

GAHC010271662019



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

Case No. : WP(C)/8255/2019

ANJU MAZUMDAR @ ANJU RANI @ ANJU SHEEL @ ANJU RANI SHEEL
D/O. LT. SUDHIR CHANDRA SHEEL @ SRI SUDHIR SHEEL, W/O. SRI
SANTUSH MAJUMDAR, VILL. SIDDESWARPUR, P.O. HINDU BLOCK, P.S.
DOBOKA, DIST. HOJAI, PIN-782440.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI, PIN-110001.

2:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-781006.

3:THE DY. COMMISSIONER

HOJAI
DIST. HOJAI
ASSAM
PIN-782442.

4:THE ELECTION COMMISSION OF INDIA
NEW DELHI-110001.

5:THE STATE CO-ORDINATOR

NATIONAL REGISTER OF CITIZENS
ASSAM
GUWAHATI-781005.

6:THE SUPDT. OF POLICE (B)

HOJAI
ASSAM.

7:THE OFFICER IN CHARGE

DOBOKA POLICE STATION
DIST. HOJAI
PIN-782442

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 MRS. JUSTICE MITALI THAKURIA
ORDER

25.08.2023

(A.M. Bujor Barua, J)

Heard Mrs. H. Ahmed, learned counsel for the petitioner. Also heard Ms. L. Devi, learned Central Government Counsel as well as Standing Counsel, NRC, for the respondent Nos. 1 & 5; Mr. G. Sarma, learned Standing Counsel, Foreigners Tribunal, for respondent Nos. 2, 6 & 7; Mr. T. Pegu, learned Standing Counsel, Election Commission of India, for respondent No. 4; and Mr. P. Sharma, learned Government Advocate, Assam, for respondent No. 3.

2. The proceeding had been initiated as per the notice of the Foreigners Tribunal No. 10th Nagaon, Sankardev Nagar, Hojai, in F.T. (D) Case No. 1671/2017, against the petitioner- Anju Mazumdar, wife of Santush Majumdar, who is the daughter of Sudhir Sheel of Village Siddeswarpur, Doboka in Hojai. The said proceeding resulted in the opinion dated 01.08.2019, whereby the

petitioner was declared to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the Voters List of 1965 of village Moirabari, P.S. Lahorighat in the Nagaon District, which contains the name of Sudhir Chandra Sheel, son of Madan Mohan at Sl. No. 709 and that of Pushpabala, wife of Sudhir at Sl. No. 710, where both are residing at House No. 169. It is claimed that Sudhir Chandra Sheel is the father and Pushpabala is the mother of the petitioner. If Anju Mazumdar is the daughter of Sudhir Sheel of the Voters List of 1965 of village Moirabari, the burden under Section 9 may have been discharged that she is not foreigner. But, from the notice of the Tribunal as well as the order, it is not discernible as to whether the proceedee is Anju Mazumdar, daughter of Sudhir Sheel of Village Moirabari or the authorities intend to proceed against some other Anju Mazumdar, daughter of Sudhir Sheel of some other village. In the aforesaid circumstance, it is indeterminable as to whether the petitioner would be a foreigner or not. The petitioner has also relied upon a Permanent Resident Certificate, issued by the Deputy Commissioner, Morigaon, which contains the information that Anju Sheel is the daughter of Sudhir Sheel of village Moirabari. It is the stand of the petitioner that Anju Sheel, daughter of Sudhir Sheel of village Moirabari, after having married to Santush Majumdar, of Village Siddeswarpur, is now writing her marital name as Anju Mazumdar. Apparently, Anju Mazumdar, daughter of Sudhir Sheel of village Moirabari, *prima facie* appears to be not a foreigner. But an unknown factor remains as to whether, according to the Home Department, the proceedee is Anju Mazumdar, daughter of Sudhir Sheel of village Moirabari, or the proceedee is intended to be somebody else.

4. Accordingly, we remand the matter back to the Tribunal so that the Home

Department can verify the records and submit the report as to whether the writ petitioner/proceedee is intended to be Anju Mazumdar, daughter of Sudhir Sheel of village Moirabari, or she is intended to be Anju Mazumdar, daughter of Sudhir Sheel of some other village.

5. Upon the report, the Tribunal to pass a reasoned order. The petitioner to appear before the Tribunal on 18.09.2023. If the report would be that the proceedee is intended to be Anju Mazumdar, daughter of Sudhir Sheel of village Moirabari, appropriate order may be passed. On the other hand, if according to Home Department, the proceedee intended is Anju Mazumdar, daughter of Sudhir Sheel of some other village, Anju Mazumdar, daughter of Sudhir Sheel of village Moirabari, shall not be disturbed in any manner by the authorities and appropriate notices may be issued to Anju Mazumdar, daughter of Sudhir Sheel of the other village, if any, as the case may be.

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

7. The writ petition stands allowed as indicated above. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant