

GAHC010253022018



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

Case No. : WP(C)/7967/2018

ALEYA BIBI

W/O- AZIZUR RAHMAN, D/O- LT SABED ALI, VILL- MADHUSOULMARI,
PART-II, P.S. GAURIPUR, DIST- DHUBRI (ASSAM), PIN- 783331

VERSUS

THE UNION OF INDIA AND 5 ORS.

REP. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI- 110001

2:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.

DISPUR
GHY-6

3:THE DY. COMMISSIONER

DARRANG
DIST- DHUBRI
ASSAM

4:THE SUPERINTENDENT OF POLICE (B)

DHUBRI
ASSAM
784125

5:THE ELECTION COMMISSION OF INDIA

PIN- 110001

6:THE STATE COORDINATOR

NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
78103

Advocate for the Petitioner : MR H R A CHOUDHURY

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

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

ORDER

Date : 27.04.2023

(A.M. Bujor Barua, J)

Heard Ms. P. Ghosh, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 6, being the Union of India and the State Coordinator of NRC respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2 and 4, being the authorities in the Home Department; Ms. K. Phukan, learned counsel for the respondent No. 3, being the Deputy Commissioner, Dhubri and Mr. A.I. Ali, learned counsel for the respondent No. 5, being the authorities in the Election Commission of India.

2. The petitioner Aleya Bibi was referred to the Foreigners' Tribunal No. 4, Dhubri for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly Case No. F.T.-4/159/GPR/2017 was registered. The Tribunal rendered its opinion dated 29.08.2018 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village Rowa Pt. II in the Dhubri district which contains the name of Khaiullah Dewan son of Kandura Sk. at Sl. No. 01 and that of Sabed Ali son of Khaiullah at Sl. No. 03. The petitioner claims that she is the daughter of Sabed Ali son of

Khaiullah of village Rowa Pt. II and to establish the same, the petitioner relies upon a Periodic Khiraj Patta being Myadi Khiraji Patta No. 215 in respect of a plot of land at village Rowa Pt. II which shows Aleya daughter of Sabed Ali to be a pattadar. Accordingly the petitioner seeks to establish that she is the daughter of Sabed Ali of the voters' list of 1966 of village Rowa Pt. II.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 4, Dhubri to enable the Tribunal to examine the voters' list of 1966 of village Rowa Pt. II as well as the Periodic Khiraj Patta being Myadi Khiraji Patta No. 215 of village Rowa Pt. II which contains the name of Aleya daughter of Sabed Ali and thereafter pass a reasoned order. The respondents in the Home Department through the Superintendent of Police(B), Dhubri may make their own verification as to whether Aleya daughter of Sabed Ali contained in the Periodic Khiraj Patta and the petitioner Aleya Bibi are one and the same person. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 29.08.2018 in Case No. F.T.-4/159/GPR/2017 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 12.06.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

JUDGE

JUDGE

Comparing Assistant