

GAHC010267112022



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

Case No. : WP(C)/8362/2022

REZIA KHATUN BIBI @ REZIA BEWA
D/O- LT. BOSIR UDDIN SHEIKH @ BOSIR UDDIN @ BOSIR SK,
W/O- LT. JALAL UDDIN,
VILL.- CHARUBAKHRA,
P.O.- TILAPARA, P.S.- CHAPAR,
DIST.- DHUBRI, ASSAM,
PIN- 783371.

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS,
NEW DELHI-01.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI-01.

3:THE STATE OF ASSAM
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPARTMENT

DISPUR
GUWAHATI-6.

4:THE DEPUTY COMMISSIONER
DHUBRI
DIST.- DHUBRI
ASSAM

PIN- 783301.

5:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
DIST.- DHUBRI
ASSAM

PIN- 783301.

6:THE ELECTORAL REGISTRATION OFFICER
AND ELECTION OFFICER
GOALPARA
DIST.- GOALPARA
ASSAM

PIN- 783101.

7:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GHY-05

Advocate for the Petitioner : MD H R AHMED

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

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

ORDER

02.08.2023

(AM Bujor Barua, J)

Heard Mr. HR Ahmed, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. A Ali, learned counsel for the authorities under the Election Commission of India, Mr. G Sarma, learned Special Standing

Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Dhubri and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Dhubri.

2. The petitioner, namely, Rezia Khatun Bibi @ Rezia Bewa was referred to the Foreigners Tribunal 7th Dhubri at Bilasipara for rendering an opinion as to whether she is a foreigner within the meaning of Foreigner Act, 1946 which resulted in the registration of FT 7th Dhubri Case No.261/CPR/18 arising out of Ref.F.T.Case No.627/CPR/15 and Ref.F.T.Case No.11/2013 wherein an opinion dated 28.10.2022 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. In the writ proceeding, the petitioner relies upon the voters list of 1966 of village Katarihara PS Lakhipur which contains the name of Bosir Uddin Sheikh, son of Piyar Sheikh at Sl.No.447 and that of Aymona, wife of Bosir Uddin at Sl.No.446 and it is claimed at Bosir Uddin Sheikh is the father of the petitioner and Aymona is the mother of the petitioner. To substantiate the same, reliance is placed on a Kabinama dated 01.08.1994 pertaining to the marriage of the petitioner which contains the information that Rezia Khatun Bibi is the daughter of Bosir Uddin Sheikh of village Katarihara in the Goalpara district. Montaz Ali being the LDA-cum-Office Bearer in the office of the Muslim Marriage Registrar & Kazi Ghagmari who had issued the Kabinama was also examined as DW-6 wherein he deposed that he had brought the marriage register of the year 1994

to substantiate the contents of the Kabinama.

5. In view of the above, the matter stands remanded back to the Tribunal to enable the Tribunal to further examine the voters list of 1966 of village Katarihara as well as the Kabinama relied upon by the petitioner at page 30 to the writ petition and the evidence of DW-6 Montaz Ali. On the objection of Mr. G Sarma, learned counsel for the Home Department, Government of Assam it is provided that it would be more prudent for the petitioner to examine the Kazi himself, rather than the LDA-cum-Office Bearer of his office and the Kazi be also required to produce the marriage register in original before the Tribunal and the Tribunal shall examine the marriage register and arrive at its own satisfaction as to whether the marriage register is an authentic and acceptable document or it may be a manipulated document in any manner.

6. The respondents in the Home Department may also make their own verification on the aforesaid aspect and submit a report before the Tribunal, if so advised.

7. Accordingly, the petitioner shall appear before the Tribunal on 29.08.2023.

8. 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 28.10.2022 of the Foreigners Tribunal 7th Dhubri at Bilasipara in FT 7th Dhubri Case No.261/CPR/18 arising out of Ref.F.T.Case No.627/CPR/15 and Ref.F.T.Case

No.11/2013 and if it is against the petitioner, consequential action under the law shall follow.

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

10. Writ petition stands disposed of in the above terms.

11. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant