

GAHC010167932019



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

Case No. : WP(C)/5079/2019

JAIGUN BIBI @ JOYGUN BIBI @ JOYGUN BEGUM
D/O LT. SAMIR ALI @ LT. SAMER ALI, W/O HUSSAIN @ HUSSAIN ALI, R/O
VILL. MERGANDA, CHARAIMARI, P.O. HATIPARA, PS. CHHAYGAON, DIST.
KAMRUP, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, THE MINISTRY OF
HOME AFFAIRS, SHASTRI BHAWAN, TILAK MARG, NEW DELHI-1

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

3:THE DEPUTY COMMISSIONER
KAMRUP
AMINGAON
PS AND DIST. KAMRUP
ASSAM
PIN-781031

4:THE SUPERINTENDENT OF POLICE (B)
KAMRUP
AMINGAON
PS AND DIST. KAMRUP
ASSAM
PIN-781031

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI-1

6:THE STATE OF CO-ORDINATOR NRC
ASSAM
BHANGAGARH
GUWAHATI-

Advocate for the Petitioner : MR. A R SIKDAR

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

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

ORDER

04.05.2023

[A.M.Bujor Barua, J.]

Heard Mr. A.R. Sikdar, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent no. 1; Mr. G. Sarma, learned counsel for the respondent nos. 2, and 4; Ms. U. Das, learned counsel for the respondent no. 3; and Mr. A.I. Ali, learned counsel for the respondent no. 5.

2. The petitioner Jaigun Bibi @ Joygun Bibi @ Joygun Begum had been referred to the Foreigners' Tribunal No. 1, Kamrup (Rural), 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 GFT (R) Case No. 1237/2017, wherein an opinion dated 12.11.2018 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 on the Voters' List of 1966 of village Merganda, P.S. Chhaygaon in the Kamrup district, which contains the name of Samir Ali, son of Bheluku at serial no. 123. The petitioner also relies on the Admit Card of HSLC issued by the Board of Secondary Education, Assam which contains the information that Jaigun Nessa is the daughter of Samer Ali. The petitioner had attended Barbhita Anchalik High School and the head master of the said school had

deposed before the Tribunal as DW5. In his deposition the head master had stated that Jaigun Nessa is the daughter of Samer Ali of village Merganda.

4. If the statement of the head master is to be accepted, the petitioner may have discharged the burden under Section 9 of the Foreigners' Act, 1946 that she is a citizen of India inasmuch as Samir Ali's name is available in the Voters' List of 1966 of village Merganda. But it is noticed that the DW5 head master has made oral deposition before the Tribunal and there is no indication that the admission register of the school in origin has been produced.

5. In the circumstance, the matter is remanded back to the Foreigners' Tribunal No. 1, Kamrup (Rural) to enable the DW5 head master of Barbhita Anchalick High School to re-appear before the Tribunal along with the original school records which may contain the information that Jaigun Nessa is the daughter of Samer Ali of village Merganda. The respondents in the Home Department may also make their own verification in the meantime and submit the report before the Tribunal

6. After the materials being produced, the Tribunal may pass a reasoned order.

7. The petitioner to appear before the Tribunal on 19.06.2023.

8. If the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 12.11.2018 passed in GFT (R) Case No. 1237/2017 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.

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant