GAHC010259632017

2026:GAU-AS:16233-DB

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

Case No. : WP(C)/709/2017

SMT MAYAMOTI BISWAS
W/O- BABULAL BISWAS, RESIDENCE OF NO.-2 DEBENDRA NAGAR, P.O. MAJORBARI, P.S SILAPATHAR,DIST-DHEMAJI,ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.
REP. BY THE SECY. TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW DELHI- 1.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY- 6.

3:THE DY. COMMISSIONER
DHEMAJI
ASSAM.

4:THE SUPERINTENDENT OF POLICE B
DHEMAJI
ASSAM.

5:THE OFFICER IN CHARGE
SILAPATHAR POLICE STATION
DHEMAJI
ASSAM

Advocate for the Petitioner : MR.P DEKA, MR.A CHETIA,MD.ASLAM,MR.G N SAHEWALLA

Advocate for the Respondent : GA, ASSAM, ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

Advocate for the petitioner : Mr. P. Deka.
Advocate for the respondents : Mrs. L. Devi, CGC,
: Mr. A.I .Ali, SC, ECI
: Mr. G. Sarma, SC, FT,
Border matters and NRC.
: Mr. P. Sarmah, Addl. Sr. G.A.

Date on which judgment is reserved : 27.08.2026

Date of pronouncement of judgment : 05.11.2026

Whether the pronouncement is of the operative part of the judgment? : No.

Whether the full judgment has been Pronounced? : Yes.

JUDGMENT AND ORDER

(*CAV*)

(K.R. Surana, J)

Heard Mr. P. Deka, learned counsel for the petitioners. Also heard Mrs. L. Devi, learned CGC; Mr. A.I. Ali, learned standing counsel for the ECI; Mr. G. Sarma, learned standing counsel for the FT matters and NRC; and Mr. P. Sarmah, learned Additional Senior Govt. Advocate for respondent.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Smt. Mayamoti Biswas, has assailed the

impugned opinion dated 21.12.2016, passed by the learned Member, Foreigners' Tribunal 2nd, Dhemaji at Silapathar, in FT.(D) Case No. 2NDDhemaji1-44/2016, arising out of SLP Case No. 192/88, by which the petitioner was declared as an illegal migrant.

3. In view of the order of remand proposed to be passed, the Court deems it not necessary to refer to the written statement and evidence filed by the petitioners.

4. It may be stated that, in respect of the petitioner nos. 1, 3, 4 and 5, as they had not exhibited any documents, it was held that they had failed to prove that they are Indian citizens. Moreover, petitioner no. 2 had not taken any steps and, therefore, they were declared to be a foreigner.

5. It would suffice to mention that the records received from the learned Tribunal reveal that the inquiry was initiated only against Mayamoti Nomosudra, wife of Sri Babulal Nomosudra, of village- No.3, Majorbari Gaon, under Silapathar Police Station, under the district of Lakhimpur (now district Dhemaji).

6. Therefore, this Court by order dated 05.06.2024, passed in this writ petition, had directed the names of the original petitioner nos. 1, 3, 4 and 5 to be deleted and the writ petition was partly allowed by setting aside the impugned opinion dated 21.12.2016, insofar as it relates to the said petitioners nos. 1, 3, 4 and 5, namely, Sri Babulal Biswas, Smt. Tilottoma Biswas @ Roy, Sri Sankar Biswas, and Sri Narayan Biswas respectively. Accordingly, the petitioner no. 2, namely, Smt. Mayamoti Biswas was arrayed as petitioner no. 1.

7. It may be mentioned that the learned standing counsel for the FT and Border matters had opposed interference with the impugned opinion and

had made his submissions to support the impugned opinion.

8. However, on a perusal of the materials available on record, specifically the records of the learned Tribunal which were called for, it is noticed from the order dated 24.04.2016, bearing signature of the learned Member on 24.06.2016, the learned Tribunal had recorded as follows:

> "*24.04.16: Notice issued to the proceedees returned unserved. The process server reported that on service of noptices (sic.) to the proceedees namely (i) Mayamoti Nomosudra, W/O- Babulal Nomosudra, (ii) Babulal Nomosudra, (iii) Sankar Nomosudra, (iv) Narayan Nomosudra and (v) Tiluttoma Nomosudra of Vill- No-3 Majorbari, P/s. Silapathar, Dist-Dhemaji, there are dissimilarity of surnames of the proceedings for which the proceedees refused to receive the notices as their surnames are Biswas but not Nomosudra.*
>
> *Hence, the S.P.(B) Dhemaji is directed to submit a report after investigation ensuring the actual names of the proceedees or whether the proceedees are same persons mentioned in the reference with the persons refused to receive the notices.*
>
> *Send a copy of the order to the S.P.(B), Dhemaji for report.*
>
> *Fixing 11-7-16 for report."*

9. It may be mentioned herein that by order dated 17.06.2016, the learned Tribunal had fixed the matter next on 24.06.2016, but in the next order, instead of writing the date as "24.06.2016", the date of the order was recorded as "24.04.2016", bearing signature of the learned Member on 24.06.2016.

10. The case was thereafter fixed on 11.07.2016, 26.07.2016 and 10.08.2016, but the report of the Superintendent of Police (Border) was not received. As regards the actual names of the proceedees, they had refused to accept notice on the ground that their surnames were Biswas and not Nomosudra.

11. It may be mentioned that though the report of the

Superintendent of Police (Border) was not received, by order dated 10.08.2016, fresh notice was issued to the proceedees and the matter proceeded without the learned Tribunal pursuing its order dated 24.04.2016, bearing signature of the learned Member on 24.06.2016, for report.

12. Be that as it may, as the learned Tribunal had initiated an enquiry as to whether the surname of Smt. Mayamoti Biswas was Biswas or Nomosudra, the said learned Tribunal was under legal obligation to ensure compliance of its orders, as such the enquiry would have a relevant bearing in the case.

13. Therefore, notwithstanding that the petitioner had committed a blunder of not exhibiting any documents, yet in light of the learned Tribunal's order dated 24.04.2016, bearing signature of the learned Member on 24.06.2016, by which an investigation as regards the surnames "Biswas" and "Nomosudra" was required to be carried out, the matter deserves to be remanded back to the said Tribunal for bringing the investigation/inquiry report, as ordered on 24.04.2016, bearing signature of the learned Member on 24.06.2016, to its logical conclusion. Thereafter, the learned Tribunal shall proceed to hear the matter afresh and decide the matter at the earliest, keeping in view the mandate of paragraph 17(14) of the Immigration and Foreigners Order, 2025.

14. The petitioner, who is duly represented by her learned counsel, shall appear before the said Tribunal on or before 04.12.2026, and by producing a certified copy of this order before the said Tribunal, await further orders to be passed by the said Tribunal.

15. It is further provided that on the date of appearance of the

petitioner, she shall be ready and willing to take bail of such sum as may be deemed fit and proper by the learned Tribunal. It is provided that the bail so granted by the learned Tribunal shall be valid for a period of 30 (thirty) days from the date of the opinion that may be passed by the said learned Tribunal.

16. This writ petition is allowed to the extent as indicated above.

17. The parties are left to bear their own cost.

18. The Registry shall expeditiously return back the Tribunal's record along with a copy of this order to be made a part of the records by the learned Tribunal for future reference.

JUDGE **JUDGE**.

Digitally signed by Champak Rajbongshi
Date: 2026.11.05 12:28:40 +05'30'

Comparing Assistant **Private Secretary**