

GAHC010167992019



2026:GAU-AS:265

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

**Case No. : WP(C)/5175/2019**

AMINA BEGUM @ AMINA KHATUN @ AMINJAN BIBI  
W/O- IBRAHIM ALI, D/O-LATE ACHARUDDIN ALI @ AFSOR ALI @  
ACHARUDDIN, VILL- DIMLAPAR, P.S- TAMULPUR, DIST- BAKSA, BTAD,  
ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS  
REP. BY THE SECRETARY TO THE GOVT OF INDIA, THE MIN OF HOME  
AFFAIRS, NEW DELHI

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

3:THE DIRECTOR GENERAL OF POLICE (ADMN)  
ASSAM  
ULUBARI  
GUWAHATI- 07

4:THE DEPUTY COMMISSIONER OF POLICE (B)  
BAKSA  
BTAD  
ASSAM

5:THE SUPERINTENDENT OF POLICE (B)  
BAKSA  
DIST- BAKSA  
BTAD

ASSAM

6:ELECTION COMMISSIONER OF INDIA  
NEW DELHI- 01

7:COORDINATOR  
NRC  
ASSAM  
ACHYUT PLAZA  
BHANGAGARH  
GHY- 0

**Advocate for the Petitioner** : MR. K MIRA, MR S HUSSAIN

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

**BEFORE**

**HON'BLE MR. JUSTICE KALYAN RAI SURANA**  
**HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

|                          |                                      |
|--------------------------|--------------------------------------|
| For the petitioner       | : Mr. K. Mira,                       |
|                          | : Mr. A.A. Mandal,                   |
|                          | : Mr. S. Hussain Advocates.          |
| For the Union of India   | : Mr. B. Chakravarty, CGC.           |
| For FT, Border & NRC     | : Mr. J. Payeng, standing counsel.   |
| For the ECI              | : Mr. A.I. Ali.                      |
| For the State respondent | : Mr. P. Sarmah, Sr. Govt. Advocate. |

**Date on which judgment is reserved** : 28.10.2025.

**Date of pronouncement of judgment** : 07.01.2026.

**Whether the pronouncement is of  
the operative part of the judgment?** : No

**Whether the full judgment has been  
Pronounced?** : Yes

**JUDGMENT AND ORDER**

**(CAV)**

(K.R. Surana, J)

Heard Mr. K. Mira, learned counsel for the petitioner. Also heard Mr. B. Chakravarty, learned CGC for respondent no. 1; Mr. J. Payeng, learned standing counsel for FT, Border matters and NRC, for respondent nos. 2, 3, 5 and 7; Mr. A.I. Ali, learned standing counsel for respondent no.6, and Mr. P. Sarmah, learned Addl. Senior Govt. Advocate for respondent no.4.

2) By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Amina Begum @ Amina Khatun @ Aminjan Bibi, has assailed the opinion dated 27.05.2019, passed by the learned Member, Foreigners Tribunal, Baksa at Tamulpur, Assam, in F.T. Case No. 94/Baksa/2017, corresponding to S.P.(B) Nalbari Reference: IM(D)T Case no. 1788/2003, by which she was declared to be a foreigner who has illegally entered into India on or after 25.03.1971 from the specified territory.

3) On receipt of notice, the petitioner had appeared before the learned Tribunal and had filed her written statement, projecting that her father is Acharuddin Ali @ Achuruddin @ Acharuddin Sheikh @ Afchor Uddin, who was born in India at village- Salmara, Mouza- Kumarikata, P.S. Tamulpur, in Baksa district. She had stated that her father had landed property of 1963-64, covered by Dag No. 114 of K.P. Patta No. 12 of Village- Salmara, Mouza- Kumarikata, P.S. Tamulpur, Dist. Baksa, which he had inherited from his father, Ajimuiddin Seikh. The said land was inherited by her brother. The petitioner had stated that her mother is Late Jahara Khatun. She had also stated that she was born in the year 1960 at village- Salmara, which is the nearest to village Dimlapar, P.S.

Tamulpur, in Baksa district and in the year 1978, she was married to Ibrahim Ali, son of Late Iman Ali, of village- Dimlapar, P.S. Tamulpur, District Baksa and after marriage, she was residing in her matrimonial house. She has five brothers, namely, Majarat Ali @ Marjat Ali, Hussein Ali, Akkash Ali, Selim Malik and Amzad Ali. Her father has four brothers and two sisters, namely, Late Isu Sheikh, Acharuddin Ali @ Achuruddin @ Acharuddin Sheikh @ Afchor Uddin, Idrich Ali @ Idris Ali, Hasmat Ali, Late Samela Khatun and Moiram Bibi. She has five female children, namely, Kulsun Begum (aged about 35 years), Sajida Begum (aged about 32 years), Sahida Begum (aged about 30 years), Ajida Begum (aged about 27 years), and Rukchana Begum (aged about 25 years). She had stated that her name appeared in the voters list of 1997, 2005, 2010 and 2016. Along with her written statement, she had filed photocopies of *jamabandi* of 1963-64, voters list of 1997, 2005, 2010 and 2016, village Headman's certificate, illegible *miyadi patta*, voter list of 1965, land revenue payment receipt nos. 14086, 4852, 47445, 1513, 25248, voters list of 1970, Income Tax PAN Card, Elector Photo Identity Card (EPIC for short) of Aminjan Bibi.

4) The petitioner has projected in her written statement filed on 07.06.2018, that Acharuddin Ali, her father was a citizen of India by birth and was born at village Salmara, P.O. Dumoria, P.S. Tamulpur, Dist. Baksa, Assam. Her father had landed property of 1963-64, covered by Dag No. 114 of K.P. Patta No.12 of village Salmara, Mouza- Kumarikata, in the district of Baksa, which he had inherited from his father Ajimuddin Seikh. She claimed to be born in the year 1960 and her name appeared in the voter list of 1997, 2005, 2010, 2016. The village Headman had issued a certificate that the petitioner is a resident of Village- Dimlapar, P.O. Dumoria, P.S. Tamulpur, Dist. Baksa and she is

the daughter of Late Asaruddin Ali.

5) In her additional written statement, the petitioner had stated that her name is Aminjan Bibi @ Amina Khatun. The name of her deceased grandfather is Late Azimuddin Sheikh @ Azimuddin @ Azim. Her grandmother's name is Late Saharban Bibi. Her father's name is Late Acharuddin Ali @ Achuruddin @ Acharuddin Sheikh @ Afchor Uddin. Her mother's name is Late Jahara Khatun. She was born in 1960 in Village- Salmara (which is nearest village of Dimlapar) and brought up in the said village. In the year 1978, when she was 18 years old, her marriage was solemnized with Ibrahim Alim, son of Late Iman Ali of village- Dimlapar, P.S. Tamulpur, then Dist. Nalbari, now Baksa and after her marriage, she has been residing in her matrimonial house. Her brothers are Majarat Ali @ Marjat Ali, Hussein Ali, Akkash Ali, Amzad Ali and Selim Malik. She has five female children, Kulsun Begum (35 years), Sajida Begum (32 years), Sahida Begum (30 years), Ajida Begum (27 years) and Rukchana Begum (25 years) and all are married.

6) The petitioner had further stated that the actual name of her father is Late Acharuddin Ali, which is recorded in the *jamabandi* of village- Salmara, under Kumarikata Mouza, Dist. Baksa for the year 1963/64 vide 12(new)/78 (Old), Dag nos. 113, 114, 222, 344 and 361. But in some documents, like voter list of 1965 and 1970, her father's name is recorded as Afcharuddin; in the *Miyadi Kheraj Patta*, his name is written as Acharuddin Sheikh, son of Azimuddin Sheikh; her father's name is written as Achuruddin in the *jamabandi* copy of village- Salmara. Thus, it has been stated that her father is known as Achuruddin Ali @ Acharuddin @ Acharuddin Sheikh @ Afcharuddin @ Achuruddin @ Acharuddin, being same and one person. It has been stated

that in the patta no. 21, issued on 13.01.1965, the name of her paternal uncle, namely, Ichu Sheikh's name has been recorded at serial no. 1 as a *pattadar*. Her grandfather and grandmother were permanent resident of Village- Salmara, under P.S. Tamulpur, under then Sub-Division- Nalbari (now Tamulpur), then Dist. Kamrup (now Baksa) and thereafter, the name of the father of the petitioner was entered in the said *jamabandi* at serial no.2 as Acharuddin Sheikh, son of Azumuddin Sheikh and the names of her brothers, namely, Selim Malik, Akkash Ali @ Akkach Ali, Amzad Ali, Majarat Ali @ Marjat Ali, Hussain Ali were recorded at serial no. 3 to 7 respectively and in the said regard, the Circle Officer of Tamulpur Revenue Circle had issued a certified copy of *jamabandi* dated 25.06.2018, disclosing therein that the said land record was from the year 1963-64 till date. Her grandparents were voters of 1959 from village- Salmara, Mouza- Kumarikata, under Rangia P.S. (then under Dist. Kamrup). It was stated that in the said land record, the name of the father of the petitioner was recorded as Acharuddin Sheikh and in the remark column, name of Acharuddin was written as Achuruddin and therefore, Acharuddin Sheikh and Achuruddin is one and same person, the father of the petitioner.

7) In her additional written statement the petitioner had explained the manner of devolution of land amongst the legal heirs of her grandfather as per the entries made in the three *jamabandi* filed by the petitioner.

8) In support of her defence, the petitioner had examined herself as DW-1 and she had filed her evidence-on-affidavit and additional evidence-on-affidavit, and she had reiterated the statements made in her written statement. She had exhibited the following documents:-

- a) Illegible *miyadi patta* (Ext.1);

- b) Copy of certified copy of *jamabandi* of 1963-64 year of land covered by Patta No. *kecha* 63, new- 21, showing names of Aasaraddin Seikh, Selim Malik, son of Asuruddin, etc. which are struck out (the learned Tribunal has mentioned in the impugned opinion that the original certified copy is in the record of FT 350/Baksa/2017) (Ext.2);
- c) Copy of certified copy of *jamabandi* of 1963-64 year of land covered by Patta No. *kecha* 78, new- 12, showing names of Aasaraddin Ali, Selim Malik, son of Asuruddin, etc. which are struck out except the name of Ms. Mairam Bibi, wife of Tara Miya (the learned Tribunal has mentioned in the impugned opinion that the original certified copy is in the record of FT 350/Baksa/2017) (Ext.3);
- d) Copy of certified copy of *jamabandi* of Patta No.12 (old) 209 (new) in village- Salmara, showing the names of Amzad Ali, Selim Malik, son of Late Asuruddin, etc. (the learned Tribunal has mentioned in the impugned opinion that the original certified copy is in the record of FT 350/Baksa/ 2017) (Ext.4);
- e) Certified copy of *jamabandi* of Patta No.12 (old) 209 (new) in village- Salmara, showing the names of Ms. Mairam Bibi, wife of Tara Miya, Aminjan Bibi, daughter of Late Asuruddin, etc. [Ext.4(1)];
- f) Original land revenue paid receipt no. 4852/70 dated 03.11.1958 of Azimuddin (Ext.5);
- g) Original land revenue paid receipt no. 14086/38 dated 16.04.1978 of Isu Seikh (Ext.6);
- h) Original land revenue paid receipt no. 47445/72 dated 22.02.1998 of Isu Seikh, Asaruddin Seikh [Ext.6(1)];
- i) Original land revenue paid receipt no. 1513/73 dated

27.04.1975 of Isu Seikh, Asaruddin Seikh [Ext.6(2)];

j) Original land revenue paid receipt no. 25248/64 dated 10.03.1996 of Asaruddin and others (Ext.7);

k) Certified copy of extract of electoral roll of 1965 of 66 Tamulpur LAC, wherein village Salmara, elector, Azim Uddin, son of Shukur, age 62, Aafsor Uddin, son of Azim, age 35, and Jahara Uddin, wife of Aafsor, age 25 are found written (the learned Tribunal has mentioned in the impugned opinion that the original certified copy is in the record of FT 350/Baksa/ 2017) (Ext.8);

l) Certified copy of extract 1970 electoral roll relating to 66 Tamulpur LAC wherein village- Salmara, elector- Aafsor Uddin s/o Azim age- 40 are found written(the certified copy is with case record of FT 350/ Baksa/ 2017) (Ext.9).

m) Certified copy of extract 1985 electoral roll relating to 58 Tamulpur LAC wherein village- Salmara, Dumaria, elector-Jahera Khatun d/w/o- Aachar age-45 are found written (Ext.10).

n) Certified copy of extract 1997 electoral roll relating to 58 Tamulpur LAC wherein village-Dimlapar, Bilpar, elector- Amina Khatun d/w/o- Ibrahim age-32 are found written (Ext.11).

o) Certified copy of extract 2005 electoral roll relating to 58 Tamulpur LAC wherein village- Dimlapar, elector- Amin Jan Bibi w/o- Ibrahim age- 45 are found written (Ext.12).

p) Certified copy of extract 2010 electoral roll relating to 58 Tamulpur LAC wherein village- Dimlapar, elector- Amin Jan Bibi w/o- Ibrahim age-48 are found written (Ext. 13).

q) Certified copy of extract 2005 electoral roll relating to 58

Tamulpur LAC wherein village--Dimlapar, elector- Amin Jan Bibi w/o- Ibrahim age-51 are found written [Ext.13(1)].

r) Proved in original copy of PAN Card no. DWVPB2837L of Amin Jan Bibi d/o- Acharuddin Ali date of birth 03-10-1967, issued on 30-06-2018 (Ext.14).

s) Proved in original copy of Elector PI Card no. GGF1199377 of Amin Jan Bibi, relation name- Ibrahim, age-51 years as on 1-10-13. A certificate issued on 04-08-18 by Ramen rabha, I/C Gaonburah of Dimilapar to the effect that Aminjan Bibi of Ebrahim Ali is a resident of village- Dimilapar was also found attached (Ext.15).

t) Link certificate issue don 16-09-18 by the Chairman of No. 3 Dakhin Kumarikata VCDC to the effect that Aminjan Bibi d/o- Acharuddin Ali is an inhabitant of village- Salmara and married to Ibrahim Ali of Dimilapar (Ext. 16).

9) In her cross-examination, the petitioner had stated that she and her father belonged to Salmara. She does not know whether her forefather came from Bangladesh. Her grandfather was Azumuddin, she does not know when he expired. Saharbanu was her grandmother, who expired when she was a child. She had stated that her father has four brothers, namely, Late Isub Ali, Late Asaruddin (her father), Idrish Ali and Hasmad Ali and two sisters, namely, Mariam Bibi and Late Samela. She has five brothers, namely, Akkas Ali, Marzad Ali, Archad Ali, Selim Ali and Hussain Ali. She has five daughters, She is a Muslim by religion.

10) In support of her defence, the petitioner had examined herself as DW-1 and three other witnesses, namely, Idrish Ali @ Idris Ali, the projected

uncle of the petitioner as DW-2; Hirimba Ramchiary, V.C.D.C. Chairman as DW-3; and Bijit Brahma, Lot Mandal, as DW-4.

11) In his evidence-on-affidavit, DW-2 had reiterated the statements made by the petitioner as DW-1. In his cross-examination, DW-2 had stated that he does not know whether his forefathers came from Bangladesh. He was born in Salmara. Aminjan Bibi is his niece, daughter of his elder brother, Asaruddin, who expired 20-22 years ago. Sukur Ali is his grandfather and Saharbanu is his grandmother. He does not know about the brothers and sisters of his father. He had stated that he has not submitted any proof of his relation with Aminjan Bibi.

12) The petitioner had examined Hirimba Ramchiary, V.C.D.C. Chairman, as DW-3. He had stated that he knows Aminjan Bibi. He had issued Ext.16 and Ext.16(1) is his signature. She was a resident of Salmara and after marriage, she had shifted to Dimlapar. He does not know the name of father of Aminjan Bibi. In his cross-examination, DW-3 had stated that he does not know if the petitioner's forefathers came from Bangladesh. He had not kept any record. He had not enquired about her father. He does not have any notification and/or written instruction for issuing such type of certificate relating to residence of a person.

13) The petitioner had examined Bijit Brahma, Lot Mandal of Lot No.9- Salmara Revenue village, Mouza- Kumarikata, as DW-4. He had brought the original record of Ext. nos. 2, 3, 4 and 4(1). He had stated that the exhibit has been compared by him and also have the signature of Arun Kumar Brahma, Circle Officer of Tamulpur, now transferred to another place. He had stated that the survey was done in 1963-64. Serial no.1 was entered at the time of settlement and no note/remark were written. Serial no. 2 to 5 were entered in

1984. The serial no. 15 was entered in Ext.4(1) as *anisdar* (i.e. legal representative) of Late Asuruddin. In his cross-examination, DW-4 had stated that Ext.4 was mutated not on purchase of land (not on *kharid-dakhala sutre*). In the original record, Hajarat Ali is written above Selim Malik and both are struck down. Serial nos. 4, 5, 6, and 7 are struck out in original record but not so in Ext.2. At serial no.8, the father's name of Md. Keramat Ali is written as Late Isab Ali in original record. In original record at note no. (ka) Hazarat Ali is replaced by Selim Malik & ors., by striking. In original records relating to Ext.3, the note no. is not given in 2 notes/remarks, the last note contains some words deleted in red ink and signed on 1/8/16 by him. That was in his handwriting. In original record of Ext.4, Aminjan Bibi, d/o. Late Asuruddin at Sl. No. 6 is inserted by him after 17/3/18. This Patta No.209 is a new patta bifurcated from patta no.12. Ext.4(1) is newly obtained certified copy of Ext.4 after latest correction. He had stated that the orders of Circle Office are available in "Chitha" which was produced that day. The corrections from Hazarat Ali to Selim Malik was not done by him but by Mukibur Rahman, Lot Mandal.

14) The learned Tribunal, upon considering the written statement, and evidence, discussed the same as follows:-

*"16) On appreciation of the version of the Proceedee/ Opposite Party and available documents on record it transpires that the Proceedee claimed Acharuddin Ali @ Achuruddin Ali @ Acharuddin Sheikh @ Afchor Uddin s/o- Lt. Azimuddin Sheikh of village- Salmara, P.S-Tamulpur in India as her father who was residing in India since before 1966. To prove her linkage with Acharuddin Ali the Proceedee exhibited a certified copy of Jamabandi of surveyed village Salmara (Ext. 4), a PAN Card (Ext. 14) & a Link Certificate dated 16-09-18 from Chairman, VCDC (Ext. 16). The Ext. 14 is of recent origin seems to be issued on 30-06-2018. It has not been proved, so it is not admitted as evidence. The author of Ext. 16 in his deposition as Proceedee's witness no. 3 admitted that he did not know the name and had not enquired about father of Aminjan Bibi and also he did not know the husband of*

*Aminjan Bibi. He had not got any notification and/ or written instruction for issuing a certificate relating to residence and identity of a person. So, the Ext. 16 is not admitted being its contents not proved. The concerned Lat Mandal of Ext. 4 in his deposition as proceedee's witness no. 4 stated that in original record of Ext. 4 the name Aminjan BIbi d/o- It. Asuruddin was inserted by him at Sl No. 6 after 17-3-18. But he could not say on what basis it was done. As per witness no. 2 of proceedee, Acharuddin Ali expired about 20-22 years ago ie., sometime in the year 1996-98. The proceedee did not say what led her to insert her name in Ext. 4 so lately. I suspect that it was done only to cover up her presence in India by co-pattadars by enabling her to show her linkage with them and Acharuddin Ali. As the Proceedee/ Opposite Party has failed to prove her link, I have not felt the necessity of going further and appreciating other evidences.*

*17) Net result of the above discussion is that the proceedee has miserably failed to establish her presence in India prior to 25-3-1971 which is the cut off date for identification of Foreigners in the State of Assam as per Section 6A of the Citizenship Act, 1955 as amended. The versions of the proceedee suffer from multiple material contradictions rendering the same highly improbable. In such circumstances it can not be said that the Proceedee/ Opposite Party had discharged her burden as required under Section 9 of the Foreigners Act, 1946.*

*18) I am, therefore, of the opinion that the Proceedee/ Opposite Party has not been successful to prove her Citizenship from the relevant period. She entered into India illegally on or after 25th March, 1971 from the specified territory.*

*19) This reference stands disposed of by answering the question in negative holding that the Proceedee/ Opposite Party is a Foreigner."*

15) While the learned counsel for the petitioner has made his submissions against the impugned opinion, the learned standing counsel for the FT, Border matters and NRC has made his submissions in support of the impugned opinion.

16) From the impugned opinion, it appears that the learned Tribunal has made a fundamental mistake of not taking into consideration the fact that the petitioner had filed her additional written statement on 06.08.2018. In paragraphs 3 and 6 of the impugned opinion, the learned Tribunal has referred to the written statement only. Thereafter, in paragraph 7 of the impugned

opinion, it was expressed by the learned Tribunal that when one's citizenship is being questioned, that too by the State, one has to disclose all material facts which are within his/her personal knowledge and that on failure to disclose material facts may lead to drawing adverse inference against the proceedee.

17) Thus, it is seen that in the impugned opinion, no reason is assigned by the learned Tribunal to discard the evidence of the petitioner (DW-1), Idrich Ali @ Idris Ali (DW-2).

18) The evidence of Hirimba Ramchiary, the V.C.D.C. Chairman, appears to have been discarded on the ground that he had not kept any record and he did not enquire about the father of the petitioner and he did not get any notification and/or instructions for issuing certificate (Ext.16). It appears that the learned Tribunal had failed to appreciate that in Bodoland Territorial Region, Village Council Development Council (VCDC for short) replace the traditional Gram Panchayats and is responsible for local administration and development. Though the DW-3 was not cross-examined about the husband of the petitioner, but in paragraph 16 of the impugned opinion, the learned Tribunal had given a finding that the DW-3 had admitted that he did not know about the petitioner's husband. However, though some discrepancies in the evidence of DW-3 has been referred to, but there is no finding to discard the evidence of DW-3 *in toto*.

19) In respect of the evidence of DW-4, the Lot Mandal, the learned Tribunal has recorded a finding in respect of Entry No. 6 of Ext.4 that in original record of Ext.4, the name of Aminjan Bibi (petitioner) was inserted by him after 17.03.2018, but he could not say on what basis he had done it. This finding is perverse because the DW-4 was not asked any question in his cross-

examination as to on what basis he had made the said entry no. 6. The learned Tribunal has merely questioned the entry of the petitioner in *jamabandi*, a land revenue record (Ext.4) after 17.03.2018, when her father had died 20-22 years ago, but without giving any finding that the delay had the effect of rendering the mutation as illegal and inadmissible in evidence. Thus, though some discrepancies in the evidence of DW-4 has been referred to, but there is no finding to discard the evidence of DW-4 *in toto*.

20) The fact that in the additional written statement and in the evidence-on-affidavit filed by the petitioner, she has explained the relevant entries in the *jamabandi* [Ext.3, Ext.4 and Ext.4(1)]. As DW-1, the petitioner was not cross-examined on any of the entries made in the said exhibits. The *jamabandi* (Ext.3) is of the year 1963-64 and the petitioner as well as the DW-4 have referred to the person in whose name the original entry has been made. Therefore, it was incumbent on the learned Tribunal to give reasons why the exhibits of the petitioner are being discarded as inadmissible evidence.

21) A relevant fact is required to be referred to. The case against the petitioner is registered as F.T. Case No. 94/BAKSA/2017, which has been tried and decided by the learned Foreigners Tribunal, Baksa, Tamulpur. In her additional written statement and evidence-on-affidavit, the petitioner has disclosed the names of her siblings, including Amzad Ali and Selim Malik, her brothers. This writ petition was filed on 19.07.2019. By filing an additional affidavit on 27.07.2025, the petitioner has brought on record two separate opinions passed by the same learned Foreigners Tribunal, Baksa, being (i) F.T. Case No. 1432/BAKSA/2016 – *State of Assam v. Md. Amzad Ali*, decided by opinion dated 03.11.2020, and (ii) F.T. Case No. 350/BAKSA/2017 – *State of*

*Assam v. Md. Selim Malik*, decided by opinion dated 05.11.2020. The learned Tribunal, in its discussions on the exhibited documents, has specifically mentioned that the three original exhibits, being Ext.3, Ext.4 and Ext.4(1) were available in the record of F.T. Case No. 350/BAKSA/2017. However, the learned Tribunal did not make any endeavour or effort to try all the three cases together despite the fact that three persons were claiming their legacy to their father through the said three exhibits. Nonetheless, the learned Tribunal, in paragraph 21 of the opinion has held as follows:-

“21) For the sake of brevity I quote here a portion of the order dated 02-05-2017 passed by the Hon'ble Gauhati High Court in WP(C) No. 360 & 1610 of 2017 which runs as "it has also to be borne in mind that once a proceedee is declared to be a foreigner it would only be a logical corollary to such declaration that his brothers, sisters, children and other family members would also be foreigners. Therefore, it becomes the duty of the jurisdictional Superintendent of Police (B) to cause enquiry in respect of the brothers, sisters, children and other family members of the declared foreigners and thereafter, to make a reference to the competent Foreigners Tribunal against such members".”

22) Thus, in light of the discussions above, the Court is constrained to hold that through the learned Tribunal has discussed the evidence of four witnesses examined by the petitioner, but apart from referring to some discrepancies in their evidence, gave no finding to discard their entire evidence as inadmissible. Moreover, though the same set of land documents i.e. Ext.2, Ext.3 and Ext.4 were relied by three different proceedee in three cases, referred hereinabove, being (1) F.T. Case No. 94/BAKSA/2017 – *State of Assam v. Amina Khatun @ Aminjan Bibi @ Ameena Begum*, (2) F.T. Case No. 1432/BAKSA/2016 – *State of Assam v. Md. Amzad Ali*, and (3) F.T. Case No. 350/BAKSA/2017 – *State of Assam v. Md. Selim Malik*, but no endeavour was made to try and decide these three reference together. Therefore, as the petitioner has been

able to *prima facie* demonstrate that two projected brothers of the petitioner, namely, Amzad Ali and Selim Malik, whose names were disclosed by the petitioner in her additional written statement, were declared to be not foreigners, the petitioner deserves one opportunity to bring the said two opinion on record and to prove the same in accordance with law.

23) Moreover, in this case, as mentioned hereinbefore, the learned Tribunal had failed to take into consideration the additional written statement filed by the petitioner, the non-consideration thereof, in the opinion of the Court, has vitiated the impugned opinion as perverse and thus, not sustainable on facts and in law.

24) Therefore, in light of discussions above, this Court is inclined to hold that the impugned opinion rendered by the learned Tribunal is vitiated by jurisdictional error on account of perversity due to failure on part of the said learned Tribunal to take into account two factors, being additional written statement filed by the petitioner, and failure to take into account that three proceedee, including the petitioner had placed reliance on the same set of land documents, which were exhibited as Ext.2, Ext.3 and Ext.4 in the present case in hand, which were in the record of *F.T. Case No. 350/BAKSA/2017 – State of Assam v. Selim Malik*, which, under the facts and circumstances of this case, has caused prejudice to the petitioner.

25) Therefore, as the Court is exercising supervisory jurisdiction and not appellate jurisdiction, this Court would not substitute the opinion rendered by the learned tribunal with the view of the Court. Resultantly, the opinion dated 27.05.2019, passed by the learned Member, Foreigners Tribunal, Baksa at Tamulpur, Assam, in F.T. Case No. 94/Baksa/2017, which is assailed in this writ

petition is set aside.

26) Resultantly, the matter is remanded back to the said learned Tribunal to give an opportunity to the petitioner to bring on record the opinion rendered by the said learned Tribunal in F.T. Case No. 1432/BAKSA/2016 – *State of Assam v. Md. Amzad Ali*, and F.T. Case No. 350/BAKSA/2017 – *State of Assam v. Md. Selim Malik*, and to prove the same in accordance with law. Moreover, the said learned Tribunal, while deciding the matter afresh, shall take into account the additional written statement filed by the petitioner.

27) The petitioner, who is represented in this writ petition by her learned counsel, is directed to appear before the said learned Foreigners Tribunal on or before the outer time limit of 06.02.2026, and on the said date, by producing a certified copy of this judgment and order before the said learned Tribunal, shall take such steps as the petitioner may be so advised. It is made clear that if the petitioner fails to appear before the said learned Tribunal within the time allowed, it would be permissible to the said learned Tribunal to treat the petitioner as absent on call and to pass a fresh opinion in accordance with law.

28) This writ petition is allowed to the extent as indicated above.

29) The parties are left to bear their own cost.

30) The petitioner shall submit a certified copy of this order to the Superintendent of Police (Border), Baksa, to bring this judgment and order to the notice of the said authority.

31) The Registry shall expeditiously return back the Tribunal's record along with a copy of this order to be made a part of the records by the learned

Tribunal for future reference.

JUDGE

JUDGE

Comparing Assistant

Champak  
Rajbongshi

Digitally signed by Champak Rajbongshi  
DN: c=IN, o=Personal, postalCode=781029, l=Kamrup,  
st=Assam, street=Shankar Nagar, Lalbali,  
Khonghona Gacm, Basistha, GMC Assam India  
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email=champakraj1994@gmail.com, cn=Champak  
Rajbongshi  
Date: 2026.01.08 11:40:57 +05'30'