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

Case No. : WP(C)/2639/2017

SALEHA KHATUN
W/O- AIJUL HOQUE, D/O- KHANDAKAR JAMAL UDDIN, VILL-
ANGARKATA, PT-I, P.S- BAGRIBARI, DIST- DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.
REPRESENTED BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS,
GOVT OF INDIA, NEW DELHI-1

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT
OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER
DHUBRI
DISTRICT- DHUBRI
ASSAM

4:THE SUPERINTENDENT OF POLICE
DHUBRI
DISTRICT- DHUBRI
ASSAM

5:THE OFFICER-IN-CHARGE OF BAGRIBARI POLICE STATION
DIST- KOKRAJHARBAD
ASSA

Advocate for the Petitioner : MR.M U MAHMUD, MR.A DAS,MRC KALITA,MR.M ALI,MR.S HOQUE,MR.S ISLAM

Advocate for the Respondent : , ASSTT.S.G.I.,GA, ASSAM

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

Advocate for the Petitioner: Mr. Mr. M. U. Mahmud.

Advocate for the respondents: Mr. U. K. Goswami, CGC

Mr. H. Kuli on behalf of Mr. A. I. Ali, SC, ECI

Mr. G. Sarma, SC

Mr. H. K. Hazarika, Jr. Govt. Advocate

Date on which judgment is reserved : 23.10.2025

Date of pronouncement of Judgment : 20.01.2026

Whether the pronouncement is of
the operative part of the judgment? :

Whether the full judgment has been
pronounced? : Yes

JUDGMENT AND ORDER (CAV)

(S.P.Khaund, J)

The petitioner Saleha Khatun is aggrieved by the impugned order dated 30.06.2016 passed by the learned Foreigners Tribunal No. 7 Dhubri, at

Bilasipara in F.T.7th Dhubri Case No. 155/BBR/15 (F.T. Case No. 359/BBR/11) ('D' Voter Case No. 1556/D/2007).

2. Vide the impugned order dated 30.06.2016 passed in F.T. 7th Dhubri Case No. 155/BBR/15, the petitioner has been declared to be a foreigner who entered India (Assam) on or after 25.03.1971. Upon receipt of notice, the petitioner appeared before the learned Foreigners Tribunal and duly contested the proceedings by filing her written statement. She also adduced oral evidence and exhibited documentary evidence in support of her written statement. In order to substantiate her case, the petitioner exhibited the following documents before the learned Tribunal.

1. **Exhibit-1:** Link Certificate dated 22.07.2015 along with Book Sl. No. 2544.
2. **Exhibit-2:** Certificate issued by the Headmaster of Puran Bijni Batinia M.E. Madrassa in support of the petitioner's linkage with her father.
3. **Exhibit-3:** Certificate issued in support of the petitioner's residence at Bangaldoba Relief Camp.
4. **Exhibit-4:** Copy of the National Register of Citizens (NRC), 1951.
5. **Exhibit-5:** Copy of NRC details.
6. **Exhibit-6:** Certified copy of the voters list of 1966.
7. **Exhibit-7:** Photocopy of the voters list of 1959.
8. **Exhibit-8:** Certified copy of the voters list of 1970.
9. **Exhibit-9:** Sale Deed dated 20.03.1978.

10. **Exhibit-10:** Documents in the name of Bodiyaot Jamal relating to his residence at the time of the Kokrajhar violence in the year 1993.

11. **Exhibit-11:** Name correction affidavits.

12. **Exhibit-A:** Certificate showing that the petitioner is the daughter of Md. Khandakar Jamaal Uddin.

13. **Exhibit-B:** Kabin Nama.

4. The petitioner adduced her evidence and was duly cross-examined by the State. The other witnesses were examined as follows:

1. Prabin Brahma,
2. Habibur Rahman Khan,
3. Sri, Tarun Chandra Das, BDO,
4. Sri Abdul Rohman, GP Secretary,
5. Azizur Rahman Kazi, DW-5.

4. Ali Akbar Miah- DW6, President of Bangaldoba Relief Camp Committee.

5. Except DW-5 and DW-6, the other witnesses will be referred to by their names for convenience. It is pertinent to mention at this juncture that, after closure of the evidence, when the learned Tribunal dismissed the petitioner's prayer to adduce additional evidence, the petitioner approached this Court by filing WP(C) No. 1800/2016. Vide order dated 16.03.2016, this Hon'ble Court allowed the said writ petition and permitted the petitioner to adduce additional evidence.

6. This Court set aside the order dated 16.02.2016 passed by the learned Tribunal and directed consideration of the fresh application filed by the petitioner for adducing additional evidence. The petitioner then exhibited Ext-A and Ext-B through her additional evidence.

7. It is submitted that the petitioner is the granddaughter of Khandakar Abdul Mozid and the daughter of Khandakar Jamal Uddin, whose names appear in the National Register of Citizens, 1951 at Sl. Nos. 1 and 7, House No. 57, in village Moulabipara, District Goalpara. It is further submitted that the petitioner's father's name appears in the NRC details of 1951 bearing Legacy Data Code No. 130-011-1538, pertaining to the same locality. The names of the petitioner's father and grandfather also appear in the electoral roll of 1959 of village Kokila Moulabipara, under North Salmara Police Station, within Abhayapuri Legislative Assembly Constituency, in the erstwhile district of Goalpara.

8. It is submitted that in the voters list of 1959, the petitioner's grandfather's name appears as Khandakar Abdul Mazid, whereas her father's name appears as Khandakar Bodiyaot Jamal Mia. It is further submitted that the names of the petitioner's father and grandfather also appears in the voters list of 1966 and 1970 of the aforesaid localities as A. Mazid and Rasid Jamal, respectively.

9. It is further submitted that the linkage certificate was issued by the Secretary of the concerned Gaon Panchayat on 22.07.2015 and was countersigned by the Block Development Officer. It is contended that this clearly establishes that the petitioner is the daughter of Khandakar Jamal Uddin and that her marriage was solemnized with Aijal Hoque, S/o Siddik Hussain, of village Bogoribari. It is also submitted that the Headmaster of Puran Bijni Batinia M.E. Madrassa issued a school transfer certificate on 20.11.2015, which establishes that the petitioner is the daughter of Khandakar Jamal Uddin and was a student of Class V, subsequently promoted to Class VI. Despite the

petitioner's father, Khandakar Bodiyaot Jamal Mia, swearing an affidavit on 11.01.2016 stating that "Khandakar Bodiyaot Jamal Mia" is his correct name and that certain documents contained discrepancies in his name, the learned Tribunal ignored these submissions and erroneously held that the petitioner is not a citizen of India. The certificate issued by the President of Bangaldoba Relief Camp Committee on 13.02.2016, affirming that the petitioner's father is a resident of the Bangaldoba Relief Camp, was also disregarded by the learned Tribunal.

10. It is submitted on behalf of the petitioner that her father belonged to a very poor family and in the year 1993, he sold his house along with the landed property and shifted to Amtenga, District Kokrajhar, where he purchased land of low value and started cultivation thereon. In the year 1994, devastating violence broke out in Kokrajhar District, as a result of which thousands of people were killed and displaced, and affected persons are still residing in relief camps.

11. The petitioner's father also took shelter, along with his family members, in the Bangaldoba Relief Camp, where they were compelled to reside for several years. A few years later, her father moved to Lumding, Nagaon, and settled there. The Gaonbura of the concerned village subsequently issued a certificate dated 26.04.2016, confirming that the petitioner is a resident of that locality and that she was married to Aijul Hoque.

12. It is further contended that, despite the petitioner producing all relevant documents supporting her

Indian nationality, the Superintendent of Police, Dhubri, submitted a reference to the Foreigners Tribunal, expressing doubts regarding the petitioner's citizenship.

13. It is further submitted that the learned Tribunal disbelieved the unchallenged documents exhibited by the petitioner. The said documents are public documents and are admissible in evidence under Section 74 of the Indian Evidence Act, 1872 (hereinafter referred to as "the Evidence Act, 1872"). As such, the Tribunal has erred in law in refusing to accept and rely upon the same.

14. It is also submitted that there are certain anomalies regarding the name of the petitioner's father. The petitioner's father's actual name is Khandakar Jamal Uddin, as recorded in the NRC of 1951. However, his name was erroneously recorded as Bodiyaot Jamal Miah in the voters' list of 1959, and subsequently as Rosid Zamal in the voters' lists of 1966 and 1970. Further, his name has also been wrongly recorded as Khandakar Jamal Badsha in certain records. These discrepancies are clerical in nature and pertain to the same individual.

15. It is contended that the learned Tribunal has failed to consider the fact that the petitioner's father is alive and that there is no allegation or doubt regarding his citizenship. In such circumstances, a DNA test would have been an appropriate and effective measure to have established the petitioner's citizenship.

16. It is averred that the linkage certificate, marked as Exhibit A, was issued on the basis of the voters' list of 1951. It is further argued that the VCDC's certificate, marked as Exhibit 3, constitutes sufficient proof, and that there was no effective or reliable cross-examination to discredit Exhibit 3. It is also contended that even documents which are not public documents but are private in nature ought to

be relied upon, as the authors of such documents appeared before the Tribunal and have duly proved the same.

17. Per contra, the learned Standing Counsel for FT matters, Mr. G. Sharma, laid stress in his argument that the evidence of the BDO reveals manipulation of the petitioner's father's name. The BDO deposed that he had issued Exhibit 1, but the said certificate was tampered in order to show that Saleha Khatun is the daughter of Khandakar Jamal Uddin. He has proved his signature on the certificate as Exhibit 1(II). He has further stated that he did not issue any certificate declaring Saleha Khatun to be the daughter of Khandakar Jamal Uddin, and that the counterfoil clearly demonstrates that the certificate has been tampered with. He has categorically deposed that Exhibit 1, as produced by Saleha Khatun, is a forged document. It is further contended that the voters' list of 1970 reflects the petitioner's grandfather's name as "A. Mazid" and not "Abdul Mozid Khandakar." On the contrary, the certificate issued by the Gram Panchayat Secretary of Sarkey Basti G.P. reveals that the petitioner's father's name is Khandakar Jamal Uddin, whereas the voters' list of 1970 reflects the petitioner's father's name as Rosid Jamal. It is submitted by the learned Standing Counsel that the order passed by the Tribunal is correct and suffers no infirmity, and the opinion rendered by the Tribunal calls for no interference. The petitioner has failed to establish linkage with her father whose name appears in the voters' list of 1966. It is also contended that the learned Tribunal has considered each and every point raised and has elaborately ascribed sound reasonings while deciding the case. It is also contended that the petitioner neither revealed her mother's name nor has she disclosed the names of her siblings or any other family members, thereby failing to discharge the burden cast upon her under Section 9 of the Foreigners Act, 1946. When the petitioner has relied upon the sale deed of her uncle, Md. Shorhab Ali, nothing prevented her from mentioning the names of her siblings in the written statement. Even in her evidence, the petitioner did not disclose the names of her mother or her siblings.

18. Heard Mr. M. U. Mahmud, learned counsel for the petitioner; Mr. U. K. Goswami, learned

Central Government Counsel; Mr. G. Sarma, learned Standing Counsel for FT matters; Mr. H. Koli, learned counsel appearing on behalf of Mr. A. I. Ali, learned Standing Counsel for the Election Commission of India; and Mr. H. K. Hazarika, learned Junior Government Advocate for the respondents.

19. The learned Tribunal has adjudicated the matter in accordance with the provisions of Section 9 of the Foreigners Act, 1946, which reads as follows:

“If in any case not falling under Section 8 any question arises with reference to this act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), lie upon such person.”

20. This Court cannot ignore the fact that the petitioner has failed to discharge her burden. Although the petitioner has exhibited several documents, her failure to disclose the names of her mother and siblings in the written statement as well as in her evidence demonstrates that she has not discharged the burden cast upon her under Section 9 of the Foreigners Act, 1946.

21. The Tribunal has correctly held that, upon examination of the records, the written statement, and the entire evidence and documents produced by the petitioner, it was found that she has failed to produce any document to prove her citizenship.

22. It has surfaced from paragraph 6 of the written statement that the petitioner has stated her place of birth to be village Kokila Moulabipara, North Salmara, where she claimed to have resided till she attained majority. However, in paragraph 2 of her evidence in affidavit, she stated that she was born and brought up at village No. 2 Sarkey Basti under Nagaon District. The document relied upon by the petitioner and exhibited as Exhibit 1, to establish her linkage with her father and grandfather, has also

been disputed by the BDO, Mr. Tarun Ch. Das. He has stated that the counterfoil of Exhibit 1 clearly shows that the petitioner's father's name was tampered with. He has proved his signature on the certificate as Exhibit 1(II) and further deposed that he did not issue any certificate declaring the petitioner to be the daughter of Khandakar Jamal Uddin. In contrast, the Gram Panchayat Secretary of Sarkey Basti Gram Panchayat has stated that he issued a certificate marked as Exhibit 1. There was no explanation offered regarding the disputed manipulation of the certificate. Consequentially, the said certificate has adversely affected the veracity of the petitioner's evidence. The Gram Panchayat Secretary, Abdul Rohman of Sarkey Bosti village, deposed that he had issued the certificate marked as Exhibit 1 and stated that the petitioner was known to him as the daughter of Bodiud Jamal. He further stated that he had verified the voter ID card and the voters' list of 2014 relating to Bodiud Jamal before issuing the certificate. However, even the affidavit marked as Exhibit 11, sworn by the petitioner's projected father, does not affirm that "Khandakar Bodiud Jamal" and "Bodiud Jamal" is the same person. Under these circumstances, exhibit 1 cannot be accepted as a valid linkage document. The learned Tribunal has, therefore, correctly held that the petitioner has failed to establish her lineage with her father through Exhibit 1.

24. The learned Tribunal has held as follows:

“Upon examining the counter-folio of Exhibit 1, a document dated 22.07.2015 bearing Sl. No. 2544, it is found to correspond to the original document (Exhibit 1), also dated 22.07.2015 and bearing Sl. No. 2544. However, in the counter-folio of Exhibit 1, the name of the petitioner's father is recorded as Bodiud Jamal, whereas in the original certificate (Exhibit 1), it is shown as Saleha Khatun D/o Khandakar Jamal Uddin. This demonstrates that in the linkage document (Exhibit 1), the name Bodiud Jamal has been removed and interpolated to show that Saleha Khatun is the daughter of Khandakar Jamal Uddin. Consequently, exhibit 1 cannot be regarded as a reliable or trustworthy document to prove that Saleha Khatun is the daughter of Khandakar Jamal Uddin. Being neither reliable nor

trustworthy, exhibit 1 cannot be acted upon."

This opinion of the Tribunal warrants no interference, and it is fully consistent with the mandate of Section 9 of the Foreigners Act, 1946.

25. The other document relied upon by the petitioner to establish her linkage with her father and grandfather is the school certificate marked as Exhibit 2, which was issued on 22.11.2015. The Tribunal has correctly held that this document cannot be relied upon, as the name of the village mentioned in the certificate does not correspond with the place of birth as mentioned by the petitioner. The certificate shows the village as Puran Bijni Batinia and was issued by the Headmaster of Puran Bijni Batinia M.E. Madrassa, which is inconsistent with the petitioner's address details. The petitioner exhibited this certificate to support her written statement that her father had shifted from Goalpara to Amtenga, Kokrajhar, due to poverty and in search of a better livelihood. However, it has come to the notice of this Court that this certificate was issued on 20.11.2015 and this certificate is not reliable as age anomalies have surfaced.

26. If the petitioner was 12 years 13 months old on 31.12.1993, she would be 35 years 7 months of age on 02.05.2017 and not 31 years as shown by the petitioner in her affidavit dated 02.05.2017. Due to the manipulation and interpolation of Exhibit 1 and the anomalies evident in Exhibit 2, both these certificates cannot be held to be reliable evidence to establish the petitioner's lineage with her father and grandfather. The learned Tribunal has correctly rejected this document (Exhibit 2) as the name of the village is not similar to the name of the petitioner's residence or place of birth. Exhibit 3 was issued by the chairman of V.C.D.C., Shri Prabin Brahma who has proved his signature on Exhibit 3 as Exhibit 3(1). This certificate was issued to prove the fact that the petitioner who was an inhabitant of village Bangaldoba Relief camp, had to take shelter in the camp as the petitioner and her family members were affected by ethnic violence. This certificate was also issued in support of the fact that

the petitioner's husband is Aijol Hoque.

27. It was thus correctly held by the Tribunal that this certificate establishes only the linkage of the petitioner with her husband and not with her father. When Prabin Brahma deposed as a witness, he stated that he issued the certificate to the petitioner after verification of her father's name which was recorded in the electoral rolls of 1966 and 1970. It has thus correctly been held by the Tribunal that this evidence of the chairman of the V.C.D.C. does not prove the fact that the petitioner is the daughter of Khandakar Jamal Uddin. The deposition of Prabin Brahma does not at all reflect the petitioner's father's name. He has only mentioned the name of the petitioner's husband. Her father's name is also not reflected in Exhibit 3. This certificate was issued to prove the fact that the petitioner is the wife of Mohammad Aijol Hoque. Thus, this certificate has failed to establish any lineage of the petitioner with her father and her grandfather.

28. The voters' list reflecting the names of the petitioner's father and grandfather and their legacy data are not disputed, but no linkage in continuation of the petitioner's lineage with her father and grandfather could be established through the documents, Exhibit 1, 2 and 3. The only dispute raised against the NRC, the voters' list reflecting the petitioner's grandfather's and father's name is that there are anomalies in the names figuring in this voters' lists and anomalies in the age have also surfaced in the NRC data. Moreover, Exhibit 5 is not evidence at all as Exhibit 5 is a photocopy of the NRC details. It has correctly been held by the Tribunal that in the copies, Exhibit 4 and 5, the age of Khandakar Jamal Uddin has been recorded as 12 years in 1951, which reflects that this Khandakar Jamal Uddin is a different person and not the projected father of the petitioner. The anomalies relating to the names of the voters' list of 1966 and 1970 cannot be ignored. At serial number 90 of the voters' list of 1966, the name of the petitioner's projected father is shown as Basud Jamal and the name of petitioner's father in the voters' list of 1970 at serial number 90 is Roshid Jamal. The name of Khandakar Jamal Uddin, whom the petitioner has claimed to be her father is not found in any of the

voters' list of 1966 and 1970.

29. It has therefore been correctly held by the learned Tribunal that the petitioner has failed to prove that the voters' list of 1966 marked as Exhibit 6 and the voters' list of 1970 marked as Exhibit 5 are not of the same person, but of two different persons. Assuming the voters' list to be that of the petitioner's father, even then the petitioner has failed to prove her lineage with her father through any reliable documents. The documents which have been disputed by the respondents as manipulated and interpolated documents cannot be relied upon. Witnesses have proved Ext-1 to be a manipulated document. The evidence to prove a citizenship has to be cogent, admissible and reliable evidence.

30. It has been held by the Supreme Court in ***Sabananda Sonowal Vs. The Union Of India & Anr., reported in (2005) SCC 665***, that:-

“There is good and sound reason for placing the burden of proof upon the person concerned who asserts to be a citizen of a particular country. In order to establish one's citizenship, normally he may be required to give evidence of (i) his date of birth (ii) place of birth (iii) name of his parents (iv) their place of birth and citizenship. Sometimes the place of birth of his grandparents may also be relevant like under Section 6-A(1) (d) of the Citizenship Act. All these facts would necessarily be within the personal knowledge of the person concerned and not of the authorities of the State. After he has given evidence on these points, the State authorities can verify the facts and can then lead evidence in rebuttal, if necessary. If the State authorities dispute the claim of citizenship by a person and assert that he is a foreigner, it will not only be difficult but almost impossible for them to first lead evidence on the aforesaid points. This is in accordance with the underlying policy of Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.”

31. In the instant case, some photocopies have been exhibited which is not required to be taken into consideration as photocopies are not admissible in evidence. Exhibit-9 is a land document through which the proceedee tried to establish her linkage with her father and her grandfather. It appears that the land document is in the name of the petitioner's uncle and the document is

post-1971 as the sale date is of the year 1978. Through Exhibit 10, the petitioner tried to prove that her father resided at Bangaldoba camp during the Kokrajhar violence in the year 1993 and he received rehabilitation grant from the Government of Assam. This document also was not helpful to prove that the petitioner is the descendant of Bodiyyot Jamal, son of Mojid Khandakar. Now, Exhibit 11 is a self-sworn affidavit by Khandakar Bodiyyot Jamal Mia and not by Bodiyyot Jamal.

32. Even in this affidavit, the dissimilarity between Exhibit 10 and Exhibit 11 cannot be ignored. Through Exhibit 11, Khandakar Bodiyyot Jamal Mia has claimed that his actual name is Khandakar Bodiyyot Jamal Mia and his names have been mentioned as Rashid Jamal in the voters list of 1966, and as Khandakar Jamal Badsha in the voters list of 1989. It is submitted that Khandakar Bodiyyot Jamal Mia, Rashid Jamal and Khandakar Jamal Badsha is the same person, but it is not submitted through the affidavit marked as Exhibit 11 that Bodiyyot Jamal is also Khandakar Bodiyyot Jamal Mia. Thus, there are too many discrepancies in the names appearing in almost each and every document. The petitioner's father's name appears to be different in each and every document. There are no two documents with similar names of the petitioner's father.

33. Through additional affidavit, the petitioner has exhibited Exhibit A and Exhibit B. D.W.6, Ali Akbar Mia, President of Bangaldoba Relief Camp, has stated in his evidence that Exhibit 2 is a Xerox copy of the resolution and he is the President of the Bangaldoba Relief Camp. The petitioner is known to him and her name is Saleha Khatun. He has proved Exhibit A as the certificate issued by him and he has proved his signature as Exhibit A1. He has deposed that he issued the certificate on his office pad as the petitioner was an inmate of the relief camp from 1993 to 2011. He has also deposed that the petitioner resides in the neighbouring village and she is the daughter of Bodiyyot Jamal, son of Mozid Khandakar. He has further deposed

that on an application submitted by the petitioner, he issued the certificate. He has stated that Exhibit 3 is a Xerox copy of the application dated 06.06.2016 submitted by the petitioner. He further deposed that the petitioner stayed in a relief camp with her family members and he has issued the certificate showing the name of her father as Mohammad Khandakar Jamal Uddin on the basis of the copy of the NRC. He has also stated that it is in his knowledge that Bodiyyot Jamal Khandakar, Khandakar Badiyuz Jamal and Mohammad Khandakar Jamal is the same person and his correct name is Mohammad Khandakar Jamal Uddin. He has further deposed that the petitioner was married from his relief camp.

34. On query by the learned Tribunal, PW-6 has stated that he has issued the certificate to prove that the petitioner was an inmate of the relief camp and he has issued the certificate as link certificate to prove that the petitioner is the daughter of Mohammad Jamal Uddin. DW-6 has also admitted in his cross-examination that he is not a Government Officer nor he has been authorized to issue any link certificate. The Kabin nama marked as Exhibit-B and issued by DW-5, Azizur Rahman is not sufficient to establish the petitioner's lineage with her father as the petitioner is shown to be the daughter of Khandakar Bodiyyot Jamal of Village:- Beltoli. If this is not the correct name of the petitioner's father, then atleast the Kabin nama could have been issued correctly when the petitioner's father was present at the time of her marriage and when the petitioner could have easily corrected her father's name, if his name was erroneously recorded in the Kabin nama.

35. It has been admitted by DW-5 that the petitioner's father was present at the time of her marriage and thus it is not believable that the petitioner's father's name could have been entered wrongly in the Kabin nama marked as Exhibit-B. It has been correctly held by the Tribunal that the village mentioned in Exhibit-B is not similar to the village of the petitioner as has been mentioned in the other documents. Moreover, owing to the anomalies in the names

of the petitioner's father, Exhibit-B also could not be accepted as evidence. A Kabin nama only proves marriage between the parties. When the name of the petitioner's father mentioned in the Kabin nama despite his presence in the marriage, is not similar to the correct name as claimed by the petitioner and her father, the Kabin nama could not establish any lineage of the petitioner with her projected father and her grandfather.

36. DW6 is the president of Bangaldoba Relief Camp. He is not a Secretary of a Gram Panchayat nor is he a President. He is also not a village headman. He has admitted that he has not been authorized to issue any link certificate by the Government. Thus, Exhibit-A issued by DW6 cannot be considered to be a link document. Moreover, in his examination in chief, he has stated that Bodiyaat Jamal, son of Mojid Khandakar is the father of the petitioner, whereas he has stated in his cross examination that he issued the certificate as a link certificate to prove that the petitioner is the daughter of Mohammad Khandakar Jamal Uddin. Thus, the certificates issued by DW5 and DW6 marked as Exhibits-A & B are issued to substantiate the fact that the petitioner was a resident of a relief camp and she was married to Aizul Haque as Exhibit-B is the Kabin nama and the other exhibit i.e., Exhibit-A was issued to support the fact that the petitioner was a resident of the Bangaldoba Relief Camp during ethnic violence. These two certificates does not in any manner prove that the petitioner is a citizen of India nor does it establish any linkage between petitioner's father whose name appears in the voters list of 1966 and 1970. Even through additional affidavits, the petitioner has failed to prove her lineage with her father and her grandfather.

37. It is reiterated that the petitioner has, for reasons best known to her, has not disclosed the names of her siblings, the name of her mother and grandmother. Thus, it is held that the petitioner has failed to discharge her onus as mandated under Section 9 of the Act of 1946.

38. The argument of the learned counsel for the petitioner that even the private documents can be accepted as evidence as the authorities have been before this Court to prove their

signatures on the documents and to prove the fact that they have issued the documents can be safely brushed aside.

In view of the foregoing discussions, it is thereby held that the petitioner has failed to establish through Exhibits-1 to 11 and Exhibit-A and B, that she is the daughter of Khandakar Jamal Uddin and granddaughter of Khandakar Abdul Mojid.

39. It is also pertinent to mention that in each and every exhibit, the petitioner's father's name is not similar nor is the name of the petitioner's grandfather. Each and every document reflects different names of the petitioner's father as well as the grandfather. Through Exhibit-1, which is an interpolated document, the petitioner tried to establish her lineage with her grandfather. The anomalies surfacing in Exhibit-2 also discredits this document.

40. It has also been mentioned in the foregoing discussions that the copies are not dealt with as copies cannot be accepted as evidence. It is held that the petitioner has failed to discharge her onus as mandated under Section 9 of the Foreigners Act, 1946. Despite adducing additional evidence, the petitioner has failed to establish her lineage with her father and her grandfather whose names appear to be different in each and every document.

41. In view of the aforesaid facts and circumstances, we are of the opinion that the final order dated 30.06.2016 passed by the learned Foreigners Tribunal No. 7 Dhubri, at Bilasipara in F.T.7th Dhubri Case No. 155/BBR/15 (F.T. Case No. 359/BBR/11) ('D' Voter Case No. 1556/D/2007) does not call for any interference. Accordingly, this writ petition being devoid of merits, stands dismissed.

42. The actions consequent upon the opinion rendered by the learned Tribunal would follow in accordance with law.

43. The records of the Foreigners Tribunal No. 7 Dhubri, at Bilasipara in F.T.7th Dhubri Case No.

155/BBR/15 (F.T. Case No. 359/BBR/11) ('D' Voter Case No. 1556/D/2007) be returned forthwith along with a copy of this order.

JUDGE

JUDGE

Comparing Assistant