

GAHC010161662018



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

Case No. : WP(C)/5057/2018

AFRUJA BEGUM @ AFUZA BIBI
W/O ABDUL JOLIL SK.
D/O ABU BAKKAR ALI
R/O VILL- KHORAGHAT 38, P.S. BILASIPARA, DIST. DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWNA,
NEW DELHI.

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 FOREIGNERS TRIBUNAL (6TH)

DHUBRI AT BILASIPARA
P.O. AND P.S. BILASIPARA

DIST. DHUBRI
ASSAM
PIN - 783348.

6:THE DEPUTY COMMISSIONER

DHUBRI
P.O. AND P.S. DHUBRI
DIST. DHUBRI
ASSAM

PIN - 783301.

7:THE SUPERINTENDENT OF POLICE (BORDER)

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

8:THE OFFICER-IN-CHARGE OF BILASIPARA POLICE STATION

P.O. BILASIPARA
DIST. DHUBRI
ASSAM
PIN - 783348

Advocate for the Petitioner : MS. D GHOSH

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

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

ORDER

Date : 08-05-2023

(AM Bujor Barua, J)

Heard Ms. D Ghosh, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 4 being the authorities under the Union of India and NRC respectively, Mr. G Sarma, learned counsel for the respondents no. 2, 5, 7 and 8 being the authorities under the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the respondent no. 3 being the Election Commission of India and Ms. U Das, learned counsel for the respondent no. 6 being the Deputy Commissioner, Dhubri.

2. The petitioner Afruja Begum @ Afuza Bibi had been referred to the Foreigners' Tribunal No. 6, Bilasipara 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 F.T. 6th Dhubri Case No. 10/2018. The Tribunal rendered an opinion dated 20.06.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding before the Court the petitioner refers to the voters' list of 1966 of village Madhusoulmari Part-II Police Station Dhubri in the Dhubri district which contains the name of Kashim Ali, S/O Tarip at Sl. No. 441 as well as the voters' list of 1997 of village Madhusoulmari Part II containing the name

of Abu Bakkar Sk, S/O Kashem at Sl. No. 772 and that of Monowara Bibi, W/O Abu Bakkar at Sl. No. 773. The petitioner claims that Abu Bakkar Sk of the voters' list of 1997 of village Madhusoulmari Part II is her father. To substantiate the same reliance is placed on a school certificate issued by the Superintendent of Madinatul Ulum High Madrassa of Gauripur Assam which contains the information that Afruja Begum is the daughter of Abu Bakkar Ali of village Madhusoulmari Part II as well as the Kabin Nama of a marriage which contains the information that Afruja Begum is the daughter of Abu Bakkar Sk of village Molati Khamar.

5. Although the Superintendent of Madinatul Ulum High Madrassa of Gauripur had been examined but it is noticed from his evidence as DW3 that the original admission register of the school had not been produced. In the circumstance, the matter is remanded back to the Tribunal to enable the DW3 to adduce further evidence based upon the original school admission register which may contain the information that the petitioner Afruja Begum is the daughter of Abu Bakkar Ali of village Madhusoulmari Part II. It is also noticed that in the voters' list of 1997 of village Madhusoulmari Part II the name is shown as Abu Bakkar Sk whereas in the school certificate it is shown as Abu Bakkar Ali.

6. The respondents in the Home Department may make their own enquiry as to whether Abu Bakkar Sk of 1997 voters' list and Abu Bakkar Ali of the school certificate is one and the same person and submit a report. The petitioner may produce any further material before the Tribunal if so advised. Upon doing the needful, the petitioner to pass a reasoned order.

7. The petitioner to appear before the Tribunal on 16.06.2023.

8. If the reasoned order is in favour of the petitioner, the same shall prevail

over the opinion dated 20.06.2018 passed in F.T. 6TH Dhubri Case No. 10/2018 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant