

GAHC010208292018



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

**Case No. : WP(C)/6504/2018**

MAZIDA KHATUN @ MOJIDA KHATUN  
D/O- LT GIAS UDDIN FARAJI @ MD. GIAS UDDIN @ NIAS UDDIN, W/O- LT  
AMIR UDDIN, VILL- SARUPATHER, P.O. RENG BENG, P.S. JAMUNAMUKH,  
DIST- HOJAI, ASSAM, PIN- 782427

VERSUS

THE UNION OF INDIA AND 5 ORS.  
REP. BY THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW DELHI-  
110001

2:THE ELECTION COMMISSION OF INDIA  
REP. BY THE CHIEF ELECTION COMMISSIONER  
INDIA  
NEW DELHI- 110001

3:THE STATE COORDINATOR  
ASSAM  
NATIONAL REGISTER OF CITIZENS  
BHANGAGARH  
GHY-5

4:THE STATE OF ASSAM  
REP. BY THE GOVT. OF ASSAM  
HOME DEPTT.  
DISPUR  
GHY-6

5:THE SUPERINTENDENT OF POLICE (B)  
HOJAI  
DIST- HOJAI  
ASSAM

PIN- 782435

6:THE DY. COMMISSIONER  
HOJAI  
DIST- HOJAI  
ASSAM  
PIN- 78243

**Advocate for the Petitioner** : MD. A HUSSAIN

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

**BEFORE**  
**HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**  
**HONOURABLE MR. JUSTICE NELSON SAILO**

**ORDER**

**Date : 08.06.2023**  
*(AM Bujor Barua, J)*

Heard Mr. A Hussain, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondent no.1 and 3 being the authorities under the Union of India and NRC respectively, Mr. AI Ali, learned counsel for the respondent no. 2 being the authorities under the Election Commission of India, Ms. A Verma, learned counsel for the respondents no. 4 and 5 being the authorities under the Home Department of Government of Assam and Ms. U Das, learned counsel for the respondent no. 6 being the Deputy Commissioner, Hojai.

2. The petitioner Mazida Khatun @ Mojida Khatun had been referred to the Foreigner's Tribunal No. 10, Nagaon 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, resulting in registration of Case No. F.T.(D) Case No. 509/2015. The Tribunal rendered an opinion dated 14.06.2018 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 1970 of village Adhakhunda Pather in the Nagaon district which contains the name of Giasuddin, S/O Keramot Ali at Sl. No. 63 and that of Joygun Nessa, S/O Gias at Sl. No. 64 where both of them are shown to be residing in the same house no.

11. It is claimed that Giasuddin is the father. To substantiate the same, reliance is also placed on a jamabandi of a plot of land at village Adhakhunda which contains the information that as per the order dated 14.06.1986 of the Assistant Settlement Officer, in respect of patta No. 139 and 140, the names of, amongst others, Mazida Khatun had been mutated in place of Late Gias Uddin. Accordingly, by relying upon the information contained in the jamabandi a claim is made that as the petitioner has established that she is the daughter of Gias Uddin of village Adhakhunda, the petitioner has discharged the burden under Section 9 of the Foreigners Act, 1946 that she is a citizen.

5. The petitioner states that her mother Joygun Nessa is still alive and can depose before the Tribunal that Mazida Khatun is her daughter.

6. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' list of 1970 of village Adhakhunda Pather as well as the jamabandi in respect of the plot of land at village Adhakhunda. The petitioner may also be allowed to examine Joygun Nessa, if so advised. The respondents in the Home Department to make their own enquiry whether Mazida Khatun of the jamabandi of the plot of land at village Adhakhunda and the petitioner proceedee Mazida Khatun @ Mojida Khatun are one and same person. Upon doing the needful, the Tribunal to pass a reasoned order.

7. The petitioner to appear before the Tribunal on 13.07.2023.
8. If the order of the Tribunal is in favour of the petitioner, the same shall prevail over the opinion dated 14.06.2018 passed in F.T.(D) Case No. 509/2015 and if against, consequence under the law is applicable to the petitioner.
9. 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**