

GAHC010145772023



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

Case No. : WP(C)/4215/2023

ANJUMA KHATUN @ ANJUMA BEGUM
D/O- HARMAN ALI,
W/O- NUR MOHAMMAD,
VILL- TUMUKABORI,
P.S.- MIKIRBHETA,
DISTRICT- MORIGAON, ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS,
NEW DELHI-110001.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM

HOME DEPARTMENT
DISPUR

GUWAHATI-781006.

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

4:THE STATE COORDINATOR
NRC ASSAM
ACHYUT PLAZA
BHANGAGARH

GUWAHATI- 781005.

5:THE DEPUTY COMMISSIONER
MORIGAON
ASSAM
PIN- 782105.

6:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
ASSAM- 782105.

7:THE O/C
MIKIRBHETA POLICE STATION
MORIGAON

Advocate for the Petitioner : MR. P RAHMAN

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

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

ORDER

31.07.2023

[A.M.Bujor Barua, J.]

Heard Mr. P. Rahman, learned counsel for the petitioner. Also heard Ms. A. Verma, learned counsel for the Home Department; Mr. L. Devi, learned counsel for the NRC; Mr. S.K. Medhi, learned counsel for the UoI; Ms. K. Phukan, learned counsel for the DC; and Mr. A.I. Ali, learned counsel for the ECI.

2. The petitioner Anjuma Khatun @ Anjuma Begum had been referred to the Foreigners' Tribunal, No. 3, at Morigaon for rendering an opinion as to whether she is a foreigner under the Foreigners' Act, 1946 resulting in registration of F.T. Case No. FT [C] 250/2015, wherein an opinion dated 07.08.2019 had been rendered declaring the petitioner to be 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 Silpukhuri Police Station Lahorighat presently in the Morigaon district, which contains the name of Samar Ali, son of Eyakub Ali at serial no. 748 and that of Hafijon Bibi, wife of Samar Ali at serial no. 749. The petitioner also relies upon the Voters' List of 1977 of village Silpukhuri Police Station Lahorighat presently in the Morigaon district, which contains the name of Harman Ali, son of Samat at serial no. 1173. The petitioner further relies upon the Voters' List of 1979 of village Silpukhuri Police Station Lahorighat presently in the Morigaon district, which contains the name of Samat Ali, son of Eyakub at serial no. 1119; Hafijon Bibi, wife of Samat at serial no. 1120; and Harman Ali, son of Samat at serial no. 1121. It is stated that Harman Ali is the father of the petitioner but in the Voters' List of 1977 and 1979 the name of Samar Ali being the father of Harman Ali is written as Samat Ali, son of Eyakub. The petitioner also relies upon the School Transfer Certificate issued by the Principal/Head Master of Bilpar Kanpai Bordoloi M.E. School which contains the information that Anjuma Khatun, daughter of Harman Ali of village Silpukhuri. It is stated that neither the Head Master of the school had been examined nor the school records in origin being the admission register was produced before the Tribunal to corroborate the information contained in the School Transfer Certificate.

4. The law in regards the School Transfer Certificate is settled by this Court in the judgment rendered in **Anima Das vs. Union of India**, reported in **2019 5 GLR 465** as well as the judgment and order dated 31.07.2023 in **W.P. (C) No. 4017/2023**, wherein it had been provided that there is a requirement to examine the admission register in origin as well as the other school records produced before the Tribunal, for the Tribunal to arrive at the satisfaction that

the records are authentic, reliable and not manipulated in any manner.

5. As the requirement had not been done, the matter is remanded back to the Foreigners' Tribunal, No. 3 at Morigaon to call for the school records in origin including the admission register as well the evidence of the Head Master and there upon the Tribunal may pass a reasoned order.

6. The petitioner to appear before the Tribunal on 22.08.2023.

7. We are clarifying that we are not interfering with the opinion dated 07.08.2019 and no conclusion has been arrived on merit but as there is a requirement to examine the school records in origin we are remanding the matter back to the Tribunal. Any such opinion that the Tribunal may pass upon the matter being remanded back, shall prevail over the earlier dated 07.08.2019.

8. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant