

GAHC010019972020



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

Case No. : Review.Pet./81/2020

MUSTT MAJIDA KHATOON
W/O MD. SHAFIQL, R/O VILL. FAKALI, P.S. JURIA, DIST. NAGAON,
ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECY TO THE MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS, SHASTRI BHAWAN, TILAK
MARG, NEW DELHI-1

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM
DEPTT. OF HOME
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER OF KAMRUP (R)
P.O. NAGAON
DIST. NAGAON
ASSAM
PIN 782001

4:THE SUPERINTENDENT OF POLICE (B)
P.O. NAGAON
DIST. NAGAON
ASSAM
PIN 782001

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI

6:THE ASSAM STATE CO-ORDINATOR OF NRC
BHANGAGARH
GUWAHATI

Advocate for the Petitioner : MR. A R SIKDAR

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE KALYAN RAI SURANA

O R D E R

18.05.2023

(A.M. Bujor Barua, J)

Heard Mr. A.R Sikdar, learned counsel for the review petitioner and Mr. G Sarma, learned counsel for the respondents in the Home Department, Government of Assam.

Mr. AR Sikdar, learned counsel for the petitioner relies on the voters list of village Salpara, police station Rupahihat in the Nagaon district, which contains the name of A. Jabbar son of Ahammad at serial No. 179. The name of A. Jabbar son of Ahammad also appears in the voters list of 1970 of village Salpara. It is claimed that A. Jabbar son of Ahammad of the voters list of 1965 is the father of the petitioner Majida Khatun.

To substantiate that A. Jabbar is the father of the petitioner, firstly reliance is placed on a school certificate issued by the headmaster of Salpara Reserved Basti L.P School, which contains the information that Majida Khatun is the daughter of A. Jabbar of village Salpara.

But, it is noticed that the author of the certificate namely the headmaster

had not been examined. In the absence of the headmaster being examined, no evidentiary value can be attributed to the said certificate.

The petitioner also relies upon the entry of a Jamabandi in respect of a plot of land at village Salpara, which earlier stood in the name of A. Jabbar, son of Ahammed Ali. As per the order dated 24.01.2019 in mutation case No. NAG/DHI/2017,18/152/FMUT, the land which earlier stood in the name of A. Jabbar son of Ahammed Ali had also been mutated, amongst others, in the name of Majida Khatun, daughter of A. Jabbar. Accordingly, it is claimed that as Majida Khatun could establish that she is the daughter of A. Jabbar through the order of the Circle Officer contained in the Jamabandi, therefore, the burden under section 9 of the Foreigners Act, 1946 had been discharged by the petitioner.

If A. Jabbar, son of Ahammed Ali of the Jamabandi at page 70 of the review petition and A. Jabbar son of Ahammad in the voters list of 1965 of village Salpara are one and the same person, perhaps, it can be accepted that the petitioner had discharged the burden that she is the daughter of A. Jabbar son of Ahammad of the voters list of 1965 and thereby discharged the burden under section 9 of the Foreigners Act, 1946.

For the purpose, we call for a report from the Superintendent of Police (Border), Nagaon who shall make a verification as to whether A. Jabbar son of Ahammad at serial No. 179 of the voters list of 1965 of village Salpara and A. Jabbar, son of Ahammed Ali in the Jamabandi in respect of a plot of land at village Salpara, which is available at page 70 of the review petition are one and the same person.

Secondly, the Superintendent of Police (Border) through the District

Elementary Education Officer, Nagaon shall also procure a copy of the original admission register of Salpara Reserved Basti LP School and produce the same before the Court for its examination on the authenticity of the entries contained therein as regards the information that Majida Khatun is the daughter of A. Jabbar of village Salpara.

List the matter again on 08.06.2023.

Let a copy of this order be furnished to Mr. G Sarma, learned counsel for the respondents in the Home Department, Government of Assam.

JUDGE

JUDGE

Comparing Assistant