

GAHC010134662023



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

Case No. : WP(C)/3680/2023

JHARNA RANI SAHA
D/O LATE TARAPADA SAHA
W/O DHIREN SAHA
R/O WARD NO. II, GAURIPUR, P.S. GAURIPUR, DIST. DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY
MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA, SHASTRI BHAWAN, NEW DELHI-110001.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE ELECTION COMMISSION OF INDIA

REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN

ASHOKA ROAD
NEW DELHI-110001

4:THE STATE COORDINATOR

NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA

G.S. ROAD

BHANGAGARH
GUWAHATI
ASSAM
PIN-781005

5:THE DEPUTY COMMISSIONER

DHUBRI
P.O. DHUBRI

DIST. DHUBRI
ASSAM
PIN-783301

6:THE SUPERINTENDENT OF POLICE (BORDER)

DHUBRI
P.O. DHUBRI
DIST. DHUBRI
ASSAM
PIN-783301

7:THE OFFICER-IN-CHARGE OF GAURIPUR POLICE STATION

P.O. GAURIPUR

DIST. DHUBRI
ASSAM

PIN-78333

Advocate for the Petitioner : MS. D GHOSH

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

26.06.2023

(AM Bujor Barua, J)

Heard Ms. D Ghosh, learned legal aid counsel appearing for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, the Superintendent of Police (B) Dhubri as well as the Officer-in-Charge Gauripur Police Station and Ms. U Das, learned Government Advocate for the Deputy Commissioner Dhubri.

2. The petitioner Jharna Rani Saha was referred to the Foreigners Tribunal No.5th Dhubri for rendering an opinion as to whether she is a foreigner within the meaning of Foreigners' Act, 1946 resulting in the registration of Case No.FT-5/GPR/429/2018 corresponding to R/IM(D)T Case No.5646/1998. The Tribunal rendered an ex-parte opinion dated 30.08.2019 declaring the petitioner to be a foreigner.

3. The petitioner received notice from the Tribunal and appeared, but thereafter on the subsequent dates had refrained from appearing before the Tribunal on her own volition and without any acceptable cause which resulted in the ex-parte opinion dated 30.08.2019 in Case No.FT-5/GPR/429/2018 corresponding to R/IM(D)T Case No.5646/1998 by declaring the petitioner to be a foreigner.

4. Being aggrieved, this writ petition is instituted.
5. In the facts of the case, we do not find any infirmity in the ex-parte opinion dated 30.08.2019 in Case No.FT-5/GPR/429/2018 corresponding to R/IM(D)T Case No.5646/1998. But, however, for the interest of justice, as the opinion is rendered ex-parte, we allow the petitioner another opportunity to appear before the Tribunal and present her case on merit. Accordingly, the ex-parte opinion dated 30.08.2019 in Case No.FT-5/GPR/429/2018 corresponding to R/IM(D)T Case No.5646/1998 is set aside and the matter is remanded back to the Foreigners Tribunal No.5th Dhubri for an adjudication on its own merit.
6. The petitioner to appear before the Tribunal on 01.08.2023.
7. However, for the conduct of the petitioner in not appearing before the Tribunal without any acceptable reason, a cost of Rs.2500/- is imposed upon her to be paid before the District Legal Services Authority Dhubri and the petitioner would be allowed to appear before the Tribunal on the aforesaid date only upon showing the proof of payment of the cost.
8. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant