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15-7-22	15-7-22	15-7-22	15-7-22	15-7-22

Petition No. By

FOREIGNERS TRIBUNAL - II, GOALPARA
PRESENT:- Sri Debananda Das, B.Sc. LL.B., Member,
OPINION

F.T. New Case No.GFT(2)/645/2020

F.T. Old Case No.1507/K/16

F.T. Case No.164/2007

Police Reference No.GLP/B/F.T./2007/564, dated 16/2/2007.

S/NO
B-72

State complainant

-Vs-

Musstt. Asiya Bibi Opposite Party.



- For the State :- Md. M. Hussain, Asstt G.P.
- For the Opp. Party :- Mr. A. Mubarak, Advocate
- Date of Evidence :- 06/06/2022
- Date of Argument :- 01/07/2022
- Date of Opinion :- 11/07/2022

This is reference u/s 2(i) of the Foreigners Tribunal (order) 1964 for opinion whether the Opp. Party, **Musstt. Asiya Bibi W/O. Alauddin Hussain, D/O. Lt. Abdul Hai, R/o. village Barbhita, P.S. Krishnai, Dist:- Goalpara, Assam, is a foreigner of post 25/03/1971 stream or not.**

The reference is that the S.I (B) **Ajay Kr. Sarma** suspected the Opp. Party to be a foreigner as she failed to produce any authentic document at the time of spot inquiry.

Thereafter the S.I.(B) **Ajay Kr. Sarma** referred the matter to the Superintendent of Police, (Border), Goalpara, Assam.

The Superintendent of Police (Border), Goalpara, referred this case to the Foreigner's Tribunal-II, Goalpara for opinion.

The Opp. Party, **Musstt. Asiya Bibi W/O. Alauddin Hussain, D/O. Lt. Abdul Hai, R/o. village Barbhita, P.S. Krishnai, Dist:- Goalpara, Assam,** after receiving the notice from the Tribunal, appeared, engaged Advocate and filled Written Statement along with some document, claiming that her father and grandfather were Indian and she is also an Indian by birth adduced her evidences as **OPW-1, OPW-2 & O.P.W.-3.**

Point for decision:- Whether the O.P. Musstt. Asiya Bibi W/O. Alauddin Hussain, D/O. Lt. Abdul Hai, is a Foreigner or not ?

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 11/07/2022
 Member
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 Goalpara



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In the WS as well as in Evidence in chief the Opp. Party stated as OPW-1, that her parents were Indian Citizen by birth, she was born and brought up at village Tekona under Lakhipur PS of District Goalpara, Assam in the year of 1961. Her Father name is Late. Abdul Hai and her Grandfather name is Abdul Gofur Miya. Her Mother name is Romisha Khatun @ Romisha Bewa and they were also born and brought up at same village Tekona. Her Father name has been recorded in the NRC of 1951 at village Tekona. Her Father expired before 1966. Therefore her Mother along with her elder brother names were enlisted in 1966 & 1970 voter list at same village Tekona under the then 44 No. Goalpara West LAC. O.P. studied up to class IV at Katarihara L.P School in year of 1971. O.P. got married with Md. Alauddin S/O Abbas of village Podmarvita under the then South Salmara PS. (Fokirganj PS) in the then district of Goalpara (now Dhubri) Assam In the year of 1975 and since then she has been living with her husband's family continuously. Her name along with her mother, brother and sisters were recorded in the kacha patta land deed at place Tekona. After marriage O.P's name along with her husband has been recorded for the first time in the voter list of 1985 at village Padmarvita under 39 Jaleswar LAC and their names also enlisted in 1997 voter list. Due to erosion of river Brahmaputra she along with her husband and other family members were shifted from Padmarvita to village Barvita under Krishnai PS of district Goalpara, Assam in the year of 2004, but O.P. along with other family members casted their votes regularly at same village Padmarvita under 39 Jaleswar LAC. Her name along with her husband and her other family members were also enlisted in 2005, 2010, 2015 voter list at village Padmarvita. She also received the Elector Photo ID card in the year of 2013 at village Padmarvita and vide bearing No. HQQ5145368. She claimed that her grandfather and parents were Indian Citizens and she is also an Indian Citizen by birth. In her support she exhibited the following documents:-

The OP exhibited the certified copy voter list of **Romisha Khatun**, which are mentioned below:-

Ext:-A is the voter list Certified copy of **1966** in the name of **Romisha Khatun W/O. Abdul Hai** of village (142) Tekona of the then 44th, Goalpara West LAC, vide Part No.76, House No.30 and Sl. No.86 and age is shown as 40 years.

Ext:-B is the voter list Certified copy of **1970** in the name of **Roshima Khatun W/O. Abdul Hai** of village (142) Tekona of the then 44th, Goalpara West LAC, vide Part No.76, House No.30 and Sl. No. 97 and age is shown as 44 years.


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Ext:-C is the Head Master of Katarihara L.P. School has issued a School certificate in the name of OP **Musstt. Asiya Khatun** is daughter of **Lt. Abdul Hai**, of village Tekona under Lakhipur PS of District Goalpara, Assam, dated 04/04/1994.

Ext:-D is the voter list Certified copy of **1985** in the name of **Musstt. Asiya Khatun W/O. Alauddin** of village (160) Padmarvita of 39th, Jaleswar LAC, vide Part No.41, House No.39 and Sl. No. 531 and age is shown as 25 years and Md. Alauddin S/O Abbaj, vide SL No. 530.

Ext:-E is the voter list Certified copy of **1997** in the name of **Asiya Khatun W/O. Alauddin** of village (160) Padmarvita of 39th, Jaleswar LAC, vide Part No.43, House No.77 and Sl. No. 792 and age is shown as 39 years and Alauddin S/O Late. Abbas Ali, vide SL No. 791.

Ext:-F is the voter list Certified copy of **2005** in the name of **Asiya Khatun W/O. Alauddin** of village (160) Padmarvita of 39th, Jaleswar LAC, vide Part No.46, House No.77 and Sl. No. 976 and age is shown as 46 years and Alauddin S/O. Abbas Ali, vide SL No. 975.

Ext:-G is the voter list Certified copy of **2010** in the name of **Asiya Khatun W/O. Alauddin** of village (160) Padmarvita of 39th, Jaleswar LAC, vide Part No.51, House No.77 and Sl. No. 1062 and age is shown as 51 years and Alauddin S/O. Abbas Ali, vide SL No. 1061.

Ext:-H is the voter i/d card of 2013 in the name of OP **Asiya Khatun W/O. Alauddin**, vide No. HQQ5145368, (*proved in original*).

Ext:-I is the voter list Certified copy of **2015** in the name of **Asiya Khatun W/O. Alauddin** under 39th, Jaleswar LAC, vide Part No.59, House No.77 and Sl. No. 334 and age is shown as 55 years.

Ext:-J is the Judgment Certified copy in the name of O.P's *elder sister namely Hasnara Bewa*, W/O Late Fazal Ali of village Bainnyaguri PS. Lakhipur District Goalpara, Assam vide F.T Case No. 83/GLP/2015 dated 11/02/2016, declared as India citizen issued by the Member Foreigner's Tribunal 6th Goalpara..

Ext:-K is the Marriage transfer certificate in the name of OP **Asia Khatun** is daughter of **Abdul Hai and Romisa Khatun** of village Tekona under Lakhipur PS of district Goalpara issued by the President Katarihara Gaon Panchayat, Dist:- Goalpara, Assam, dated 31/5/2022.

Learned Asstt. Govt. Pleader duly crossed the OP and disclosed in crossed that she is OP in this case. Her father name is **Abdul Hai S/O. Abdul Gofur** and her mother name is **Ramesha Khatun**. My father residence was village Tekona PS. Lakhipur, Dist- Goalpara, where she and her father was born.



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Her father expired when she was 3 (three) years old about 30 years ago her mother expired. They have 1 brother 4 sisters she is 3rd. Nurut Jaman is her elder brother.

Her elder brother Nurut Jamal brought up O.P. Her father expired before 1966. She went to Katarihara L.P. School up to class III in 1963 she was born. The Gaon Panchayat Certificate is mentioned her mother link.

O.P. married with Alauddin SK S/O Abbas SK R/O Padmarvita PS Fakiganj district- Dhubri, Assam and her name is enlisted since 1985 to till date.

O.P's husband shifted to Barvita under Krishnai PS. of district Goalpara about 22 years ago. O.P. has 6 sons and 2 daughters. She denied the suggestion of Asstt. Govt. Pleader that she came from Bangladesh.

OPW-2, elder sister of the OP also stated in her crossed that OP is her younger sister. They have 4 sisters and 1 brother. Her father name is Abdul Hai who expired before 1966 and her mother name is Romisha Khatun and she expired about 30 years ago. Her father expired and elder brother Nurjamal brought up. Her siter married with Alauddin S/O Abdus Mouldi R/O Padmarvita and later shifted to Barvita PS. Krishnai district Goalpara, Assam. She denied the suggestion of Asstt. Govt. Pleader that that she deposed falsely.

OPW-3 The President of Katarihara Gaon Panchayat adduced evidence and also adduced his evidences and proved the contains of the document as **Ext:-K** and **Ext:-K(1)** is his signature.

All the OP's sides' witnesses are crossed by Learned Asst. Govt. Pleader for the state side.

POINTS AND REASONS FOR DECISIONS:-

I have heard the arguments of Learned Advocate for the O.P. and the learned Asst. Govt. Pleader for the state. I have very carefully gone through the documents which are exhibited and the evidence on records. I found nothing to doubt to disbelieve the evidences of **O.P.W.-1, O.P.W.-2 & O.P.W.-3.**

After gone through the above documents it is found that **Romisha Khatun W/O. Abdul Hai** of village (142) Tekona of the then 44th, Goalpara West LAC, and her name has been recorded in the voter list of **1966 & 1970 as Ext:-A & Ext:-B.** So, **Romisha Khatun W/O. Abdul Hai** of village (142) Tekona, under Lakhipur PS district Goalpara, Assam is an **Indian Citizen** as per provisions of u/s.6(A)2 of the **Indian Citizenship Act. 1955 as amended 1985.**

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Her father name has not been recorded in 1966 voter list. Because he was expired before 1966.

The OP and other witnesses stated that OP **Asia Khatun** is daughter of **Lt. Abdul Hai** and **Romisa Khatun**. **OPW-2** elder sister of the OP also stated that her father name is **Lt. Abdul Hai** and her mother name is **Romisa Khatun** and her name has been enlisted since 1966 voter list. O.P. married with Alauddin SK S/O Abbas SK R/O Padmarvita PS Fakiganj district- Dhubri, Assam and her name is enlisted since 1985 to till date. In her support she exhibited the documents as below:-

The OP also exhibited some documents which are not admitted as per Indian Evidence Act.

The OP also exhibited her certified copies voter lists which are admitted as per Indian Evidence Act as below-

Ext:-C is the Head Master of Katarihara L.P. School has issued a School certificate in the name of OP **Musstt. Asiya Khatun** is daughter of **Lt. Abdul Hai**, of village Tekoma under Lakhipur PS of District Goalpara, Assam, dated 01/04/1991.

Ext:-D is the voter list Certified copy of **1985** in the name of **Musstt. Asiya Khatun W/O. Alauddin** of village (160) Padmarvita of 39th, Jaleswar LAC, vide Part No.41, House No.39 and Sl. No. 531 and age is shown as 25 years and Md. Alauddin S/O Abbaj, vide SL No. 530.

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Ext:-H is the voter i/d card of 2013 in the name of OP **Asiya Khatun W/O. Alauddin**, vide No. HQQ5145368, (**proved in original**).

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Ext:-J is the Judgment Certified copy in the name of O.P's *elder sister namely Hasnara Bewa*, W/O Late Fazal Ali of village Bainnyaguri PS. Lakhipur District Goalpara, Assam vide F.T Case No. 83/GLP/2015 dated 11/02/2016, declared as India citizen issued by the Member Foreigner's Tribunal 6th Goalpara..

Ext:-K is the certificate in the name of OP *Asia Khatun* is daughter of *Abdul Hai* and *Romisa Khatun* of village Tekona under Lakhipur PS of district Goalpara issued by the President Katarikura Gaon Panchayat, Dist:- Goalpara, Assam, dated 31/5/2022.

The **Ext:-K** document, it is proved that OP *Asia Khatun* is daughter of *Abdul Hai* and *Romisa Khatun* of village Tekona under Lakhipur PS in the district of Goalpara, Assam, which is proved the contains of the document and **Ext:-K(1)** is his signature. Hence this document is admitted as per Indian Evidence Act. OPW-2 elder sister of the OP also adduced her evidence and proved that *Asia Khatun* is daughter of *Abdul Hai* and *Romisa Khatun* and her mother *Romisa Khatun's* name has been recorded since 1966 voter list, and she also stated that her father expired before 1966 voter list, which is also supported as OPW-1. After carefully scrutinized all the witnesses' evidences and documentary evidences and in case record it is crystal clear that **Musstt. Asiya Bibi** is daughter of **Lt. Abdul Hai** and **W/O. Md. Alauddin Hussain**. **Ext:-C** is the School certificate It is proved that OP **Musstt. Asiya Khatun** is daughter of **Lt. Abdul Hai**. From the above discussions I finally hold that the Father name of the OP is Abdul Hai and mother name is Ramisha Khatun.

I have also found mother name mentioned in document as **Romisha Khatun** also mentioned as **Roshima Khatun**. Hence **Romisha Khatun @ Roshima Khatun** is the one and same person.

I have also found OP's name mentioned in documents as **Musstt. Asiya Khatun** also mentioned as **Asiya Khatun, Asia Khatun** and in the case record as **Musstt. Asiya Bibi**. Hence **Musstt. Asiya Khatun @ Asiya Khatun @ Asia Khatun @ Musstt. Asiya Bibi** is the one and same person. The surname of Muslim women '**Bibi**' and '**Khatun**' are same person. Hence **Musstt. Asiya Khatun @ Asiya Khatun @ Asia Khatun @ Musstt. Asiya Bibi** is the one and same person.

The annexure documents are Xerox copy of voter list is not admitted as per evidence act, it is only judicial notice. The certified voter list are checked and verified with original voter list and found correct.

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So from the above discussions I finally hold that the OP **Musstt. Asiya Bibi** is daughter of **Lt. Abdul Hai** and **Romisha Khatun**. Hence naturally as a daughter of Indian **Romisha Khatun**, the OP **Musstt. Asiya Bibi** is also an Indian Citizen by birth.

Therefore from the facts discussed above, I give my opinion Opp. Party, **Musstt. Asiya Bibi W/O. Alauddin Hussain, D/O. Lt. Abdul Hai, R/o. village Barbhita, P.S. Krishnai, Dist:- Goalpara, Assam**, the proceeded/opp. Party is not a Foreigner of any stream, and **she is an Indian National**.


Inform the concerned authority with a copy of this opinion along with W.S. Examination in chief and exhibited documents.

A free copy of this opinion will be delivered to OP without any coast.


21/07/2021

Sri. Debananda Das,
Member,
Foreigners Tribunal-II
Goalpara
Member
Foreigners Tribunal 2nd
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