

GAHC010233112017



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

Case No. : WP(C)/1182/2017

SAHIDA BEGUM @ SAHIDA KHATUN
W/O AFAZ UDDIN, R/O HATI LARUA PATHER, P.O. TENGAGURI, P.S.
BHURAGAON, DIST. MORIGAON, ASSAM.

VERSUS

THE UNION OF INDIA and 3 ORS.
REP. BY THE GOVT. OF INDIA , DEPTT. OF HOME AFFAIRS, NEW DELHI.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF HOME
DISPUR GUWAHATI-6.

3:THE DEPUTY COMMISSIONER

MORIGAON
ASSAM.

4:THE SUPERINTENDENT OF POLICE
B
MORIGAON
ASSA

Advocate for the Petitioner : MR.N HAQUE

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

28.04.2023

(AM Bujor Barua, J)

Heard Mr. S Huda, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Morigaon and Mr. PK Medhi, learned Government Advocate for the Deputy Commissioner, Morigaon.

2. The petitioner, Sahida Begum @ Sahida Khatun was referred to the Foreigners Tribunal (2nd) Morigaon, for rendering an opinion as to whether she is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T.(D) No.223/2011 arising out of Police Reference D/N Case No.212/97 dated 15.12.1997 wherein an opinion dated 09.06.2016 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 1965 of village Hahsarabari PS Laharighat in the Nagaon district which contains the name of Far Ali, son of Mamud Hussain at Sl.No.228 and also the voters list of 1970 in respect of village Hahsarabari PS Laharighat in the Nagaon district wherein Far Ali, son of Mamud appears at Sl.No.211. The petitioner thereupon relies upon a certificate issued by the Gaonburah of Hasarabari Morigaon, wherein it is certified that Sahida Begum is the daughter of Lt. Far Ali of village Hahsarabari, PS Moirabari, District Morigaon. But the petitioner failed to examine the Gaonburah before the Tribunal.

5. As it is a requirement of law that the certificate of the Gaonburah has also to be fortified by the evidence rendered by the Gaonburah, we remand the matter back to the Tribunal to enable the petitioner to examine the Gaonburah of Hasarabari Morigaon, who had issued the certificate which is exhibited as exhibit 'Gha' before the Tribunal.

6. Upon the Gaonburah being examined, the State respondents shall be at liberty to cross examine the Gaonburah, if so advised. The Superintendant of Police (B) Morigaon may also make its own verification on the materials produced by the petitioner to establish her citizenship. For the purpose, the petitioner may produce any relevant material that she may desire to produce to support her claim, as may be advised.

7. Accordingly, the petitioner shall appear before the Tribunal on 07.06.2023.

8. The Tribunal after undertaking the aforesaid exercises and upon examining the evidences and materials on record shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 09.06.2016 of the Foreigners Tribunal (2nd) Morigaon, in F.T.(D) No.223/2011 arising out of Police Reference D/N Case No.212/97 dated 15.12.1997 and if it is against the petitioner, consequential action under the law shall follow.

9. Till the reasoned order is passed, no coercive action be taken against the petitioner.

10. Writ petition stands disposed of in the above terms.

11. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant