

GAHC010265002018



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

Case No. : WP(C)/169/2019

ANOWARA BEGUM
D/O ABUL HUSSAIN
W/O CHANDU MIAH
R/O VILL- TEDHARA PATHER,
P.S. BAGHBAR, DIST. BARPETA, ASSAM
PIN - 781308.

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECRETARY,
MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWNA,
NEW DELHI- 110001.

2:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM

HOME DEPARTMENT
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 CO-ORDINATOR

NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S. ROAD

BHANGAGARH
GUWAHATI
ASSAM
PIN - 781005.

5:THE FOREIGNERS TRIBUNAL NO. 4TH BARPETA

ASSAM
DIST. BARPETA
ASSAM
PIN - 781301.

6:THE DEPUTY COMMISSIONER

BARPETA
P.O. AND P.S. BARPETA
DST. BARPETA
ASSAM
IN - 781301.

7:THE SUPERINTENDENT OF POLICE (BORDER)

BARPETA

P.O. AND P.S. BARPETA

DIST. BARPETA
ASSAM
PIN - 781301.

8:THE OFFICER-IN-CHARGE OF BAGHBAR POLICE STATION

P.O. BAGHBAR
DIST. BARPETA
ASSAM
PIN - 781308

Advocate for the Petitioner : MS. D GHOSH

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

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

ORDER

Date : 01.06.2023

(A.M. Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 4, being the Union of India and the State Co-ordinator of NRC, respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 5, 7 and 8, being the authorities in the Home Department; Mr. T. Pegu, learned counsel for the respondent No. 3, being the authorities in the Election Commission of India and Mr. N.K. Das, learned counsel for the respondent No. 6, being the Deputy Commissioner, Barpeta .

2. The petitioner Anowara Begum was referred to the Foreigners' Tribunal No. 4, Barpeta 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 F.T. Case No. 501/16 was registered. The Tribunal had rendered its opinion dated 22.10.2018 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 1970 of village Sutirpar, P.S. Baghbar in the Kamrup district which contains the name of Abul Hussen son of Asa Muddin at Sl. No. 184. The petitioner also relies upon the voters' list of 1989 of village Sutir Pather in the Barpeta district which contains the name of Abul Hussain son of Asamuddin at Sl. No. 600 and that of Moymon Nessa wife of Abul at Sl. No. 601. It is claimed that Abul Hussain is the father and Moymon Nessa is the mother of the petitioner. Moimon Nessa had

rendered evidence before the Tribunal as DW4 wherein she stated that she knows the petitioner Anowara Begum who is her eldest daughter, who was later married to Chandu Mia son of Mofiz Uddin of village Tedhera.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 4, Barpeta to examine the aforesaid voters' lists of 1970 and 1989 of village Sutirpar and Sutir Pather respectively as well as the evidence rendered by DW4 Moimon Nessa whose name appears in the voters' list of 1989 of village Sutir Pather. The State respondents in the Home Department through the Superintendent of Police(B), Barpeta may make their own verification and submit a report the Tribunal.

5. Upon doing the needful, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 22.10.2018 in F.T. Case No. 501/16 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 07.07.2023. 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.

J U D G E

J U D G E

Comparing Assistant