

GAHC010243322019



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

Case No. : WP(C)/7541/2019

MANOWARA BEGUM

D/O- HABEJ ALI @ HAFEJ UDDIN ALI, W/O- JAYAN ALI, PERMANENT R/O-
VILL- KOWARPUR, P.S. HAJO, DIST- KAMRUP ASSAM, PIN- 781102

VERSUS

THE UNION OF INDIA AND 5 ORS.

REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI- 110001

2:THE ELECTION COMMISSION OF INDIA

REP. BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI- 110001

3:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-06

4:THE DY. COMMISSIONER

KAMRUP
781031

5:THE SUPERINTENDENT OF POLICE (B)

KAMRUP
781031
ASSAM

6:STATE COORDINATOR

NATIONAL REGISTER OF CITIZENS
BHANGAGARH

GHY-

Advocate for the Petitioner : SYED BURHANUR RAHMAN

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

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

ORDER

Date : 02.06.2023
(AM Bujor Barua, J)

Heard Mr. AW Aman, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 6 being the authorities under the Union of India and NRC respectively, Mr. T Pegu, 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. 3 and 5 being the Home Department of the Government of Assam and Ms. K Phukan, learned counsel for the respondent no. 4 being the Deputy Commissioner, Kamrup.

2. The petitioner Manowara Begum had been referred to the Foreigner's Tribunal No. 4, Kamrup 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 H.F.T. Case No. 1222/2015. The Tribunal rendered an opinion dated 19.08.2019 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 1966 of

village Meruatary which contains the name of Megu Sheikh, S/O Asam at Sl. No. 157 and that of Nufusi Bibi, W/O Megu at Sl. No. 158 and both of them are shown to be residing in the same house no. 47. It is claimed that Megu Sheikh is the grandfather of the petitioner and Nufusi Bibi is the grandmother. Further reliance is made on the voters' list of 1985 of village Meruawattari which contains the name of Habej, S/O Megu at Sl. No. 75. It is claimed that Habej of the 1985 voters' list of village Meruawattari is the father of the petitioner. To substantiate the same, a birth certificate issued by the Health Department of the Government of Assam is relied upon which contains the information that the name of the father of the petitioner Monowara Begum is Habej Ali, a resident of village Maruattawry in the Nalbari district of Assam.

5. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' list of 1966 of village Meruartary and the voters' list of 1985 of village Meruawattari as well as the birth certificate issued by the Health Department of the Government of Assam. The respondents in the Home Department may also make their own enquiry and verification as to whether the petitioner proceedee Manowara Begum and Monowara Begum of the birth certificate are one and the same person and thereafter, submit a report. Upon doing the needful, the Tribunal to pass a reasoned order.

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

7. If the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 19.08.2019 passed in H.F.T. Case No. 1222/2015 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant