GAHC010285602019

2026:GAU-AS:15218

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

Case No. : WP(C)/8780/2019

JAHANARA BEGUM
D/O- KASAM ALI, W/O- SAFIKUL ISLAM, VILL. ULUBARI, P.S. BHELOWGURI, DIST. MORIGAON, ASSAM. PIN- 782126.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF INDIA, HOME DEPTT., NEW DELHI-1, INDIA.

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

3:THE ELECTORAL REGISTRATION OFFICER
MORIGAON
DIST. MORIGAON
ASSAM.

4:THE DY. COMMISSIONER
MORIGAON
DIST. MORIGAON
ASSAM.

5:THE SUPDT. OF POLICE (B)
MORIGAON

DIST. MORIGAON
ASSAM.

6:THE OFFICER-IN-CHARGE
BHELOWGURI POLICE STATION
P.O. DOLOIGAON
P.S. BHELOWGURI
DIST. MORIGAON
ASSAM. PIN- 782126

Advocate for the Petitioner : MR E AHMED, MR. Z HAMMAD,MR. R A CHOUDHURY

Advocate for the Respondent : ASSTT.S.G.I., SC, F.T,SC, NRC,SC, ECI

-BEFORE-
HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MR. JUSTICE PRANJAL DAS

Advocate for the Petitioner : Mr. Z. Hammad, Adv.
Advocate for the Respondent No.1: Mr. V. Sharma, CGC
Advocate for the Respondent Nos. 2, 5 & 6: Mr. G. Sarma, SC, Home Dept.
Advocate for the Respondent No. 3 : Mr. A. I. Ali, ECI
Advocate for the Respondent no. 4 : Mr. P. Sarma, Sr.Govt. Adv.

Date on which judgment is reserved : **20.08.2026**

Date of pronouncement of judgment : **07.10.2026**
Whether the pronouncement is of the operative part of the judgment ? : N/A
Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (CAV)

(*Pranjal Das, J*)

Heard Mr. Z. Hammad, learned counsel for the petitioner. Also heard

Mr. G. Sarma, learned Standing Counsel, Home Department and NRC for the Respondent Nos. 2, 5 & 6; Mr. A.I Ali, learned Standing Counsel, ECI for the Respondent No. 3, Mr. V. Sharma, learned CGC for the Respondent No. 1 and Mr. P. Sarma, learned Addl. Sr. Government Advocate for the Respondent No.4.

2. Invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner has assailed the judgment and opinion dated 20-02-2019 passed by the learned Member, Foreigners Tribunal No. 5, Morigaon in FT (D) 1003/2017, whereby the petitioner as proceedee was declared to be a foreigner post the stream of 25-03-1971.

3. The facts in brief are that a Reference was received from the Superintendent of Police (Border), Morigaon against the petitioner questioning her nationality and suspecting her to be a foreigner who had entered India illegally after 25-03-1971, as she could not produce any documents regarding the same during verification. Upon receipt of the reference, case was registered and notice was issued to the petitioner as proceedee, whereupon she appeared and contested the case by filing a written statement claiming to be an Indian citizen. Subsequently, during the proceedings, she adduced evidence of herself as DW1 and two other witnesses projected to be her younger brother and father respectively as DW2 and DW3. In support of her case, the petitioner as proceedee also adduced in evidence 9 (nine) documents being Exhibit A to Exhibit I.

4. However, upon considering her evidence, the learned Tribunal was not persuaded to answer the reference in her favor and she was declared a foreigner post the stream of 25-03-1971 as already stated above. Hence, the present writ petition.

5. Mr. Z. Hammad, learned counsel for the petitioner submits that the petitioner had adduced cogent evidence to show her linkage with her father. Her projected father Kasam Ali, in turn had linkage evidence with her projected grandfather Sahar Ali, but the same was incorrectly discarded by the Tribunal. It is submitted that the petitioner had adduced a Voters list and other documents to show that she was an Indian citizen having linkage with her Indian citizen ancestors. But the learned Tribunal arrived at an incorrect finding.

6. On the other hand, Mr. Sarma, the learned Standing counsel for the Home Department and NRC supports the impugned judgment and opinion and contends that the petitioner as proceedee has totally failed to create the linkage with her projected Indian citizen ancestors. It is submitted that not only has she failed to build her own linkage, but even the linkage between her projected father Kasam Ali and projected grandfather Sahar Ali is lacking and this has been correctly held to be so by the learned Tribunal. Mr. Sarma, the learned Standing counsel submits that there is no infirmity in the impugned opinion, which accordingly should be upheld and confirmed.

7. We have perused the pleadings of the writ petition, the impugned judgment and opinion, the written statement, the evidence and documents adduced during the proceedings before the learned Tribunal. We have considered the submissions of the learned counsels on both the sides.

8. The petitioner as proceedee during the proceedings before the learned Tribunal, adduced in evidence as Exhibit A and Exhibit B respectively, the Voter lists of 1965 and 1970 of No. 84 Laharighat LAC. In the said voters lists, the name of Sahar Ali appears as Serial No. 266 and

256 respectively, with regard to Ulubari village under Laharighat Police Station. The name of his father is indicated as Ali Mamud. The petitioner has also adduced in evidence Voters list of 1985 of No. 83 Dhing LAC under Laharighat Police Station, wherein also, the name of Sahar Ali figures at Serial No. 433, indicating his name as Ali Mamud.

9. The petitioner adduced in evidence as Exhibit D, a Voters list of 2011 of the same LAC, in which her projected father Kasam Ali figures, indicating his father's name as late Sahar Ali. It is pertinent to note that in the said Voters list, the age of Kasam Ali is indicated as 67 years and no previous voters list of the said Kasam Ali has been adduced in evidence. Needless to say that, if he was aged 67 years in 2011, he attained the age of franchise about 25 years back. And therefore, his name ought to have figured in Voters list of previous years as well. But no such voters list has been adduced in evidence. It is also to be noted that though in the Voters list of 2011 (Exhibit D), the father's name of Kasam Ali is indicated as late Sahar Ali, but there are no voters list where the name of Kasam Ali figures together with his projected father Sahar Ali. On this aspect, we do not find any error in the appreciation of evidence by the learned Tribunal.

10. It is not in dispute that there are no voters lists in which the name of the present petitioner appears together with her projected father, Kasam Ali; even though, she has also exhibited as Exhibit E, a voters list of 2017 which figures the name of Kasam Ali alone. Land document in the nature of Jamabandi issued on 05.04.2010 was exhibited as Exhibit F. The contents of the same Jamabandi are handwritten and it has been contended that it indicates the inheritance of land by projected father, Kasam Ali from Sahar Ali, the projected grandfather. The learned Tribunal, however, discarded the

same document upon not being convinced about its veracity.

11. Now, the question is, even if the said document is accepted, it would only create a linkage between Kasam Ali and Sahar Ali. Though, from the point of view of the petitioner, what is needed is a documentary link between herself and her projected father or grandfather. The petitioner has exhibited as Exhibit G, a document purportedly issued by the Office of Circle Officer stating that Kasam Ali, son of late Sahar Ali is in possession of the said land under the jurisdiction of the Laharighat Revenue Circle.

12. As rightly held by the learned Tribunal, the appearance of the name of Sahar Ali in the Voters list of 2011, at the age of 67 years without any previous voters list of his being adduced in evidence raises lot of questions. The petitioner has adduced in evidence a certificate issued by the Gaonburah as Exhibit I. All it mentions is that she is a resident of his area of Moirabari Gaon Panchayat. In any case, the said document is also hit by the unauthorized use of the State emblem on it. Moreover, the issuing Gaonburah has also not adduced evidence. In her cross-examination, the petitioner has clarified with regard to the Gaonburah certificate that it pertained to the village of her matrimonial home.

13. One Sajahan Ali stated to be the purported brother of the petitioner adduced evidence as DW2 in which he stated that the petitioner is his elder sister and that his father's name is Kasam Ali and grandfather's name is Sahar Ali. He stated that his sister is an Indian citizen and not a foreigner. However, as it is well settled, mere oral evidence is not sufficient to build a vital linkage with Indian citizen ancestors for a proceedee to successfully discharge the burden under Section 9 of the Foreigner's Act, 1946.

14. Even the projected father, Kasam Ali has adduced evidence as DW3

claiming the petitioner as his daughter who was born at village Ulubari and claiming that they are all Indian citizens. He further contended that he owns landed property and his name also figures in Voters list. In cross-examination, he claimed that his father's name is Sahar Ali. For the aforesaid reason, such testimony would also not suffice in the absence of the vital link documentary evidence.

15. The petitioner has also adduced in evidence a certificate dated 16-08-2018 exhibited as Exhibit H which is purportedly a transfer certificate issued from Bhajakhaiti M.E. School, where she is stated to have studied until 31-12-1997 and that her date of birth was 01-01-1985. We are afraid, this document would not be of any vital help to the petitioner because the author of the document did not come forward to adduce evidence and no contemporaneous records were adduced in evidence to indicate as to on what basis the contents of the certificate was made.

16. Thus, upon perusing the entire evidence on record, we are unable to find any documentary evidence to link the petitioner with her projected grandfather, Sahar Ali whose name figures in the Voter lists of 1965 and 1970, prior to the cut-off date. Though the Jamabandi document is there, but the voters list figuring the name of projected father, Kasam Ali for the first time at the age of 67 years also brings into question itself the linkage between Kasam Ali and Sahar Ali, as rightly held by the Tribunal.

17. Consequently, we do not find sufficient merits in the writ petition, which is therefore dismissed, thereby, **confirming** the Judgment and Order dated 20.02.2019 passed by the learned Member, Foreigners Tribunal No. 5, Morigaon in FT (D) 1003/2017.

18. Interim order, if any, stands vacated with consequential steps.

19. Return the original case records to the learned Tribunal.

20. Writ petition stands disposed of.

JUDGE **JUDGE**

Comparing Assistant