

GAHC010220882024



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

Case No. : WP(C)/5546/2024

NARJINA BEGUM @ NARJINA BIBI
W/O- TAIBUR RAHMAN,
D/O- LATE NOTIYAR RAHMAN SK,
VILL- RAKHAL KILLA,
P.O.- SIMLABARI,
P.S.- LAKHIPUR,
DIST.- GOALPARA, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY,
MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA, NEW DELHI-1.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY ITS SECRETARY
NIRVACHAN BHAWAN
NEW DELHI-1.

3:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR GUWAHATI-6.

4:THE STATE CO-ORDINATOR OF NRC
ASSAM BHANGAGARH GUWAHATI-05.

5:THE DEPUTY COMMISSIONER CUM DISTRICT ELECTION OFFICER
GOALPARA ASSAM PIN- 783101.

6:THE SUPERINTENDENT OF POLICE (B)
GOALPARA
ASSAM PIN- 783101

Advocate for the Petitioner : MR. M ALI, MD. ANARUL ISLAM,MR J. E. SARKAR

Advocate for the Respondent : DY.S.G.I., SC, ECI,SC, F.T,GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 30.10.2024

Heard Mr. M. Ali, learned counsel for the petitioner. Also heard Mr. G. Sharma, learned counsel for the respondent Nos. 3 & 6, Ms. V. Das, learned counsel for the respondent No. 5 and Mr. H. Kuli, learned counsel appearing on behalf of Mr. A. I. Ali, learned counsel for the respondent No. 2.

2. The case of the petitioner is that the name of her father is Late Notiyar Rahman Sk and her mother's name is Kazivan Bewa. She is the granddaughter of Late Husen Ali and Notijan Bibi. The name of her father has been incorporated in the Voters List of 1966, 1970, 1979, 1985 and 1989, while her mother's name has been incorporated in the Voters List of 1997 and the subsequent Voters List.

3. The petitioner after attaining the age of majority in the year 2000 was married to one Taibur Rahman, S/o Moktal Hussain of Vill.- Rakhalkilla, P.S. Lakhimpur, Dist. Goalpara. After her marriage, the petitioner's name has been recorded in the Voters List of 2005 of 39 No. Jaleswar LAC, where her name appears at Sl. No.137 as Narjina Bibi, W/o Tayebur Rahman and her husband's name appears at Sl. No.135 as Tayebur Rahman, S/o Moktal Hosen at House No.267, Vill.- Rakhalkilla, P.S. Lakhipur, Dist. Goalpara, Assam. However, in the

said Voters List of 2005, she has been marked as "D" Voter. Though the petitioner had approached the authorities and submitted representations to remove the mark "D", no action has been undertaken by the respondent authorities.

4. As the concerned respondent authorities had failed to do so, the petitioner is before this Court under Article 226 of the Constitution of India for an appropriate direction that the letter "D" tagged with the name of the petitioner in the voters list be removed.

5. Whether a person is a D voter or not is a matter of factual determination and the appropriate forum to do the same is the concerned Foreigners Tribunal. This Court in exercise of its powers under Article 226 of the Constitution of India would not have the competence to decide such a question which depends on the evidence that may be produced.

6. In the circumstances, this Court therefore directs the respondent No.6, i.e., the Superintendent of Police (Border), Goalpara to verify as to whether the petitioner has already been referred to the concerned Foreigners Tribunal and if upon verification it is found that the petitioner has not been referred to the concerned Foreigners Tribunal, this Court further directs the said respondent No.6 to refer the case of the petitioner as regards the mark "D" in the Voters List in respect to 39 No. Jaleswar LAC to a competent Foreigners Tribunal, Goalpara district for an appropriate adjudication as regards the status of the petitioner as "D" voter in the concerned voters list.

7. Reference be made within a period of 2 (two) months from the date of

receipt of a certified copy of this order. Upon such reference being made, the petitioner may participate in such proceedings and establish her case.

8. If the case of the petitioner as per the records had already been referred to the relevant Foreigners Tribunal, there would be no requirement to make any further reference and the detailed information of the earlier reference be communicated to the petitioner.

9. With the above directions and observations, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant