



IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)
REVIEW PETITION No. 68/2021

Fatema Bidhaba -56 years
D/O Late Abdul Kader Ali,
W/O- Late Abdul Rejjak,
Village-Haldia Gaon, P.O- Mazgaon,
P.S.-Sorbhog, Dist-Barpeta, Assam
PIN-781313

.....Review Petitioner

-Versus-

- 1. The Union of India**
represented by the Ministry of
Home Affairs, New Delhi, PIN
110001
- 2. The State of Assam,**
represented by the Government
of Assam, Home Department,
Dispur, Guwahati-781006
- 3. The Deputy Commissioner of
Barpeta District,** Barpeta,
Assam, PIN-781301
- 4. The Election Commission of
India,** New Delhi-110001
- 5. The State Co-ordinator,**
National Register of Citizens,
Assam, Guwahati-781005

**6. The Superintendent of
Police(B), Barpeta, Assam**

**7. The Officer-in-Charge,
Sorbhog Police Station, District-
Barpeta, PIN-781317**

.....Respondents

- B E F O R E -

**HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MR. JUSTICE SOUMITRA SAIKIA**

For the Petitioner : Mr. M.U. Mahmud, Advocate

For the Respondents : Mr. D.J. Das, CGC
Mr. N. Kalita, SC, ECI
Mr. G Sharma, SC, FT
Mr. P Sarmah, Addl. Senior
Government Advocate

Dates of hearing : **26.02.2026**
Date of Judgment & Order : **26.03.2026**

JUDGMENT & ORDER (CAV)

[Soumitra Saikia, J.]

This review petition is directed against the order dated 10.11.2020 passed in WP(C) No. 1906 of 2020. By the said order, the writ petition filed by the petitioner challenging the opinion dated 29.11.2019 passed in FT. Case No. (Bpt/11th) 1910/2017 rendered by the Member, Foreigners' Tribunal No. 11, Barpeta, declaring the petitioner to be a foreigner/illegal migrant who had entered Assam on or after 25.03.1971, was affirmed and the writ petition was dismissed.

2. Before the Tribunal, the petitioner contested the reference by filing written statements and supporting documents. The case projected before the Tribunal was that she was born in 1966 at Village Pota under Sarupeta Revenue Circle of Barpeta district. Her parents' names were Abdul Kader Ali and Moyful Nessa and her grandmother's name was Hazera Bewa. She had produced copies of the electoral Rolls for the years 1965, 1970, 1989, wherein the names of her parents and grandmother names are found recorded as voter. She was married on 01.10.1983 to Abdul Rajjak of village Haldia Gaon, P.S. Kalgachia District Barpeta, Assam and for the first time, her name was recorded as a voter in the year 1985 along with her husband in respect of village Haldia under 44 No. Jania LAC. Before the Tribunal, the petitioner examined two witnesses—herself as DW-1 and one Abul Kalam Ahmed as D.W-2, who was projected as her brother.

3. On these documents and evidences adduced, the petitioner contested her case and urged before the Tribunal that the reference against her was uncalled for, and that she being a citizen of India, the same should be answered in her favour.

4. Before the Tribunal, the petitioner produced the extracts of electoral Rolls for the year 1965 and 1970, whereby names of Abdul Kader Ali, son of Kader Ali, and Mayful Nessa, wife of Abdul Kader Ali, and Hazera Bibi, wife of Sagar Ali, who were projected as the father, mother and grandfather respectively were recorded as voters and

were shown to be residents of village Pota under No 48 Bhawanipur LAC. They were exhibited before the Tribunal as Exhibit 1 and 2. Thereafter, electoral Rolls for the year 1985, 1997 and 2017 were exhibited as Exhibits 3, 4 and 5.

5. Exhibit 3, which is the electoral Roll of 1985 recorded the name of Fatima Khatun and her husband Abdul Rajjak as voters whereas Exhibit 4 pertaining to Electoral Roll of 1997 recorded the name of petitioner as a voter and Exhibit 5 pertaining to the electoral Roll of 2017 recorded the name of the review petitioner and her two sons, Farman Ali and Saman Ali, and Rahina Khatun, wife of Saman Ali.

6. Exhibit 6 was the extract of the electoral Roll of 2018 in respect of Village Pota under No. 41 Bhawanipur LAC pertaining to one Abdul Kalam Ahmed, son of Abdul Kader (62) and his wife Nur Nehar Ahmed (52) whom the petitioner projected as her brother and sister-in-law.

7. Exhibit 7 is the certificate issued by the Secretary 108 No. Majgaon Gaon Panchayat vide dated 12.10.2015 countersigned by the BDO, Howly certifying that Srimati Fatema Bidhaba aged about 52 years old, daughter of late Abdul Kader and Mayful Nessa of Pota village & 108 No. Majgaon Gaon Panchayat under Sarupeta Revenue Circle of Barpeta District of Assam was a resident within the jurisdiction of the said Gaon Panchayat and who got married on 01.01.1983 to late Abdur Rajjak, who was the

son of late Juran Fakir and late Sukuran Nessa, who were residents of the village Haldia & the Haldia Gaon Panchayat at Kalgachia Revenue Circle, Barpeta and by virtue of her marriage, this certificate was issued based on the evidence placed before the issuing authority. The said certificate, however, was not accepted by the Foreigners' Tribunal as the said certificate was not proved by examining the author or even the BDO who had countersigned in the said certificate.

8. Exhibit 8 is a certificate of the Jamabandi in respect of plots of land covered by Dag Nos. 280, 281 and 296 covered by PP No. 64 situated in village Pota under Sarupeta Revenue Circle and was issued under the seal and signature of the Circle Officer, Sarupeta Revenue Circle, Sarupeta and pertained to 18 patta holders including the OP, her several siblings including Abdul Kalam, who was examined in DW-2.

9. On these evidences, the Foreigners' Tribunal opined as under:

"SUMMARY

- 1. As per terms of the Reference OP is the W/O Lt. Rezzak which is an admitted fact.*
- 2. From record, it appears that the OP did not furnish her father's name and several other information at the time of local verification sufficient to raise reasonable doubt in a reasonable mind as to her intention.*
- 3. Later, the OP came up and had contested the Reference projecting one Abdul Kader Ali S/O Kader Ali of Exts. 1 & 2 as his father.*
- 4. OP also has projected another person, by name, Abdul Kader S/O Sager Ali (Tajyu) of Ext-8 as her father from whom she and her several siblings including the DW-2 have purportedly inherited landed property.*

5. Notwithstanding anything stated in the OP's WS, I am not convinced that Abdul Kader Ali S/O Kader Ali of Ext-1 and 2 and Abdul Kader S/O Sagar Ali (Tajyu) of Ext-8 are one and the same person. On the premises, I have rejected the Exts. 1, 2 and 8 are not reliable.

6. Ext-7 having been rejected after due appreciation as discussed in the foregoing segment, no document remains in record as OP's Ext. which links her to her projected father of Exts. 1 & 2 and another projected father of Ext-8.

7. The earliest recorded presence of the OP alongwith her husband and in-laws in Assam was in 1985 vide Ext-3 which is a post 25th March 1971 period document and is therefore not relevant wrt the issue before me.

8. Remaining Exts are also post 25th March 1971 period documents and hence rejected as not relevant.

9. As not supported with relevant documentary evidence the evidence of the OP/DW-1 and of her brother, Abdul Kalam Ahmed DW-2 also stand rejected.

OPINION

In my opinion OP has failed to discharge the burden of proving that she is not a foreigner within the meaning of the Foreigners' Act, 1946 as mandated u/s 9 of the Act,

Reference is answered in affirmative."

10. Being aggrieved, the petitioner approached this Court by filing W.P(C) No. 1906 of 2020 assailing the said order. The petitioner urged before the Court the evidences which were placed before the foreigners' tribunals and submitted that these were not correctly appreciated by the Tribunal and therefore it requires interference. On the materials placed before the Court and upon careful perusal of the Tribunal's records which were called for, the writ Court declined to interfere with the opinion of the Tribunal and accordingly dismissed the writ petition. The petitioner, thereafter, preferred an Special Leave to Appeal(C) being SLA(C) No. 1906/2021. The Apex Court granted permission to the counsel for the petitioner to withdraw the SLP with liberty to file a review petition before the High

Court and accordingly, the SLP was dismissed as withdrawn with the liberty granted and a further liberty to approach the apex Court again challenging the main order as well as the order that may have been passed in the review petition. Under such circumstances, the petitioner has preferred a review petition.

11. Before this Court, the petitioner urged the following grounds:

"(i) For the Hon'ble Court has not considered her PAN Card issued by the Income Tax Department, Panchayat Certificate, which was counter signed by the B.D.O which is her linkage with her father, due to not proving the same by the author of the certificate.

(ii) For that the petitioner has Prima Facie good case on merit, as she has all the documents to prove her nationality including the copy of voter lists of 1966 and 1970 in the name of her father and also in the voter lists of 1993, 2005, 2011, 2016 and 2019 in her name with her husband which are annexed with the writ petition.

(iii) For that the petitioner's own name and her own brothers' and sisters' names have been recorded in the Draft NRC of 2018 and many other documents in her own name. She has also annexed a linkage certificate in this review petition, issued by the Secretary of Arimari Gaon Panchayat, counter signed by the B.D.O of that area, dated 14-08-2015, Recently, in a reference case, this Hon'ble Court has remanded back to the Tribunal to prove the petitioner's nationality by adducing any further evidences to show the petitioner is the daughter of Abdul Jalil, vide judgment and order (ORAL), dated 20-02-19 in WP(C) no.5158/2018.

(iv) For that the Hon'ble High Court in the full Bench Decision, as reported in 2013 1 GLT 809, paras90, 91 & 92, it has been categorically observed that the Tribunal has the power to review the order, if appropriate ground exists. Moreover, in a large number of judgments, the Hon'ble Apex Court has also held that the courts have ample powers to review its orders even on subsequent developments.

(v) For that this Hon'ble High Court being a court of record, has inherent power to review its own order more particularly when there are crucial developments. In the present case the names of the petitioner's own brothers and sisters have been recorded in the updated NRC in Assam after through verification by the NRC authorities. So, this matter is a cogent and positive ground in favour of the petitioner that she is also a citizen of India, not a foreigner. Moreover, the Hon'ble Supreme Court has also given the petitioner

liberty to file review petition seeking appropriate order in this regard by order, dated 18-03-21, passed in SLP No. 2906/2021.

(vi) For that the Hon'ble Supreme Court in Abdul Kuddus's case, vide Civil Appeal No. 5012/2019, it is clearly stated in para 23 that any order passed in case of close family members, subsequent to adjudication order determining the citizenship status of a person, would necessarily be a material evidence which can be duly taken note of and considered while deciding a Writ Petition or a Review application.

(vii) For that the Hon'ble Supreme Court in Abdul Kuddus's case, vide Civil Appeal No. 5012/2019, it is clearly stated in para 17 that in some cases, persons who have been declared to be a foreigner under the foreigner's Act have been included in the Draft National Register to citizens for the state of Assam, while in others siblings and close blood relations of such persons have been named in the draft NRC. It is also averred that an aggrieved person should be entitled to take recourse to para 8 of the schedule to the 2003 rules.

(viii) For that the other grounds may be submitted at the time of hearing."

12. Pursuant to notice issued in the review petition, the Tribunal's records were again called for and have been examined by this Court. Although the petitioner's primary ground urged was that there are NRC particulars reflecting the names of the siblings of the petitioner and therefore when her siblings are considered to be Indian citizens, there is no question of the petitioner being treated to be an illegal immigrant.

13. The learned counsel for the review petitioner further submits that the Jamabandi is a certified copy obtained from the custodian of the land records, namely the Office of the Circle Officer and the name of the petitioner along with her siblings is reflected in the said Jamabandi. At the time when the documents were presented before the Tribunal, there was no objection raised by the government

pleader. Therefore, there is no scope for the Tribunal not to accept the Jamabandi submitted by the petitioner and the same ought to have been accepted and the petitioner's claim that she is an Indian citizen ought to have been accepted and thereby the reference should have been answered in favor of petitioner holding her to be an Indian citizen.

14. The learned counsel for the review petitioner submits that in Abdul Kuddus's case vide Civil Appeal No. 5012/2019, the Apex Court held that where any order is passed in case of close family members subsequent to adjudication order determining the citizenship status of a person that would necessarily be material evidence which can be duly taken note of and considered while deciding a writ petition or a review application. It is, therefore, submitted that since the siblings of the review petitioner and close blood relations have been named in the draft NRC, the order of the writ Court is required to be reviewed and recalled and the matter should be remanded back to the Tribunal for a fresh decision in the matter. In support of his contention, the learned counsel for the petitioner has pressed into service the following judgments:

1. *Food Corporation of India Vs. Assam State Cooperative Marketing & Consumer Federation Ltd and Ors*, reported in (2004) 12 SCC 360;

2. *M.M. Thomas Vs. State of Kerala and Anr*, reported in (2000) 1 SCC 666.

15. Per contra, Mr. G. Sharma, learned Standing Counsel, FT appearing for the respondents disputes the contentions raised by the petitioner. It is submitted that there is a clear finding by the Tribunal with regard to the Jamabandi which was exhibited as Exhibit No. 8 that although the review petitioner contended that it includes her name and the name of her siblings, including Abdul Kader, who is projected as her brother and was examined as D.W-2. However, on close scrutiny, it is seen that the names of their father's are shown as Sagar Ali. Although it was submitted orally before this Court that Kader Ali and Sagar Ali are one and the same person, however, no such averments were made in the written statement which was filed before the Tribunal. Under such circumstances, the claim of the petitioner that the Exhibit 8, namely the Jamabandi is a clear document in support of her linkage with her relations and her brother cannot be accepted as the name her projected father, Kader Ali, is not reflected in the Jammabandi. Therefore, the same has been rightly not accepted by Tribunal. He further submits that even assuming though not admitting that names of the siblings of the petitioner and other close blood relations are included in the NRC, the same by itself will give no benefit to the petitioner as the judgment of the Tribunal was rendered on 29.11.2019 and the NRC was completed well after 2019. He further submits that the copies or extracts of the said NRCs on which the petitioner seeks to rely on are also not before this Court. Therefore, without the

relevant documents, mere submissions of the review petitioner ought not to be accepted. In support of these contentions, the State counsel refers to and relies on the following Judgments:

1. *MuslemUddin Vs. Union of India* reported in 2022 SCC OnLine Gau 1417; (2022) 5 GLT 144;

2. *Rofiqul Hoque Vs. Union of India and ors*, reported in 2025 SCC Online SC 1160; and

3. *Md. Siraj Ali @ Chiraj Ali and Ors Vs. The Union of India*, reported in 2024 Supreme (Gau) 1585

16. The learned State counsel therefore submits that this is not a fit case for exercising review jurisdiction and the review petition should be dismissed.

17. The counsel for the parties have been heard. The materials available before the Court including the trial court records have been carefully examined. The judgments pressed into service have also been carefully taken note of.

18. At the outset, it must be pointed out that the primary ground for filing the review of the petitioner is that the names of the petitioner's siblings and other close blood relatives are included in the NRC and therefore, if they are considered to be Indian citizens, the petitioner could not have been treated to be an illegal migrant. However, copies of these NRCs on which the petitioner claims to rely on have not been filed before the Court. Whether these were documents were placed before the Apex Court is also not known to the learned counsel for the petitioner

appearing before the Court nor are the copies of the pleadings filed before the Apex Court available with him. As such from the order dated 18.03.2021, passed by the Apex Court in SLA(C) No. 1906/2021, there was no other direction save and except the liberty granted to the review petitioner to withdraw the SLP and file a review petition before the High Court. Whether the copies of the NRCs were filed before the Apex Court is not reflected in the order nor was any leave granted by the SLP to place additional documents before the High Court as is seen from the order dated 18.03.2021 passed by the Apex Court. Under such circumstances, the submission of the counsel for the review petitioner that in view of the names of the siblings of the review petitioner and other close relatives being included in the NRC, the petitioner could not have been treated to be an illegal immigrant cannot be accepted in the absence of any cogent material being placed before the court nor will it persuade the court to recall the order dated 10.11.2020 passed in W.P(C) No. 1906/2020 and/or to remand the matter back to the tribunal to re-decide on this issue. The fact that the names of the siblings and other close relatives were recorded in the NRC was also not placed before the writ Court while passing the order dated 10.11.2020 in WP(C) No.1906/2020 nor is it a case projected by the petitioners that although these documents were placed before the writ Court, the same were not duly considered by the writ Court and therefore the order is required to be reviewed. The review filed on this ground is

a fresh ground and which was not urged before the tribunal or the High Court in the earlier round and therefore, for the court to be persuaded to accept the submissions, cogent materials are required to be placed before the court as has been discussed, have not been placed by the petitioner in spite of granting opportunities.

19. In so far as the claim of the petitioner that the Jamabandi being an official document or a document which has been obtained from the custodian of the land records, namely the office of the Circle Officer, the contents thereof are required to be accepted and relied upon by the Tribunal or by the High Court and that not having been done, the opinion dated 29.11.2019 passed by the Foreigners Tribunal, Barpeta and the order 10.11.2020 passed by the writ Court is bad and therefore, the order dated 10.11.2020 passed in W.P(C) No. 1906/2020 is required to be reviewed and recalled and the matter be heard afresh and be remanded back to the tribunal for a fresh decision. Upon careful perusal of the Tribunal records, it is seen that although the Jamabandi is a document in respect of plots of land covered under Dag Nos. 280, 281, 296, and PP number 64, situated in the village Pota under Sarupeta Revenue Circle and which the petitioner claims pertained to 18 Patta holders including the review petitioner and her siblings including Abdul Kalam, who was examined before the tribunal as D.W-2 and projected as the brother of the review petitioner, the fact remains the names of these patta holders are mutated

as having inherited the land from one Abdur Kader, who is shown to be son of Sagar Ali under orders of the Circle Officer dated 06.05.2019. The projected father of the petitioner in terms of the voters' electoral Rolls and the averments made in the written statement is one Abdul Kader Ali. This is also the name which is found in the affidavit sworn by the petitioner before the writ Court as also in the present review proceedings. Although an attempt has been made to project that Kader Ali and Sagar Ali to be one and the same person, no such statement was made in the written statements filed before the Tribunal. The written statements which are filed before the Tribunal are an opportunity provided to the proceedee to project their case before the Tribunal against the proceedings initiated on the basis of the reference that he or she is suspected to be an illegal immigrant who had entered Assam from the neighboring areas on or after 25th March 1971. Therefore, the written statements will have to be considered the basis of the case projected by the petitioner and any subsequent additions or changes sought to be brought in by the petitioner to the case as projected in the written statements will have to be brought on record by the procedure prescribed. No such steps have been taken by the petitioner.

20. It is also necessary to refer here that in the written statement, the petitioner admits that the Jamabandi was obtained after receipt of the notice of the reference issued by the Foreigners Tribunal. However, the date of death of

their father was not disclosed either in the written statement or in the evidence adduced by the proceedee or by the D.W.-2 who is the projected brother of the proceedee /writ petitioner. From the Jamabandi, it is seen that the Circle Officer has passed an order dated 06.05.2019 in Mutation Case No. BAR/SARR/2018-19/1014/FMUT. From the evidence in D.W-2, it is seen that he deposed before the Tribunal that they are comprised of 11 siblings including four sisters. However, from the Jamabandi only the name of the petitioner is seen whose name is mutated in respect of the concerned plot of land. There is no explanation as to why the other three sisters were excluded from their share of the property through inheritance as claimed by the petitioner. Therefore, at best, the entry in the Jamabandi is only an evidence to show that there was a mutation created in favour of the petitioner but it cannot be used as a document to prove the linkage between the petitioner and her projected father. It is also observed by this Court that there was no averment made in the writ petition being W.P(C) No. 1906/2020 that there was any failure on the part of the Tribunal to appreciate the Jamabandi correctly. Therefore, this ground presently urged in the present review proceedings cannot be treated to be an error apparent on the face of the record since there was no averment before the writ Court that there was any failure of the Tribunal to appreciate the Jamabandi correctly.

21. A careful perusal of the averments made in the writ petition also reveal that there is no statement to that effect that Kader Ali and Sagar Ali, who are projected to be the father of the petitioner are one and the same person. In her deposition before the Tribunal also from the evidence recorded, it is seen that her father's name was shown to be Abdul Kader Ali. In her cross-examination there she has stated that her grandfather's name is Sagar Ali. From the evidence of the D.W- 2, Abdul Kalam Ahmed, who was projected to be the brother of the review petitioner. It is seen that he is shown to be the son of Abdul Kader Ali and in his cross-examination, he has stated that Sagar Ali is his grandfather. Under such circumstances, the claim made by the petitioner that the Jamabandi document is a reliable document in support of her contentions and that not having been considered appropriately by the Tribunal or by the writ Court, the order dated 10.11.2020 passed in W.P(C) No. 1906/2020 was for review, cannot be accepted and the same is therefore rejected.

22. In *Food Corporation of India (Supra)*, which is relied upon by the learned counsel for the petitioner in support of his contention that office documents coming from the proper custody and forming part of official record must be accepted to be proved and their contents can be read in evidence. This judgment has been pressed into service by the petitioner in support of his contention that the extract of the Jammabandi being a document coming from the official record of the custodian of the records, namely the

Circle Officer, will have to be accepted and the contents are to be accepted to be proved. This contention of the petitioner has to be considered vis-à-vis the contents of the Jamabandi. The Jamabandi reflects the names of 18 Patta holders including the claim of the petitioner that her name is also included by itself is an evidence, even assuming that this is an evidence laid in her favour, it is seen that the Jammabandi pertains to a period well after 25th March of 1971. From the proper perusal of the evidence available in the Tribunal records as also documents which are placed before the Court, there is no evidence to suggest that the petitioner was available prior to 25th of March 1971, although she claims to have been born in the year 1966. The petitioner has not been able to prove a linkage with her projected parents and therefore, even if the contention of the counsel for the petitioner is to be accepted that the Jamabandi is a valid document and ought to have been accepted as a valid piece of evidence, at the most, it can be considered to be an evidence to show that she owned a plot of land covered by Dag Nos 280, 281, 296 in terms of order passed in the year 2019 by the Circle Officer. The Tribunal proceedings were initiated in the year 2017. There is no averment or materials placed before this Court or the Tribunal regarding the date of death of her projected father late Abdul Kader. Therefore, without any cogent material it cannot be held that the petitioner had succeeded in proving a linkage to her father late Abdul Kader by solely placing reliance on the copy of the

Jamabandi. This piece of evidence even if accepted, does not support her contention that she was born in the year 1966 and has been in the state ever since.

23. In M.M. Thomas (Supra), the Apex Court held that the High Court is a court of record as envisaged under Article 215 and has inherent powers to correct the records. A court of record includes all such powers whose acts and proceedings are to be enrolled in a perpetual memorial testimony. A court of record is undoubtedly a superior court which is itself competent to determine the scope of its jurisdiction. The High Court, as a court of record, has a duty to itself to keep all its records correctly and in accordance with law. Hence, if any apparent error is noticed by the High Court in respect of any orders passed by it, the High Court has not only the power but a duty to correct it. The High Court's power in that regard is plenary. There is no quarrel with the ratio in the judgment as have been laid down by the Apex Court. The High Court is indeed a superior court of record, and therefore it is duty-bound to keep its records correctly and in view of any errors coming to the notice of the High Court, the same should be promptly attempted to be corrected.

24. However, in the case of the present proceedings, considering the materials available before the court, this court does not find any error in the order dated 10.11.2020 passed in W.P(C) No. 1906/2020 which according to the court would require any correction. Therefore, this judgment does not come to the aid of the writ petition in

the context of the facts and circumstances of the present proceedings.

25. In *Rofiquil Hoque (Supra)*, the Apex Court was considering the question of inclusion of the name of the petitioner on the order passed by the tribunal and which was affirmed by the High Court declaring the appellant before the Apex Court as a foreigner. In the case before the Apex Court, the draft NRC was published in the year 2019 and the appellant had already been declared a foreigner by the tribunal. One of the issues which the Apex Court was considering, was whether on inclusion of the name of the appellant in the draft NRC published by the competent authority in the year 2018, the declaration made by the tribunal as affirmed by the High Court would be rendered invalid. The Apex Court upon consideration of the entire matter before it, answered that question in negative. The Apex Court, by referring to the judgment of the Apex Court in *Abdul Kuddus vs. Union of India* reported in (2019) 6 SCC 604, held that in view of the decision of the Apex Court in *Abdul Kuddus (Supra)* consequent to the declaration by the tribunal that the appellant is a foreigner, the name of the appellant could not have been included in the draft NRC and secondly, even if it had been included it would not annul the declaration made by the tribunal. The Apex Court therefore held that the inclusion of the name of the appellant in the draft NRC would have no bearing on the order passed by the tribunal, affirmed by the High Court, declaring the appellant a foreigner.

26. In *Md. Siraj Ali (Supra)*, a Coordinate Bench held that the burden of proof lies on the petitioners to establish their citizenship emphasizing the limited scope. The Co-ordinate Bench summarized the principles of the Apex Court rendered in *Kamlesh Verma vs Mayawati & Ors*, reported in (2013) 8 SCC 320 which are reproduced below:

"10. The Apex Court in the case of Kamlesh Verma (supra), summarized the principles under which a review will be maintainable and also when the same will not be maintainable. Paragraph Nos. 20.1 and 20.2 of the said judgment may be abstracted hereunder:-

"20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki 18 and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius 19 to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.

20.2. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated."

27. In *State of Assam and Ors. Vs Moslem Mondal and Ors* reported in (2013) 1 GLT 809 a full Bench of this Court has laid down the manner and procedure of appreciation of evidence in matters relating to citizenship and where opinions are required to be rendered by Foreigners' Tribunal. It is held by this Court that the burden of proof is on the proceedee to project that the reference made against him is incorrect. It has also been held by the learned Co-ordinate Bench of this Court in W.P(C) No. 6443/2017 (Ahitan Nessa Vs. Union of India) that NRC details cannot be used as a valid piece of evidence to accept the citizenship of any proceedee. In *Moslem Mondal (supra)*, it is held that the petitioner will have to take every step in order to prove the evidences he projects in support of his case.

28. Coming to the facts of the present proceedings, it must be held that the petitioner could not point out any error apparent on the face of the record which calls for a review of the order dated 10.11.2020 passed in the W.P(C) No. 1906/2020. The parameters of exercise of review jurisdiction are extremely limited. Time and again the Apex Court has held that it must be resorted only when glaring omission or a patent mistake has crept in.

29. In *Sow Chandra Kante and Another –Vs- Sheikh Habib*, reported in (1975) 1 SCC 674, the parameters under which review jurisdiction is to be exercised has been very lucidly laid down by the Apex Court. The relevant paragraph is extracted below:-

"A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition, through different Counsel, of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obviously insufficient. The very strict need for compliance with these factors is the rationale behind the insistence of counsel's certificate which should not be a routine affair or a habitual step. It is neither fairness to the Court which decided nor awareness of the precious public time lost what with a huge backlog of dockets waiting in the queue for disposal, for Counsel to issue easy certificates for entertainment of review and fight over again the same battle which has been fought and lost. The Bench and the Bar, we are sure, are jointly concerned in the conservation of judicial time for maximum use. We regret to say that this case is typical of the unfortunate but frequent phenomenon of repeat performance with the review label as passport. Nothing which we did not hear then has been heard now, except a couple of rulings on points earlier put forward. May be, as Counsel now urges and then pressed, our order refusing special leave was capable of a different course. The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality."

30. In view of the above discussions, the court does not find any ground to exercise a review jurisdiction, review petition, according to stands dismissed.

31. The interim orders, if any, stands vacated.

32. The Trial Court records are directed to be returned back forthwith.

JUDGE

JUDGE

Comparing Assistant