

GAHC010218212021



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

Case No. : WP(C)/887/2022

SAHITAN NESSA
D/O LATE RAIJUDDIN @ RAIJUDDIN MANDAL
W/O BAHAR ALI
R/O VILL- KHARBALI
P.S. KALGACHIA
DIST. BARPETA, 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 DLEHI-110001.

4:THE STATE COORDINATOR

NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHUYT PLAZA

G.S. ROAD
BHANGAGARH
GUWAHATI
ASSAM
PIN-781005

5:THE FOREIGNERS TRIBUNAL NO. 11

BARPETA
DIST. BARPETA
ASSAM
PIN-781301

6:THE DEPUTY COMMISSIONER

P.O. BARPETA
DIST. BARPETA
ASSAM
PIN-781301

7:THE SUPERINTENDENT OF POLICE (BORDER)

BARPETA
P.O. BARPETA
DIST. BARPETA
ASSAM
PIN-781301

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

P.O. KALGACHIA
DIST. BARPETA
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 ROBIN PHUKAN
ORDER

21.06.2023

[A.M.Bujor Barua, J.]

Heard Ms. H. Betala, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent nos. 1 and 4; Mr. G. Sarma, learned counsel for the respondent nos. 2, 5, 7 & 8; Mr. A.I. Ali, learned counsel for the respondent No. 3; and Ms. M. Dutta, learned counsel for the respondent no. 6.

2. The petitioner Sahitan Nessa had been referred to the Foreigners' Tribunal, No. 11, at Barpeta district for rendering an opinion as to whether she is a foreigner under the Foreigners' Act, 1946 resulting in registration of Case No. [Bpt/11th] F.T. 807/2016, wherein an opinion dated 22.01.2021 had been rendered declaring the petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the Voters' List of 1966 of village Kalgachia Mouza Rupshi in the Barpeta district, which contains the name of Taij Uddin son of Busa Mondal at serial no. 414. The petitioner also relies upon the Voters' List of 1970 of village Kalgachia Mouza Rupshi in the Barpeta district, which contains the name of Taij Uddin son of Busa Mondal at serial no. 503; Basatan Nessa, wife of Taij Uddin at serial no. 504; and Hakim

Uddin, son of Taij Uddin at serial no. 505. It is claimed that Taij Uddin is the father of the petitioner and while Hakim Uddin is the brother of the petitioner. Hakim Uddin rendered evidence before the Tribunal as DW2 wherein he states that the petitioner Sahitan Nessa is his sister. But it is noticed that DW2 is Hakim Uddin, son of Raijuddin of village Kalgachia whereas the Voters' List of 1966 is of Taij Uddin. Reference is also made to some Chita of the year 1958 of village Kalgachia which contains the name of Kaijuddin. It is sought to be clarified that Taij Uddin of Voters' List 1966 and 1970 and Raijuddin being the father of the DW2 as well as the Kaijuddin of Citha of 1958 are in fact one and the same person.

4. The Title Suit No. 35/2017 filed by Hakimuddin son of Raizuddin in the Court of Munsiff No. 1, Barpeta is also referred to show that the name of the father is actually Raizuddin and not Taij Uddin or Kaijuddin.

4. In the circumstance, the matter is remanded back to the Foreigners' Tribunal, No. 11 at Barpeta district to examine the Voters' List of 1966 and 1970 of village Kalgachia. The petitioner may produce any relevant materials which may prove that Taij Uddin of 1966 and 1970 Voters' Lists of village Kalgachia and Raijuddin being the father of the DW2 as well as the Kaijuddin of Chitha of 1958 of the land at village Kalgachia are one and the same person. The respondents in Home Department to make their own verification and submit the report before the Tribunal. The petitioner may also produce the complete Voters' Lists of 1966, 1970, 1977 and 1985 before the Tribunal. The materials from the Title Suit may also be produced before the Tribunal and thereupon pass a reasoned order.

5. The petitioner to appear before the Tribunal on 28.07.2023.
9. Till the reasoned order is passed, no coercive action be taken against the petitioner.
- Writ petition stands disposed of in the above terms.
- Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant