatun is the daughter of Sukur Ali Sheikh of village Chotokolia Part-II.

4. In view of the prima facie materials being produced, we remand the matter back to the Foreigners Tribunal No. 2 at Dhubri for further examination of the marriage certificate and arrive at its own conclusion as to whether Khodeja Khatun referred in the said certificate and Khodeja Khatun referred before the Tribunal are one and the same person. The Tribunal may also allow the petitioner to render any further evidence as per the public records in respect of the aforesaid marriage certificate to establish that she is the daughter of Sukur Ali Sheikh of village Chotokolia Part-II. The petitioner may also produce

the subsequent voters' list of village Chotokalia Part-II in respect of her father Sukur Ali Sheikh. The petitioner to appear before the Foreigners Tribunal No. 2 at Dhubri on 10.03.2023.

5. Upon examining the materials indicated above the Tribunal to render a fresh opinion and the fresh opinion to be rendered shall prevail over the earlier opinion dated 22.01.2019 in F.T. Case No. 595/F/15.

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