

GAHC010261252022



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

Case No. : WP(C)/8368/2022

WAHIDA BEGUM
D/O. ABDUL MAJID, W/O. AHAMED ALI, PERMANENT R/O. BHOJKHOWA
CHAPORI, P.S. TEZPUR, DIST. SONITPUR, ASSAM, PIN-784027.

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI, PIN-110001.

2:THE ELECTION COMMISSION OF INDIA

REP. BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI-110001.

3:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-781006.

4:THE DEPUTY COMMISSIONER

SONITPUR
784001.

5:THE SUPDT. OF POLICE (B)

SONITPUR
PIN-784001
ASSAM.

6:THE COORDINATOR

NATIONAL REGISTER OF CITIZENS
BHANGAGHAR
GUWAHATI-04

Advocate for the Petitioner : MR A W AMAN

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

17.07.2023

(A.M. Bujur Barua, J)

Heard Mr. AW Aman, learned counsel for the petitioner. Also heard Mr. AK Dutta, learned CGC appearing on behalf of respondents in the Union of India, Ms. L Devi learned counsel for the authorities in the NRC, Mr. G Sarma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. T Pegu, learned counsel for the Election Commission of India and Ms. U Das, learned counsel for the Deputy Commissioner, Sonitpur.

2. The petitioner Wahida Begum had been referred to the Foreigners Tribunal No. 1, Sonitpur for rendering an opinion as to whether she is a foreigner within the meaning of foreigner under the Foreigners Act, 1946, resulting in registration of FT Case No. 6357/2012, wherein an opinion dated 28.07.2022 was 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 Rajbhoral, Mouza Mahabhairav in the Darrang district, which contains the name of Marsob Ali Munsaf son of Mamud at serial No. 202 and it is claimed that Marsob Ali Munsaf is the grandfather of the petitioner. Reliance is also placed on the voters list of 1975 of village Rajbharal, which contains the name of A Majid son of Marsar and it is claimed that A Majid is the father of the petitioner. To substantiate that A Majid is the father of the petitioner, reliance is placed on a school certificate issued by the Headmaster of Rajbhoral LP School, which contains the information that Wahida Begum is the daughter of Md. Abdul Mozid of village Rajbhoral.

4. The Headmaster of the school had also been examined as DW-3, wherein he had exhibited the school admission register in original to substantiate the information contained in the certificate.

5. In view of the above, we remand the matter back to the Tribunal to examine the voters list of 1966 and 1975 of village Rajbhoral containing the name of Marsob Ali Munsaf, the grandfather of the petitioner as well as A Majid the father of the petitioner as well as to recall the school admission register in original to be produced before the Tribunal again and the tribunal shall verify the authenticity and acceptability of the said admission register and thereafter pass a reasoned order thereon. The respondents in the Home Department may make their own verification and submit a report before the Tribunal on the acceptability of the claim of the petitioner that Abul Hasen of the Jamabandi and DW-2 Abdul Hoque are one and the same person and submit a report before the Tribunal. The State through the Home Department may further examine the Headmaster as may be advised. Upon doing the needful, the Tribunal shall pass a reasoned order thereon.

6. If the reasoned order is in favour of the petitioner, the same shall prevail

over the earlier opinion dated 28.07.2022 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioners shall appear before the concerned Foreigners Tribunal on 10.08.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

9. Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant