

GAHC010215252019



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

**Case No. : WP(C)/6713/2019**

SHEIKJAN NESSA @ SHEIKJAN BIBI @ SUKJAN BIBI  
D/O. LT. KEFAYAT ALI, W/O. SAHJAHAN ALI, VILL. JOGIR MAHAL PART-I,  
P.O. GASHBARI, P.S. BILASIPARA, DIST. DHUBRI, ASSAM, PIN-783348.

VERSUS

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

2:THE STATE OF ASSAM  
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM  
HOME DEPTT.  
DISPUR  
GUWAHATI-06.

3:THE STATE COORDINATOR

OFFICE OF THE STATE COORDINATOR  
NRC  
ASSAM  
1ST FLOOR  
ACHYUT PLAZA  
G.S. ROAD  
BHANGAGARH  
GUWAHATI  
ASSAM  
PIN-781005.

4:THE DY. COMMISSIONER

DHUBRI

DIST. DHUBRI  
ASSAM  
PIN-783348.

5:THE SUPDT. OF POLICE (B)  
DHUBRI  
DIST. DHUBRI  
ASSAM  
PIN-783348.

6:THE ELECTION COMMISSIONER OF INDIA

ASHOKA ROAD  
NEW DELHI-110001.

7:THE DISTRICT ELECTION OFFICER

DHUBRI  
ASSAM  
DIST. DHUBRI  
ASSAM  
PIN-783348

8:THE MEMBER OF FOREIGNERS TRIBUNAL (4TH)  
DHUBRI  
DIST. DHUBRI  
ASSAM  
PIN-783348

**Advocate for the Petitioner : MR D C NATH**

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

**BEFORE**  
**HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**  
**HONOURABLE MRS. JUSTICE MITALI THAKURIA**

**Date : 17-08-2023**

**JUDGMENT & ORDER (ORAL)**

*(AM Bujor Barua, J)*

Heard Mr. DC Nath, 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, Mr. G Sarma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Dhubri and Mr. P Sarma, learned Government Advocate for the Deputy Commissioner, Dhubri and Ms. B Deka, learned counsel for the Education Department, Government of Assam.

2. The petitioner, namely, Sheikjan Nessa @ Sheikjan Bibi @Sukjan Bibi was referred to the Foreigners Tribunal No.4 Dhubri for rendering an opinion as to whether she is a foreigner within the meaning of Foreigner Act, 1946 resulting in the registration of Case No.F.T-4/162/GPR/2018, arising out of Reference 'D' Voter Case No.329/D/06 wherein an opinion dated 26.06.2019 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding, the petitioner relies upon the voters list of 1966 of village Jogirmohal Part-III in the Dhubri district which contains the name of Kefayat Ali, son of Atiullah at Sl.No.104 and that of Aysha Bibi wife of Kefayat Sheikh at Sl.No.105 and it is claimed that Kefayat Ali is the father of the petitioner and Aysha Bibi is the mother of the petitioner. To substantiate that Kefayat Ali is the father of the petitioner, reliance is placed on an admit card

issued by the Board of Secondary Education Assam which contains the information that Sheikjan Nessa is the daughter of Md. Kefayat Ali. To examine as to whether Kefayat Ali of the admit card is also the Kefayat Ali of the 1966 voters list of village Jogirmahal Part III, we required the Education Department to produce the school admission register, in original of Jogirmahal High School from where the petitioner had her education. Upon examining the school admission register, it is noticed that the name of the petitioner Sheikjan Nessa appears at Sl.No.21 of the admission register of 1985-1986 and the admission register shows that Kefayat Ali of Jogirmahal Part III is the father of Sheikjan Nessa. From the information contained in the school admission register, which is a contemporaneous record of the period when the petitioner took admission in the school, it can be established that the petitioner Sheikjan Nessa is the daughter of Kefayat Ali of village Jogirmahal Part III and as the name of Kefayat Ali, son of Atiullah appears in the voters list of 1966 of village Jogirmahal Part III, we are satisfied that the petitioner has been able to discharge the burden under Section 9 of the Foreigners Act 1946 that she is a citizen of India.

5. In view of the aforesaid materials clinching the issue in favour of the petitioner, the petitioner deserves a declaration that she is a citizen of India and it is declared accordingly.

6. Consequently, all such legal rights and privileges that may accrue to the petitioner Sheikjan Nessa @ Sheikjan Bibi @Sukjan Bibi upon such declaration that she is a citizen of India be made available to her.

7. Writ petition, accordingly, stands allowed.
8. Send back the LCR.
9. The school admission register, in original, produced before the Court is returned back to the learned counsel for the Education Department.

**JUDGE**

**JUDGE**

**Comparing Assistant**