

GAHC010009792019



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

Case No. : WP(C)/310/2019

NURJAHAN BEGUM AND 3 ORS.
W/O- MD. NURUL ISLAM, VILL- BAHA UNNATPARA, P.S. MAYONG, DIST-
MORIGAON (ASSAM)

2: MD. NUR MOHAMMAD
S/O- MD. NURUL ISLAM
VILL- BAHA UNNATPARA
P.S. MAYONG
DIST- MORIGAON (ASSAM)

3: MD. NUR AMIN
S/O- MD. NURUL ISLAM
VILL- BAHA UNNATPARA
P.S. MAYONG
DIST- MORIGAON (ASSAM)
(BEING MINOR REP. BY THEIR MOTHER NURJAHAN BEGUM i.e.
PETITIONER NO. 1)

4: MUSSTT. ROJINA BEGUM
D/O- MD. NURUL ISLAM
VILL- BAHA UNNATPARA
P.S. MAYONG
DIST- MORIGAON (ASSAM)
(BEING MINOR REP. BY THEIR MOTHER NURJAHAN BEGUM i.e.
PETITIONER NO. 1)

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, TILAK MARG, NEW DELHI- 110001

2: THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN

ASHOKA ROAD
NEW DELHI- 110001

3:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT. OF ASSAM
HOME DEPPT.
DISPUR
GHY-6

4:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZEN
GS ROAD
BHANGAGARH
GHY- 5

5:THE MEMBER
FOREIGNERS TRIBUNAL NO. 1
MORIGAON
ASSAM

6:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
ASSA

Advocate for the Petitioner : MR S M ABDULLAH P, MR. MD S HOQUE,MS. A BORUAH,MR.
M DEKA

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 06-01-2026

(K.R. Surana, J)

Heard Mr. Md. S. Hoque, learned counsel for the petitioners as well as Mr. G. Sarma, learned standing counsel for the Foreigners Tribunal and NRC, Mr. A.I. Ali, learned standing counsel for the Election Commission of India, Ms. J. Sarma, learned CGC, and Mr. P. Sarma, learned Addl. Senior Govt. Advocate.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioners have assailed the impugned opinion dated 12.09.2013, passed by the learned Member, Foreigners' Tribunal, 1st, Morigaon, in F.T. Case No. 49/2009, corresponding to Police Reference F.T. Case No.17/07, by which the petitioner was declared as an illegal migrant of post 25.03.1971 stream.

3. Pursuant to the order passed earlier, the records of the Tribunal is received.

4. We have not received any assistance from the learned counsel for the petitioner and therefore the Court had to peruse the records to ascertain the facts and circumstances under which the case was tried.

5. Having noticed that the records of the Tribunal do not reflect any reference being made by the Superintendent of Police (Border), Morigaon, the records were shown to the learned standing counsel for the FT matters.

6. Having perused the records, the learned standing counsel for the FT matters has still opposed the writ petition on the ground that the fact that there was no reference against the petitioners is not even the case projected by the petitioners and therefore he prays that the matter be heard on merit as the petitioners in this case have not led any evidence and did not prove any document to prove that to discharge their burden of proof as required under section 9 of the Foreigners Act, 1946.

7. Having seen from the records of the Tribunal that there is neither any inquiry against the present four petitioners nor there was a reference by the Superintendent of Police (Border), Morigaon against the petitioners, the Court is of the considered opinion that the Tribunals would acquire jurisdiction to

determine about the citizenship of the proceedee only on reference being made.

8. Accordingly, as no reference is found that has been sent by the Superintendent of Police (Border), Morigaon, the Court is inclined to allow this writ petition by setting aside and interfering with the impugned opinion dated 12.09.2013, passed by the learned Member, Foreigners' Tribunal, 1st, Morigaon, in F.T. Case No. 49/2009, corresponding to Police Reference F.T. Case No.17/07.

9. However, this order shall not be a bar for the jurisdictional Superintendent of Police (Border), Morigaon to cause an inquiry against the petitioners and if anything adverse is found against the petitioners to make a fresh reference in accordance with law.

10. The petitioners are directed to produce a certified copy of the order before the Superintendent of Police (Border), Morigaon to bring the order to the notice of the said authority.

11. The learned standing counsel for the FT and Border matters shall also transmit a copy of the order to the concerned authority to bring the order to their notice.

12. This writ petition stands allowed to the extent as indicated above.

13. The Registry shall send back the records expeditiously.

JUDGE

JUDGE

Comparing Assistant