

GAHC010138722019



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

Case No. : WP(C)/4257/2019

JAYLA KHATUN @ JAYLA BEYAN (BEWA) @ JAILA KHATOON
D/O. LT. JOBAN ALI, @ JABON ALI, W/O. MD. ABDUL RAHIM @ RAHIM
MIYA, VILL. MIRIHOLA KATARA ATI, P.O. TEWARIPAL, P.S. SOOTEA, DIST.
SONITPUR, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI, PIN-110001.

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

3:THE ELECTION COMMISSION OF INDIA
NEW DELHI-110001.

4:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
GUWAHATI-781005.

5:THE DY. COMMISSIONER
TEZPUR
DIST. SONITPUR
ASSAM.

6:THE SUPDT. OF POLICE (B)
TEZPUR
DIST. SONITPUR

ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

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

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

ORDER

Date : 29.03.2023.
(A.M. Bujor Barua, J)

Heard Mr. A. Ahmed, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 & 4 being the Union of India, Mr. G. Sarma, learned Counsel appearing for the Home Department of Government Assam for the respondent No.2 & 6, Mr. A.I. Ali, learned counsel for the respondent No.3, being the Election Commission of India and Ms. U. Das, learned Advocate for the respondent No.5 being the Deputy Commissioner, Sonitpur.

2. The petitioner, namely, Musstt. Jayla Khatun @ Jayla Beyan (Bewa) @ Jaila Khatoon has been referred to the Foreigners' Tribunal No.6, Tezpur in Sonitpur District 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 Case No.FT C(6): 359/2016. The Tribunal rendered an opinion dated 16.05.2018 declaring the petitioner to be an illegal migrant. Being aggrieved this Writ Petition is instituted.

3. In the writ proceeding, the petitioner relies upon the Voters List of 1966 of 79 – Sootea Assembly Constituency in respect of Siporia Chapori PGR Village, wherein the name of Joban Ali son of Gafurda appears at Sl. No.1391. To establish that the petitioner is the son of Gafur Ali of the Siporia Chapori PGR Village of the Voters List of 1966, reliance is placed on a certificate issued by the Gaonburha of Ghiladhari Mukh/Adavati/Kariyani Village of Sootea in the Sonitpur District. But it is candidly admitted by Mr. A. Ahmed, learned counsel for the petitioner that the Gaonburha has not been examined.

4. As the certificate issued by the Gaonburha would firstly require the person issuing the certificate to be examined before the Tribunal and further such person also to disclose the source of information of the contents of the certificate, as may be stated in the certificate, we remand the matter back to the Tribunal to enable the petitioner to examine the Gaonburha who had issued the certificate at page-21 (Annexure-G) to the Writ Petition. Upon the evidence of the Gaonburha being rendered, the Tribunal to pass any reasoned order.
5. The petitioner to appear before the Tribunal on 06.05.2023. In the event, the reasoned order is in favour of the petitioner, the same would prevail over the order dated 16.05.2018, passed in Case No.FT C(6): 359/2016 and if it is against him, the consequence under the law may follow.
6. Till the reasoned order is passed, no coercive action be taken against the petitioner.
7. The petition stands allowed as indicated above. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant