

GAHC010052742023



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

Case No. : WP(C)/1346/2023

RAHELA BEOWA
W/O- LT. ABDUL HASHEM, R/O- VILL- NO. 4 SIALMARI, P.S. DALGAON,
DIST.- DARRANG, ASSAM

VERSUS

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

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

3:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM ACHYUT PLAZA
BHANGAGARH
GHY-5

4:THE ELECTION COMMISSION OF ASSAM
REP. BY THE COMMISSIONER
BELTOLA-BASISTHA ROAD
HOUSEFED COMPLEX
GHY-6
ASSAM

5:THE DY. COMMISSIONER
DARRANG P.O. MANGALDOI
DIST.- DARRANG

ASSAM

6:THE SUPERINTENDENT OF POLICE (B)
DARRANG
P.O. MANGALDOI
DIST.- DARRANG
ASSA

Advocate for the Petitioner : MR. D P BORAH

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

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

ORDER

Date : 28.04.2023

(A.M. Bujor Barua, J)

Heard Mr. D.P. Borah, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 3, being the Union of India and the State Coordinator of NRC respectively. Also heard Ms. A. Verma, learned counsel for the respondents No. 2 and 6, being the authorities in the Home Department; Mr. A.I. Ali, learned counsel for the respondent No. 4, being the Election Commission of India and Mr. P.K. Medhi, learned counsel for the respondent No. 5, being the Deputy Commissioner, Darrang.

2. The petitioner Rahela Beowa was referred to the Foreigners' Tribunal No. 4, Darrang, Mangaldai for rendering an opinion as to whether she is a person who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly F.T. Case No. 5690/11 with reference to IM(D)T Case No. 7994/98 was registered. The Tribunal rendered its opinion dated 30.01.2023 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ

petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village Bhabapur, Mouza Sialmari in the Darrang district which contains the names of Fanaruddin Sheikh son of Ibrahim at Sl. No. 60, Sahebani Bibi wife of Ibrahim at Sl. No. 61 and Harmani Nessa wife of Fanaruddin at Sl. No. 62. The voters' list of 1970 of village Bhabapur also contains the same information. The petitioner further relies upon a Jamabandi in respect of a plot of land at village Thalthali Beel wherein as per the order of the Circle Officer dated 25.07.2022 there is a mutation of the land by deleting the name of Fanaruddin son of Ibrahim and in his place, amongst others, mutated in favour of Rahela Beowa daughter of Fanaruddin. The petitioner accordingly claims that she has discharged the burden under Section 9 of the Foreigners Act, 1946 that she is a citizen of India.

4. By our earlier order dated 10.04.2023, we required the Superintendent of Police(B), Darrang to make an enquiry as to whether Fanaruddin Sheikh son of Ibrahim at Sl. No. 60 of the voters' list of 1966 of village Bhabapur and Fanaruddin son of Ibrahim of the Jamabandi annexed as Annexure 1F page 26 of the writ petition are one and the same person. The Superintendent of Police(B), Darrang after making an enquiry has submitted a report dated 25.04.2023 before the Court that Fanaruddin Sheikh son of Ibrahim at Sl. No. 60 of the voters' list of 1966 of village Bhabapur and Fanaruddin son of Ibrahim of the Jamabandi annexed as Annexure 1F page 26 of the writ petition are one and the same person.

5. As the voters' list of 1966 establishes that Fanaruddin Sheikh son of Ibrahim himself is a citizen of India and the Jamabandi establishes that the petitioner Rahela Beowa is the daughter of Fanaruddin and Fanaruddin Sheikh of the voters'

list of 1966 and Fanaruddin of the Jamabandi are one and the same person, we are satisfied that the petitioner has discharged the burden under Section 9 of the Foreigners Act, 1946 that she is a citizen of India.

6. Accordingly, we declare the petitioner Rahela Beowa to be a citizen of India and therefore she will be entitled to all such rights and liberties that may be entitled to a citizen of India.

7. Writ petition stands allowed as indicated above.

8. A copy of the report of the Superintendent of Police(B), Darrang dated 25.04.2023 is kept on record.

9. A copy of this order may be provided to the Tribunal for the information.

J U D G E

J U D G E

Comparing Assistant