

GAHC010313462019



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

Case No. : WP(C)/134/2020

JAYNAB KHATUN @ JAYNAB BEGUM
W/O. NIZAM UDDIN, D/O. LT. MAJNU ALI @ MAJNU MIYA, VILL.
NICHUKA, P.S. BARPETA ROAD, DIST. BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, SHASTRI BHAWAN, TILOK MARG, NEW DELHI-01.

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
DEPTT. OF HOME
DISPUR
GUWAHATI-06.

3:THE ELECTION COMMISSIONER OF INDIA

THROUGH ITS SECRETARY
NIRBACHAN BHAWAN
NEW DELHI-01.

4:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
BHANGAGARH
GUWAHATI-05.

5:THE DY. COMMISSIONER OF BARPETA

DIST. BARPETA
ASSAM.

6:THE SUPDT. OF POLICE (B)

BARPETA
DIST. BARPETA
ASSAM

Advocate for the Petitioner : MR. R ALI

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

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

Date : 10-03-2023

JUDGMENT & ORDER (ORAL)

(AM Bujor Barua, J)

Heard Mr. R Ali, learned counsel for the petitioner. Also heard Mr. PS Bhattacharyya, learned CGC for the respondents in the Union of India, Ms. L Devi, learned counsel for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Barpeta and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Barpeta.

2. The petitioner, namely, Jaynab Khatun @ Jaynab Begum was referred to the Foreigners Tribunal No.10th Barpeta for rendering an opinion as to whether

she is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971 resulting in the registration of F.T. Case No.351/2016.

3. By the order dated 25.09.2019 of the Foreigners Tribunal No.10th Barpeta in F.T. Case No.351/2016 an opinion was rendered that the petitioner is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971.

4. Being aggrieved this writ petition is instituted.

5. The petitioner relies upon the voters list of 1970 of village Gandharipara, Mouza Howly, PS Barpeta, which contains the name of Majnu Ali son of Abdul Khalek at Sl.No.380 and Matiyar Rahman son of Khalek at Sl. No.381. Matiyar Rahman son of Khalek had deposed as DW-2 before the Tribunal and stated that the petitioner Jaynab Khatun is the daughter of Majnu Ali son of Abdul Khalek.

6. In this proceeding, the petitioner also relies upon a school certificate issued by the Headmaster of No.61 Gandharipara LP School dated 20.04.2018 which shows that Jaynab Khatun is the daughter of Majnu Miya and Jabeda Khatun being resident of village Gandharipara in the Barpeta district.

7. The law regarding the evidentiary value of a school certificate and the procedure to be adopted for projecting such certificate has been laid down by this Court in WP(C)No.3056/2018 vide judgment and order dated 03.01.2019

that the information contained in the school certificate should be supported by the Headmaster through his deposition before the Tribunal by producing the original school records which may contain such information.

8. In view of the above, the matter stands remanded back to the Tribunal to allow the petitioner to produce the school certificate issued by the Headmaster of No.61 Gandharipara LP School and also to allow the petitioner to bring in the evidence of the Headmaster of the school concerned along with the original records which may substantiate the information contained therein. The petitioner also relies upon a copy of the Jamabandi in respect of village Gandharipara wherein at Sl.No.10, the name of the petitioner Jaynab Khatun had been mutated in place of Majnu Miya with reference to an order dated 07.01.2020 of the Circle Officer. The petitioner may also produce a copy of the order dated 07.01.2020 of the Circle Officer to establish that she is the daughter of Majnu Ali son of Abdul Khalek of village Gandharipara.

9. Accordingly, the petitioner to appear before the Tribunal on 11.04.2023.

10. The Tribunal upon considering the evidence and materials on record shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 25.09.2019 of the Foreigners Tribunal No.10th Barpeta in F.T. Case No.351/2016 and if it is against the petitioner, consequential action shall follow.

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

petitioner.

12. Send back the LCR immediately.

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

JUDGE

JUDGE

Comparing Assistant