

GAHC010182972022



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

Case No. : WP(C)/6106/2022

KALPANA BHATTACHARJEE
DAUGHTER OF LATE HARI CHARAN CHAKRABORTY,
WIFE OF SRI BIMAL BHATTACHARJEE,
RESIDENT OF BONDA COLONY, POLICE STATION- PRAGJOTISHPUR,
DISTRICT- KAMRUP(M), ASSAM.

VERSUS

THE UNION OF INDIA AND 7 ORS.
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, SHASTRI BHAWAN, NEW DELHI- 110001.

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE ELECTION COMMISSION OF INDIA
REPRESENTED 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 DEPUTY COMMISSIONER
KAMRUP(M)
POST OFFICE- PAN BAZAR

DISTRICT- KAMRUP(M)
ASSAM
PIN- 781001.

6:THE FOREIGNERS TRIBUNAL NO. 4
KAMRUP(M)
GUWAHATI
DISTRICT- KAMRUP(M)
ASSAM
PIN- 781007.

7:THE DEPUTY COMMISSIONER OF POLICE (BORDER)
GUWAHATI CITY
KAMRUP(M)

POST OFFICE- PAN BAZAR

DISTRICT- KAMRUP(M)

ASSAM
PIN- 781001.

8:THE OFFICER-IN-CHARGE OF PRAGJOTISHPUR POLICE STATION
POST OFFICE- CHANDRAPUR

DISTRICT- KAMRUP(M)
ASSAM

PIN- 781150

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

15.03.2023

(AM Bujor Barua, J)

Heard Ms. H Betala, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, the Deputy Commissioner of Police (B) Guwahati City, Kamrup (M) as well as the Officer-in-Charge of Pragjotishpur Police Station, Chandrapur, Kamrup(M) and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Kamrup (M).

2. The petitioner, Kalpana Bhattacharjee, was referred to the Foreigners Tribunal No.4, Kamrup(M) for rendering an opinion as to whether she is a person who had entered the State of Assam subsequent to 25.03.1971 resulting in the registration of F.T. Case No.FTK(M)-4th 98/18 arising out of FT Case No.125/18 & D.V. Case No.918/18 corresponding to IMDT Case No.2309/98.

3. By the order dated 30.04.2022 of the Foreigners Tribunal No.4, Kamrup(M) in F.T. Case No.FTK(M)-4th 98/18 arising out of FT Case No.125/18 & D.V. Case No.918/18 corresponding to IMDT Case No.2309/98, an opinion was rendered that the petitioner is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971.

4. The petitioner relies upon a voters list of 1965 of village Udalguri Station, PS Udalguri in the Darrang district which contains the name of Haricharan Chakraborty, son of Bharat at Sl.No.150 and that of Sudhana Devi, wife of Haricharan at Sl.No.151. The petitioner also refers to a school certificate of Udalguri Girls' High School dated 06.03.1996 which contains the information that Kalpana Chakraborty is the daughter of Sri Hari Charan Chakraborty of Town Udalguri in the Darrang district. The Headmaster of the school concerned deposed before the Tribunal stating that although the date of birth of Kalpana Chakraborty mentioned in the school certificate and that appearing in the school admission register are at a variance, but the information that Kalpana Chakraborty is the daughter of Haricharan Chakraborty of village Udalguri Station is correct as per the school records.

5. In view of the above, the matter stands remanded back to the Tribunal for a fresh adjudication by taking note of the voters list of 1965 containing the name of Haricharan Chakraborty, son of Bharat appearing at Sl.No.150 and that of the information contained in the school certificate dated 06.03.1996 that Kalpana Chakraborty is the daughter of Hari Charan Chakraborty of Town Udalguri in the Darrang district as well as the evidence recorded by the Headmaster of the school concerned.

6. Accordingly, the petitioner shall appear before the Tribunal on 19.04.2023.

7. The Tribunal upon consideration of the evidence and the materials on

record shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 30.04.2022 of the Foreigners Tribunal No.4, Kamrup(M) in F.T. Case No.FTK(M)-4th 98/18 arising out of FT Case No.125/18 & D.V. Case No.918/18 corresponding to IMDT Case No.2309/98 and if it is against the petitioner, consequential action shall follow.

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

9. Send back the LCR immediately.

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

JUDGE

JUDGE

Comparing Assistant