

GAHC010173782018



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

Case No. : WP(C)/5379/2018

NUR BHANU
W/O- FAZLUL KHAN @ FAZLUL ROHMAN KHAN, VILL- GALIA, P.S.
HOWLY, DIST- BARPETA, ASSAM, PIN- 781316

VERSUS

THE UNION OF INDIA AND 5 ORS.
TO BE REP. BY THE SECY., GOVT. OF INDIA, DEPTT. OF HOME AFFAIRS,
NEW DELHI-1, INDIA

2:THE STATE OF ASSAM
TO BE REP. BY THE SECY. TO THE GOVT. OF ASSAM OF HOME DEPTT.
DISPUR
GHY-6

3:THE SUPERINTENDENT OF POLICE (B)
BARPETA
PO AND DIST- BARPETA
ASSAM
PIN- 781301

4:THE DY. COMMISSIONER
BARPETA
PO AND DIST- BARPETA
ASSAM
PIN- 781301

5:THE EELCTION COMMISSIONER OF INDIA
NEW DELHI-1

6:THE NRC CO-ORDINATOR
NATIONAL REGISTER OF CITIZEN (NRC)

ASSAM
BHANGAGARH
GHY-

Advocate for the Petitioner : MR. A R SIKDAR

Advocate for the Respondent : ASSTT.S.G.I. (R1)

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.06.2023

[Achintya Malla Bujor Barua, J.]

Heard Mr. A.R. Sikdar, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel appearing on behalf of Mr. R.K.D. Choudhury, learned Dy.S.G.I. for the respondent No.1 and also appearing as standing counsel, NRC, for respondent No.6; Mr. G. Sarma, learned special counsel, FT, appearing for respondent Nos.2 and 3; Mr. A.I. Ali, learned standing counsel, ECI, for respondent No.5 and Ms. U. Sharma, learned Junior Government Advocate, Assam, appearing for respondent No.4.

2. The petitioner Nur Bhanu had been referred to the Foreigners' Tribunal (10th), 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, which resulted in registration of F.T. Case No.458/2017. The Tribunal rendered an opinion dated 26.06.2018 declaring the petitioner to be a foreigner. Being aggrieved this writ petition

is instituted.

3. In the writ proceeding before the Court, the petitioner relies upon the voters list of 1965 of village Anandapur, Police Station-Barpeta, in the present Barpeta district, which contains the names of Asahak Ali Miah S/o Bahej Uddin at Sl.No.339 and Aymona Khatun W/o Asahak Ali at Sl.No.340 and both are residing in the same house No.83. Reliance is also placed upon the voters list of 1970 of village Anandapur containing the name of Asahak Ali Miah S/o Bahej Uddin at Sl.No.363. Further reliance is placed upon the voters list of 2010 of village Anandapur containing the names of Asahak Ali S/o Bahej Uddin at Sl.No.481, Aymona Khatun W/o Asahak Ali at Sl.No.482 and Meser Ali S/o Asahak Ali at Sl.No.485. It is claimed that Asahak Ali is the father, Aymona Khatun is the mother and Meser Ali is the brother of the petitioner. As the name of Meser Ali also appears along with Asahak Ali and Aymona Khatun in the voters list of 2010 of the same village Anandapur, whereas the names of Asahak Ali and Aymona also appeared in the voters list of 1965 of village Anandapur. Meser Ali had deposed before the Tribunal as DW-2 stating that the petitioner Nur Bhanu is his sister meaning thereby the daughter of Asahak Ali.

4. In view of above, the matter is remanded back to the Tribunal to enable the Home Department, Government of Assam, to make their own enquiry as to whether Meser Ali is actually the brother of the petitioner Nur Bhanu and submit a report before the Tribunal as well as to enable the Home Department to cross-examine the DW-2 Meser Ali, as may be advised. Upon doing the needful, the Tribunal

shall pass a reasoned order. In the event, the reasoned order is passed in favour of the petitioner, the same shall prevail over the earlier opinion dated 26.06.2018 and if it is against the petitioner, consequential action shall follow.

5. The petitioner shall accordingly appear before the Tribunal on 25.07.2023. Till the reasoned order is passed, no coercive action shall be taken against the petitioner.

6. Send back the LCR immediately.

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

Sd/- Robin Phukan
JUDGE

Sd/- Achintya Malla Bujor Barua
JUDGE

Comparing Assistant