

GAHC010236572022



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

Case No. : WP(C)/7465/2022

HACHINA KHATUN
D/O. LT. HACHEN ALI, W/O. JAINAL ABEDIN, PERMANENT R/O. VILL.
SATRA KANARA, P.S. BAGBOR, DIST. BARPETA, ASSAM, PRESENTLY
RESIDING AT MANIRAM DEWAN PATH, GORCHUK, P.S. GORCHUK, DIST.
KAMRUP (M), ASSAM.

VERSUS

THE UNION OF INDIA AND 8 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 DEPTT.
DISPUR
GUWAHATI-781006.

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
GUWAHATI
ASSAM
PIN-781005.

5:THE DEPUTY COMMISSIONER

KAMRUP (M)
P.O. PAN BAZAR
DIST. KAMRUP (M)
ASSAM
PIN-781001.

6:THE DEPUTY COMMISSIONER

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

7:THE FOREIGNERS TRIBUNAL NO.4

KAMRUP (M)
GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN-781007.

8:THE SENIOR SUPDT. OF POLICE (B)

GUWAHATI CITY
KAMRUP (M)
P.O. PAN BAZAR
DIST. KAMRUP (M)
ASSAM
PIN-781001.

9:THE OFFICER IN CHARGE OF GORCHUK POLICE STATION

P.O. GORCHUK
DIST. KAMRUP (M)
ASSAM
PIN-781035

Advocate for the Petitioner : MS. D GHOSH

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

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

02.06.2023

[A.M.Bujor Barua, J.]

Heard Ms. D. Ghosh, 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, 7, 8 and 9; Mr. T. Pegu, learned counsel for the respondent no. 3; and Ms. K. Phukan, learned counsel for the respondent nos. 5 and 6.

2. The petitioners Hachina Khatun had been referred to the Foreigners' Tribunal, No. 4, Kamrup Metro, Guwahati for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of F.T.[K(M)-4] 874/2017, wherein an opinion dated 30.09.2022 had been rendered declaring the petitioners to be the foreigners. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the Voters' List of 1966 of village Kokrajhar Bahadur Para, P.S. Kokrajhar in the Kokrajhar district, which contains the name of Asraf Ali son of Sepatuloi at serial no. 106 and that of Pashani Bibi wife of Asraf at serial no. 107. It is claimed that Asraf is the grandfather and Pashani Bibi is the grandmother of the petitioner. The name of Pashani Bibi also appears in the Voters' List of 1970 of village Kokrajhar Bahadur Para. The petitioner also relies upon the Voters' List of 1977 of village Bahadur Para which contains the name of Hasen Ali son of Asraf at serial no. 143. It is claimed that Hasen Ali of the Voters' List of 1977 is the father of the petitioner. The

petitioner further relies upon the Voters' List of 1989 of village Bahadur Para which contains the name of Hachen Ali son of Asraf at serial no. 1327 and that of Moybhan Bibi wife of Hachen at serial no. 1328. It is stated that Moybhan Bibi is the stepmother of the petitioner whereas Mollika Bibi wife of Hachen of 1989 Voters' List at serial no. 1329 is the mother. But as the mother is no more Moybhan Bibi the stepmother of the petitioner deposed before the Tribunal as DW5 and stated that the petitioner Hachina Khatun is the daughter of Hachen Ali. In the circumstance as the names of Hachen Ali and Moybhan Bibi appeared together in the 1989 Voters' List and if Moybhan Bibi deposed before the Tribunal as DW5 stating that the petitioner Hachina Khatun is the daughter of Hachen Ali the said evidence requires a consideration.

4. In doing so the petitioner also relies upon the final Khatian in respect of a plot of land at village Bahadur Para which contains the information that Hasen Ali is the son of Asraf.

5. In the circumstance, the matter is remanded back to the Foreigners' Tribunal, No. 4, Kamrup Metro, Guwahati to examine the aforesaid Voters' Lists as well as the evidence of DW5, Moybhan Bibi and pass a reasoned order. The Tribunal may also take a look at the final Khatian.

6. The petitioner to appear before the Tribunal on 10.07.2023.

10. Till the reasoned order is passed, no coercive action be taken against the petitioners.

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant