

GAHC010150032019



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

Case No. : WP(C)/4916/2019

AMENA KHATUN @ AMENA BEGUM @ AMENA RAHMAN
D/O LT. ABDUL KHALEQUE SHEIKH @ ABDUL KHALEQUE BEPARI, W/O
SOFIUR RAHMAN, VILL. BAGULAMARI, P.O. AMCO ROAD, DHUBRI, P.S.
DHUBRI, DIST. DHUBRI, ASSAM, PIN-783301, PRESENTLY RESIDING AT
KRISHNA NAGAR, JAPORIGOG, GUWAHATI-5, P.S. DISPUR, DIST. KAMRUP
(M), ASSAM

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT. DISPUR
GHY-6

3:THE DEPUTY COMMISSIONER
DHUBRI
PIN-783301
ASSAM

4:THE ELECTION COMMISSION OF INDIA
NEW DELHI-110001

5:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
GUWAHATI-781005

6:THE SUPERINTENDENT OF POLICE (B)

DHUBRI
DIST. DHUBRI
PIN-78330

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

07.08.2023

(AM Bujor Barua, J)

Heard Mr. FU Barbhuiya, learned counsel for the petitioner. Also heard Mr. KK Parashar, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. A Ali, learned counsel for the authorities under the Election Commission of India, Mr. G Sarma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Dhubri and Mr. HK Hazarika, learned Junior Government Advocate for the Deputy Commissioner, Dhubri.

2. The petitioner, namely, Amena Khatun who is also known as Amena Begum @ Amena Rahman was referred to the Foreigners Tribunal No.1 Dhubri for rendering an opinion as to whether she is a foreigner within the meaning of Foreigner Act, 1946 which resulted in the registration of F.T. Case No.4237/D/2011 corresponding to (Ref. 'D' Voter Case No.708/D/07 wherein an

opinion dated 30.04.2019 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding, the petitioner relies upon the voters list of 1966 of village South Salmara Part 2 in the present South Salmara district which contains the name of Abdul Khaleque Sk.son of Atap at Sl.No.331 and that of Siriya Begum wife of Abdul Khaleque at Sl. No.332. It is claimed that Abdul Khaleque is the father of the petitioner and Siriya Begum is the mother of the petitioner. Similar information is also available in the voters list of 1970 of village South Salmara Part 2. In the voters list of 1977 also of village South Salmara Part 2, the name of Abdul Khaleque Sk. son of Haji Atabuddin appears at Sl.No.378 and that of Siriya Begum wife of Abdul Khaleque at Sl.No.379. The voters list of 1977 of village South Salmara Part 2 also contains the name of Amena Khatun wife of Sofiur at Sl.No.384, but Abdul Khaleque Sk, Siriya Begum and Amena Khatun, wife of Sofiur are all shown to be residing in the same House No.76. It is claimed that Amena Khatun wife of Sofiur of the 1977 voters list is the petitioner herself.

5. Further reliance is placed on the certificate issued by the Headmaster of Govt. Aided RBP High School at South Salmara which contains the information that Amena Khatun is the daughter of A Khaleque of South Salmara. Petitioner also refers to a Kabinama as regards her marriage which contains the

information that Amena Khatun is the daughter of Abdul Khaleque Sk. of village South Salmara being the bride and she was married to Sofiur Rahman son of Jafu Sk. of village Bagulamari PS Dhubri.

6. As per the claim of the petitioner the questions to be determined would be as to whether Amena Khatun wife of Sofiur Rahman is also the daughter of Abdul Khaleque Sk. son of Atap whose name appears in the 1966 voters list of village South Salmara Part 2. Further requirement would be to verify the original admission register of Govt. Aided RBP High School, South Salmara and verify as to whether the information contained in the school certificate are correct. Further requirement would be to examine the Kabinama including the information contained therein which is available at page 21 to the writ petition along with the marriage register, in original. Further question would be as to whether the petitioner is known by three names i.e., Amena Khatun, Amena Begum and Amena Rahman, although it is sought to be explained that after getting married to Sofiur Rahman the petitioner is also at times known as Amena Rahman, who is also after marriage called to be Amena Begum, but the said aspect is also required to be proved with relevant materials being produced.

7. For the purpose as above, the matter stands remanded back to the Tribunal to enable the Tribunal to examine the voters lists relied upon by the petitioner. The petitioner to produce the complete and continuous voters lists of village South Salmara Part 2 for examination of the Tribunal. The Tribunal shall also examine the school certificate, but in doing so, the Tribunal shall call for the admission register in original of Govt. Aided RBP High School, South Salmara as

well as the Kabinama and the marriage register, in original, and also examine the same.

8. The respondents in the Home Department may also make their own verification on the aforesaid aspect and as to whether Amena Khatun, Amena Begum and Amena Rahman are one the same person and also as to whether Amena Khatun wife of Sofiur of the 1977 voters list is in fact the daughter of Abdul Khaleque of the same voters list of village South Salmara Part 2 and submit a report before the Tribunal, if so advised.

9. Accordingly, the petitioner shall appear before the Tribunal on 01.09.2023.

10. The Tribunal upon doing the needful and after examining the evidences and materials shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 30.04.2019 of the Foreigners Tribunal No.1 Dhubri in F.T. Case No.4237/D/2011 corresponding to (Ref. 'D' Voter Case No.708/D/07 and if it is against the petitioner, consequential action under the law shall follow.

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

12. Writ petition stands disposed of in the above terms.

13. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant