

GAHC010204012022



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

Case No. : WP(C)/7169/2022

ASBHAN BIBI

D/O- LT. ASKAR ALI @ ASKAR SK, W/O- MOZIBAR RAHMAN, R/O- VILL-
SOULMARI PART-II, P.S. DHUBRI, P.O. KACHARIHAT, DIST.- DHUBRI,
ASSAM

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 NO. 1
DHUBRI
DIST.- DHUBRI
ASSAM
PIN- 783301

6:THE DY. COMMISSIONER
DHUBRI
DIST.- DHUBRI
ASSAM
PIN- 783301

7:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
DIST.- DHUBRI
ASSAM
PIN- 783301

8:THE OFFICER-IN-CHARGE
OF DHUBRI P.S.
DIST.- DHUBRI
ASSAM
PIN- 78330

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 SAIO

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, Dhubri.

2. The petitioner Asbhan Bibi was referred to the Foreigners' Tribunal No. 1, Dhubri 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. 2597/D/11 was registered. The Tribunal had rendered its opinion dated 19.03.2022 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 1966 of village Durahati, Mouza Dhubri in the Dhubri district which contains the names of Askar Sk son of Bajaddin at Sl. No. 19. It is claimed that Askar Sk. is the father of the petitioner. In the voters' list of 1989 of village Durahati in the Dhubri district the name of Askar Ali son of Bayej Uddin appears at Sl. No. 1588; in the voters' list of 1997 of village Durahati in the Dhubri district the name of Askar Sk. son of Boyej Uddin appears at Sl. No. 1762 along with Rahima Bibi wife of Askar at Sl. No. 1763 and Rahim Badsa Sk son of Askar at Sl. No. 1764; in the voters' list of 2005 of village Durahati in the Dhubri district the name of Askar Sk son of Boyejudddin appears at Sl. No. 557 along with Rahima Bibi wife of Askar Sk at Sl. No. 558, Rahimbadsa Sk son of Askar Sk at Sl. No. 559 and Mainul Hoque son of Askar Sk at Sl. No. 561. Mainul Hoque of the voters' list of 2005 of village Durahati had rendered evidence before the Tribunal as DW2 wherein he stated that the petitioner Asbhan Bibi is the daughter of Askar Sk of the voters' list of 1966 of village Durahati.

4. It is noticed that the information contained in the aforesaid voters' lists are consistent to the extent that the voters' list of 1966 contains the name of

Askar Sk; the voters' list of 1985 contains the names of Askar Ali and Rahima Bibi together; the voters' list of 1997 contains the names of Askar Sk, Rahima Bibi and Rahim Badsa Sk together whereas the voters' list of 2005 contains the names of Askar Sk, Rahima Bibi, Rahim Badsa Sk and Mainul Hoque together and in all the voters' lists they are shown to be residing in the same house number.

5. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 1, Dhubri to examine the aforesaid voters' lists of 1966, 1989, 1997 and 2005 of village Durahati as well as the evidence of DW2. The State respondents in the Home Department through the Superintendent of Police(B), Dhubri may also make their own verification, if so advised and thereafter submit a report before the Tribunal. The petitioner to produce the complete voters' lists from the year 1966 up to the year 2005 of village Durahati for examination of the Tribunal.

6. Upon doing the needful, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 19.03.2022 in F.T. Case No. 2597/D/11 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 13.07.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant