

GAHC010168882020



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

Case No. : WP(C)/140/2021

RUPBHANU NESSA
W/O- NASU MIA, D/O- LT. JALAL UDDIN, R/O- VILL- JASHODAR PAM, P.S.
SARTHEBARI, DIST.- BARPETA, ASSAM, PIN- 781307

VERSUS

THE UNION OF INDIA AND 7 ORS
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWAN, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-06

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
GHY
ASSAM
PIN- 781005

5:THE FOREIGNERS TRIBUNAL-III
BARPETA
ASSAM
DIST.- BARPETA
ASSAM
PIN- 781301

6:THE DY. COMMISSIONER
BARPETA
P.O. AND P.S. BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301

7:THE SUPERINTENDENT OF POLICE (B)
BARPETA
P.O. AND P.S. BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301

8:THE OFFICER-IN-CHARGE OF SARTHEBARI P.S.
P.O. SARTHEBARI
DIST.- BARPETA
ASSAM
PIN- 78130

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 : 27.04.2023
(AM Bujor Barua, J)

Heard Ms. D Ghosh, learned counsel for the petitioner. Also heard Ms. J Sarmah, learned counsel for the respondent no. 1 being the authorities under

the Union of India, 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 authorities under the Election Commission of India, Ms. L Devi, learned counsel for the respondent no. 4 being the authorities under the NRC and Mr. NK Das, learned counsel for the respondent no. 6 being the Deputy Commissioner, Barpeta.

2. The petitioner Rupbhanu Nessa had been referred to the Foreigners' Tribunal No. III, Barpeta 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 FT Case No. 2665 (III) of 2016 with reference to IMDT Case No. 1228/97. An opinion dated 21.02.2018 was rendered by the Tribunal declaring the petitioner to be a foreigner.

3. Being aggrieved this writ petition is instituted.

4. In the writ petition the petitioner refers to the voters' list of 1965 of village Jashodar Pam which is available at page-64 of the records wherein the name of Nizamuddin Miya, S/O Nur Box appears at Sl. No. 149 and Jalaluddin Miya, S/O Nizamuddin at Sl. No. 151 and that of Aimon Nessa, W/O Jalaluddin at Sl. No. 154. It is stated that Nizamuddin Miya is the grandfather of the petitioner and Jalaluddin Miya is her father.

5. To establish that Jalaluddin Miya is the father of the petitioner, reference is made to the copy of the jamanbadi in respect of a plot of land at village Jashodar Pam available at page-86 of the records, which contains the name of Rupbhanu Nessa daughter of Jalaluddin to have been mutated in respect of the land in place of Jalaluddin, S/O Nizamuddin.

6. The voters' list of 1965 of village Jashodar Pam established that Jalaluddin

Miya is a citizen of India and the jamabandi in respect of a plot of land in the same village where the petitioner Rupbhanu Nessa had been mutated in respect of the said land in place of Jalaluddin Miya also establishes that she is the daughter of Jalaluddin Miya. Accordingly, the petitioner had discharged the burden under Section 9 of the Foreigners' Act, 1946 that she is the citizen of India. Accordingly, the petitioner is declared to be a citizen of India and shall be entitled to all such rights and liberties as may be entitled as a citizen.

Send back the LCR.

Writ petition stands allowed as indicated above.

JUDGE

JUDGE

Comparing Assistant