

GAHC010179652018



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

Case No. : WP(C)/5577/2018

SONA BHANU
W/O- LT GOLAM AMBIA, D/O- LT SORHAB ALI, R/O- VILL- AMBARI, P.O.
AMBARI BAZAR, P.S. BOGUAN, DIST- GOALPARA, ASSAM, PIN- 783101

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY SECY. OF THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
NEW DELHI-1

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

3:THE ELECTION COMMISSION OF INDIA
NEW DELHI-01

4:THE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
BHANGAGARH
GHY-5

5:THE DY. COMMISSIONER
GOALPARA
DIST- GOALPARA
ASSAM
PIN- 783101

6:THE SUPERINTENDENT OF POLICE

GOALPARA
DIST- GOALPARA
ASSAM
PIN- 783101

7:THE OFFICER-IN-CHARGE
OF BOGUAN P.S.
DIST- GOALPARA
ASSAM
PIN- 78310

Advocate for the Petitioner : MR. M U MAHMUD

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

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

ORDER

Date : 23.06.2023
(AM Bujor Barua, J)

Heard Mr. MU Mahmud, 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, Ms. A Verma, learned counsel for the respondents no. 2, 6 and 7 being the authorities under the Home Department of Government of Assam, Mr. T Pegu, learned counsel for the respondent no. 3 being the authorities under the Election Commission of India and Ms. U Das, learned counsel for the respondent no. 5 being the Deputy Commissioner, Goalpara.

2. The petitioner Sona Bhanu had been referred to the Foreigners' Tribunal No. 4, Goalpara for rendering an opinion as to whether she is a foreigner within the meaning of Foreigners Act, 1946, resulting in registration of F.T. Case No.

FT(G-4) 743/2016. The Tribunal rendered an opinion dated 30.01.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding the petitioner relies upon the voters' list of 1966 of village Shimulbari Police Station Lakhipur in the Goalpara district which contains the names of Sorhab Ali S/O Late Ala Boxsho at Sl. No. 357 and that of Sebaran Nessa W/O Sorhab Ali at Sl. No. 358 where both are residing in the same house no. 96. It is claimed that Sorhab Ali is the father and Sebaran Nessa is the mother of the petitioner. To substantiate that Sorhab Ali is the father, reliance is placed on a jamabandi of a plot of land at village Shimulbari which contains the information that the land in respect of patta no. 368 stood mutated, amongst others, in the name of Sona Bhanu D/O Dorhab Ali in place of Sorhab Ali S/O Late Ala Box. If the information contained in the jambandi is correct and accepted, the petitioner may have discharged the burden under Section 9 of the Foreigners Act, 1946, that she being the daughter of Sorhab Ali of the 1966 voters' list of Shimulbari is not a foreigner.

5. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' lists of 1966 of village Shimulbari as well as the jamabandi of a plot of land at village Shimulbari and pass a reasoned order. The petitioner may also produce the order of the Circle Officer by which the mutation had been effected for examination of the Tribunal. The respondents in the Home Department may verify and submit a report, more directly, whether Sona Bhanu the petitioner and Sona Bhanu of the jamabandi referred above, are one and the same person. Upon doing the needful a reasoned order be passed by the Tribunal.

6. The petitioner to appear before the Tribunal on 01.08.2023.
7. If the order of the Tribunal is in favour of the petitioner, the same shall prevail over the opinion dated 30.01.2018 passed in F.T. Case No. FT(G-4) 743/2016 and if against, consequence under the law is applicable to the petitioner.
8. 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