

GAHC010275452018



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

Case No. : WP(C)/8654/2018

JARIMA KHATUN
W/O KUMUD ALI @ KUMOR ALI
R/O VILL- CHATA
P.S. TARABARI
DIST.BARPETA, ASSAM.

VERSUS

UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF HOME AFFAIRS, SHASTRI BHAWAN,
NEW DELHI-1.

2:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT

DISPUR
GUWAHATI -06.

3:THE DEPUTY COMMISSIONER

BARPETA
P.O. AND DIST. BARPETA
ASSAM- 783001.

4:THE SUPERINTENDENT OF POLICE (B)

BARPETA
P.O.AND DIST. BARPETA
ASSAM- 783001.

5:THE ELECTION COMMISSION OF INDIA

NEW DELHI- 111001.

6:THE STATE COORDINATOR

NATIONAL REGISTRAR OF CITIZENS (NRC)
ASSAM

GUWAHATI -06

Advocate for the Petitioner : MR. J LASKAR

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

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

ORDER

17.05.2023

(AM Bujor Barua, J)

Heard Ms. D Ghosh, 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. AI Ali, learned counsel for the authorities under the Election Commission of India, Mr. J Payeng, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, as well as the Superintendent of Police (B) Barpeta and Mr. PK Medhi, learned Government Advocate for the Deputy Commissioner, Barpeta.

2. The petitioner, namely, Jarima Khatun was referred to the Foreigners

Tribunal Assam Barpeta (7th) 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 F.T. Case No.1014/2017 (New) corresponding to F.T.Case No.2275/2012 (Old) wherein an opinion dated 18.08.2017 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, petitioner relies upon the voters list of 1966 of village Koltoli Police Station Nalbari Mouza West Borkhetri in the Kamrup district which contains the name of Nasimuddin Ali, son of Gendu at Sl.No.51 and that of Baila Nessa wife of Nasim at Sl.No.54 and both of them are shown to be residing in the same House No.19. The petitioner also relies upon the voters list of 1970 of village Koltoli Police Station Nalbari Mouza West Borkhetri in the Kamrup district which contains the name of Nasimuddin Ali, son of Gendu at Sl.No.60 and that of Baila Nessa wife of Nasim at Sl.No.63 and also both of them are shown to be residing in the same House No.19. It is claimed that Baila Nessa, wife of Nasim of the 1966 and 1970 voters list of village Koltoli is the mother of the petitioner.

5. To establish that Baila Nessa, wife of Nasim of the 1966 and 1970 voters list of village Koltoli is the mother of the petitioner, Baila Khatun @ Bhabila had deposed before the Tribunal as DW-2, wherein she takes a specific stand that the writ petitioner/proceedee Jarima Khatun is her daughter. But it is noticed

that the DW-2, Baila Khatun @ Bhabila has not been cross examined by the Home Department, Government of Assam.

6. Accordingly, the matter stands remanded back to the Tribunal to enable the Tribunal to examine the DW-2 Baila Khatun @ Bhabila, as regards the veracity of the deposition (evidence-in-chief) on affidavit rendered by her.

7. 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.

8. Accordingly, the petitioner shall appear before the Tribunal on 01.07.2023. The petitioner may also produce all relevant material/document to establish her case, if so advised.

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 18.08.2017 of the Foreigners Tribunal Assam Barpeta (7th) in F.T. Case No.1014/2017 (New) corresponding to F.T. Case No.2275/2012 (Old) 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