

GAHC010139732019



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

Case No. : WP(C)/4270/2019

KULSUMA BEGUM @ KULSUMA KHATUN
D/O- MD. AHMOD ALI @ AHMED ALI, R/O- VILL- BHELGURI PATHAR, P.S-
DOBOKA, DIST- HOJAI, ASSAM

VERSUS

THE UNION OF INDIA AND 3 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, JAISALMER HOUSE, 26, MANSINGH ROAD, NEW DELHI- 110011

2:THE STATE OF ASSAM
REP. BY ITS SECRETARY
DEPTT OF HOME
DISPUR
GUWAHATI- 06

3:THE SUPERINTENDENT OF POLICE (B)
HOJAI
DIST- HOJAI
ASSAM
PIN- 782435

4:THE ELECTION OFFICER
HOJAI
DIST- HOJAI
ASSAM
PIN- 78243

Advocate for the Petitioner : MR. U DUTTA

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

BEFORE

**HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN**

O R D E R

10.04.2023

(A.M. Bujor Barua, J)

Heard Mr. U Dutta, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Ms. A Verma, learned counsel for the State respondents in the Home Department of Government of Assam and Mr. AI Ali, learned counsel for the Election Commission of India.

2. The petitioner Kulsuma Begum @ Kulsuma Khatun had been referred to the Foreigners Tribunal No. 10, Hojai, Sankardev Nagar for rendering an opinion as to whether she is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of Case No. F.T(D) 641/2015, wherein an opinion dated 26.02.2018 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters list of 1966 of village Bheluguri Pathar, police station Jamunamukh in the Nagaon district, which contain the name of Siraj Uddin son of Sabed at serial No. 75 and that of Rahiman wife of Siraj at serial No. 76 where both of them are shown to be residing in the same house No. 19. It is stated that Siraj Uddin is the grandfather of the petitioner. The petitioner thereupon relies upon the voters list of 1977 of village Bheluguri Pathar which contains the name of Siraj Uddin son of Sabed, Rahima Khatun wife of Siraj, Abdul Hamid son of Siraj, Samser Ali son

of Siraj. Thereupon the petitioner refers to the voters list of 1985 of village Bheluguri Pathar, which contains the name of Abdul Hamid son of Siraj, Samser Ali son of Siraj, Abdul Kasem son of Siraj, Rahma Khatun wife of Siraj and Ahmod Ali son of Siraj. The petitioner states that Ahmod Ali son of Siraj is the father of the petitioner.

4. To establish that Ahmod Ali is the father of the petitioner, accordingly reliance is placed in the voters list of 2014 of village Bheluguri Pathar, which contains the name of Kulsuma Begum along with Ahmed Ali in the same voters list. Accordingly, the petitioner claims that she has discharged her burden of proving that she is a citizen of India.

5. The petitioner also relies upon a transfer certificate from the Headmaster of Sri Sri Sankardev Lalmati ME School, which contains the information that Kulsuma Begum is the daughter of Ahmed Ali of village Bhelowguri.

6. In view of the above, the matter is remanded back to the Tribunal to examine the voters list of 1966, 1970, 1977 of village Bheluguri Pathar containing the name of Siraj and that of the voters list of 1985 containing the name of Siraj Uddin and Ahmed Ali together and that of the voters list of 2014 of village Bheluguri Pathar which contains the name of Ahmed Ali and Kulsuma Begum in the same voters list. The Tribunal to also examine the information contained in the school transfer certificate by requiring the petitioner to examine the headmaster of the school along with the original records to testify the veracity of the information contained that the petitioner Kulsuma begum is the daughter of Ahmed Ali of village Bheluguri and thereafter pass a reasoned order thereon. The respondents on the other hand to make a verification of the voters list presented and also as to whether Kulsuma Begum of the voters list of 2014 of village Bheluguri Pathar and the petitioner Kulsuma Begum are one and the

same person.

7. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 26.02.2018 and if it goes against the petitioner, consequence as per law shall follow.

8. The petitioner shall appear before the Foreigners Tribunal No. 10, Hojai, Sankardev Nagar on 23.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

9. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant