

GAHC010203422021



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

Case No. : WP(C)/1308/2022

RAHIMA KHATUN
D/O LATE RAHMAT ALI
W/O LATE OMAR ALI @ OMAR SHEIKH
R/O VILL- MATANGA
P.S. SALBARI, DIST.BAKSA, ASSAM

VERSUS

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

2:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006

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
GUWAHATI
ASSAM
PIN-781005.

5:THE FOREIGNERS TRIBUNAL

BAKSA
BIST. BAKSA
ASSAM
PIN-781367

6:THE DEPUTY COMMISSIONER

BAKSA
P.O. BAKSA

DIST. BAKSA
ASSAM
PIN-781372

7:THE SUPERINTENDENT OF POLICE (BORDER)

BAKSA
P.O. BAKSA
DIST. BAKSA
ASSAM
PIN-781372

8:THE OFFICER-IN-CHARGE OF GOBARDHANA POLICE STATION

P.O. SILBARI
DIST. BAKSA
ASSAM
PIN-78131

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 NELSON SAILO

ORDER

Date : 08.06.2023

(A.M. Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondent No. 1 and 4, being the Union of India and the State Coordinator of NRC, respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 5, 7 and 8, being the authorities in the Home Department; Mr. A.I. Ali, learned counsel for the respondent No. 3, being the Election Commission of India and Ms. M. Dutta, learned counsel for the respondent No. 6, being the Deputy Commissioner, Baksa.

2. The petitioner Rahima Khatun was referred to the Foreigners' Tribunal, Baksa for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly F.T. Case No. 27/BAKSA/2019 was registered. The Tribunal had rendered its opinion dated 23.03.2021 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1965 of village Matanga, Mouza Gobardhana in the Kamrup district which contains the name of Rahima Khatun wife of Omar at Sl. No. 115. The subsequent voters' lists of the years 1970, 1989, 1997 and 2005 of village Matanga contain the name of Rahima Khatun wife of Omar. The age of Rahima Khatun as per the voters' list of 1965 is shown to be 23 years and in the affidavit accompanying the writ petition, the age of the petitioner is shown to be 79 years which

appears to be consistent if she was 23 years old in the year 1965. The petitioner claims that Rahima Khatun of the voters' list of 1965 of village Matanga is the petitioner herself. No material is produced by the respondents in the Home Department nor any question has been raised that the writ petitioner Rahima Khatun and Rahima Khatun of the voters' list of 1965 of village Matanga are not one and the same person.

4. As the name of the petitioner appears in the voters' list of 1965 of village Matanga itself and she is persistently residing in the same village even as on today, we are of the view that the petitioner has discharged the burden under Section 9 of the Foreigners Act, 1946 that she is an Indian citizen.

5. Accordingly, we declare the petitioner Rahima Khatun to be an Indian citizen and she will be entitled to all such rights and liberties under the law that may be entitled to an Indian citizen. The impugned order dated 23.03.2021 in F.T. Case No. 27/BAKSA/2019 is set aside.

Writ petition stands allowed as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant