

GAHC010261442017



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

Case No. : WP(C)/2159/2017

MANUARA KHATOON @ MONUWARA BEGUM
D/O- HASEN ALI @ HASU SHEIKH, W/O- SURUJ ALI @ SURUJ, R/O- VILL-
MOIRABARI, P.O AND P.S- MOIRABARI, DIST- MORIGAON, ASSAM, PIN-
782126

VERSUS

THE UNION OF INDIA and 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT OF INDIA, MINISTRY
OF HOME AFFAIRS, NEW DELHI

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

3:THE DEPUTY COMMISSIONER
MORIGAON
ASSAM
PIN- 782105

4:THE SUPERINTENDENT OF POLICE
MORIGAON
ASSAM
PIN- 782105

5:THE OFFICER-IN-CHARGE
MOIRABARI POLICE STATION
P.O and P.S- MOIRABARI
DIST- MORIGAON
ASSAM
PIN- 78212

Advocate for the Petitioner : MR.M K HUSSAIN

Advocate for the Respondent : ASSTT.S.G.I.R-1

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

ORDER

04.05.2023

(AM Bujor Barua, J)

Heard Mr. MK Hussain, 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. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Morigaon and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Morigaon.

2. The petitioner, Manuara Khatoon @ Monuwara Begum, was referred to the Foreigners Tribunal 5th 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 Case No.F.T.(D)260/2015 (New Number) corresponding to FT.(D) 1092/2012 (Old Number) wherein an opinion dated 15.12.2016 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. The petitioner relies upon the voters list of 1965 of village Moirabari, PS Laharighat in the Nagaon district which contains the name of Hasu Sheikh, son of Omar Uddin at Sl.No.1023. The petitioner also relies upon the voters list of 1970 of village Moirabari in the Nagaon district which contains the name of Hasu Sheikh son of Omar Uddin at Sl.No.1005. The petitioner further relies upon the voters list of 2005 of village Moirabari Paschim which contains the name of Hasen Ali son of Lt. Omar Ali at Sl.No.705 and that of Manuwara Begum daughter of Hasen Ali at Sl.No.712 and both are shown to be residing in the same House No.157.

5. Further reliance is placed on the voters list of 2014 of village Moirabari Paschim which contains the name of Hasu Sheikh, son of Lt. Omar Ali at Sl.No.843 and that of Manuwara Begum, daughter of Hasu Sheikh at Sl.No.847. The petitioner claims that the burden under Section 9 of the Foreigners Act 1946 has been discharged by referring to the voters list of 1965 and 1970 of village Moirabari with reference to the name Hasu Sheikh by claiming him to be her father as well as the voters list of 2005 which contains the name of Hasen Ali as well as the voters list of 2014 which again contains the name of Hasu Sheikh. The petitioner claims that the name of her father in some of the documents is written as Hasu Sheikh, whereas in other document it is written as Hasen Ali, but both are one and the same person. The school certificate relied upon by the petitioner also contains the information that Manoara Begum is the daughter of Md. Hasen Ali of village Moirabari.

6. In the circumstance, the matter stands remanded back to the Tribunal to firstly ascertain as to whether Hasen Ali of the 2005 voters list and Hasu Sheikh of 1965 and 1970 as well as 2014 voters list are one and the same person. We also allow the petitioner to cross examine the Headmaster of Moirabari Girls' High School, Morigaon from the attendance register with regard to the contents of the school certificate relied upon by the petitioner.

7. Accordingly, the petitioner shall appear before the Tribunal on 16.06.2023.

8. The respondents in the Home Department may make their own verification as to whether Hasu Sheikh of 1965 and 1970 as well as 2014 voters list and Hasen Ali of 2005 voters list of village Moirabari are one and the same person. The respondents can verify the same by visiting the residence of Hasen Ali @ Hasu Sheikh of village Moirabari and thereafter submit a report before the Tribunal.

9. The Tribunal upon doing the needful and after examining the evidences and materials shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 15.12.2016 of the Foreigners Tribunal 5th Morigaon in Case No.F.T.(D)260/2015 (New Number) corresponding to FT.(D) 1092/2012 (Old Number) and if it is against the petitioner, consequential action under the law shall follow.

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

11. Writ petition stands disposed of in the above terms.
12. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant