

APPLICATION NO.	APPLICATION RECEIVED ON	DATE ON WHICH COPY WAS MADE READY	FEES PAID (Rs.)	POSTING DATE TO DELIVERY DESK
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BEFORE THE MEMBER, FOREIGNERS TRIBUNAL NO. 3, AT GOALPARA

Case No. FT (3)- GLP/1738/2022

Ref. F.T Case No-447/2009



STATE

VS

Musstt.Mamotaz Begum

W/O- Md. Bajlur Rahman

Vill- Dharai(Kaklipara)

P.S- Lakhipur

Dist. Goalpara (Assam)



Present- Shri. R.K. Khakhalary, Member
Foreigners Tribunal No. 3, Goalpara (Assam)

Argument On: - 20-08-2022

Order Passed On: - 25-08-2022

For Union of India: - Advocate Mrs. M. K. Sharma.

For The Proceedee: - Advocate Mr. A. Mobarak.



Opinion/Order

1. Originally this case was forward by the Superintendent of police (S.P. for short) Goalpara under the F.T. Case Vide reference Case No.447/2009 expressing doubt about the nationality of the opp. Party (o.p. for short) namely Mamotaz Begum, W/O-Bajlur Rahman as mentioned INTERROGATION REPORTON FOREIGN NATIONAL. (report of the inquiry officer) and Form No. I,II&III of Vill-Dharai(Kaklipara), P.S-Lakhipur, Dist-Goalpara with a prayer to decide as to whether the proceedee is illegal migrant, as they were Suspected to be national of Bangladesh and to have entered in to India after 25-03-1971, subsequently, this case was transferred to this Tribunal for decision as per provision of Foreigner's Act 1946.

2. It appeared from the record that initially, notice was issued in the names of Mamotaz Begum to show cause as to why she should not be declared as Foreigners under the Foreigner's Act 1946. On the receipt of the notice, the proceedee appeared and filed written Statement along with copies of relevant documents. The Proceedee herself to be citizen of India by birth. There after she appeared and submitted evidence on affidavit along with certain documents relied upon Support version.

Now, the point for determination is as to whether proceedee is citizen of India or foreigners within the meaning of the expression Foreigner as defined in the foreigner's Act 1946.

3. As per provision of the section 9 of the foreigner's act 1946, the Onus of providing that the Suspects (The OPS in instant case) is citizen and not foreigners' lie upon the Suspects (The OPS) not with standing anything contained in the Indian Evidence Act 1872 (1 of 1872) Now let us find out as to how the proceedee could discharge their burden to proved that she is not foreigner.

4. I have gone through the evidence on affidavit filed by. The OP as well as the document evidence on record carefully. On perusal of the affidavit the proceedee age is 55 yrs. By religion Islam, is Indian citizen by birth.

5. That the proceedee deposed that her grandparent's names are Lt.Somir Uddin Sheikh and Rupjan Bibi@Rup Bewa and perent's name are Abdul Mozid@Abdul Mozid Sheikh and Rohima Khatun Bibi. That her father's name has been recorded in the voter list of 1959 of Vill-Kaim Singrarpak under P/S-Bilasipara, Vide Sl.No.80 and House No.26 under Bilasipara LAC. That her father's name has been also recorded in the voter list of 1966&1970 of Vill-Kajipara pt-II under P/S-Bilasipara under Kokrajhar East LAC/39.

6. That she was born and brought up at Vill- Kajipara pt-II(Singarpak) under P/S-Bilasipara, Dist-then Dhubri, Assam and she got married with Bajlur Rahman,S/O-Nurul Hoque of Vill-Dharai under P/S-Lakhipur, Dist-Goalpara,Assam. Accordingly her name along with spouse name has been recorded in the voter list of 1989,1997, 2005, 2015,2021&2022 of Vill-Dharai under P/S-Lakhipur under Jaleswar LAC/39.

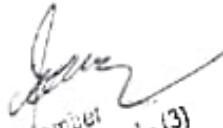
7. That the proceedee has produced a D.W.2, namely Roisul Islam,S/O-Lt.Abdul Mozid Sheikh of Vill-Kazipara Pt-II under P/S-Chapar, Dist-Dhubri, Assam. That the proceedee is his own younger sister. Proceedee married with Bajlur Rahman,S/O-Nurul Hoque of Vill-Dharai under P/S-Lakhipur, Dist-Goalpara,Assam in the year of 1987. He is a voter of Kazipara. His father was a voter of Chapor. Proceedee read up to Class X at Chapor Govt. High School. Land documents are submitted in support of proceedee. It is not fact that the proceedee is foreigner and came from Bangladesh after 1971.

8. That the proceedee has produced a D.W.3, namely Abdul Kalam, S/O-Abdul Korim of Vill-Roumari Pt-II under P/S-Abhayapuri, Dist-Bongaigaon, Assam. Ex-H is the School Transfer certificate which was issued by the Principal Lt.Abdul Khalek to the proceedee Mamotaz Begum,D/O-Abdul Mozid of Vill-Singrarpak under P/S-Bilasipara, Dist-Dhubri, Assam. Proceedee left the School on 24-06-1990. She attain about 23 years. Proceedee read up to Class X at Chapor Govt. High School. Ex-H(i) is the signature of principal.



9 In Support of the aforesaid Contentions, the OPs have submitted Certified copy of voter list in the year of 1959,1966,1970, 1977,1989,1997,2005,2015&2021.

- I. Ex-"A" Certified copy of voter list in the year of 1959 in the name of proceedee's father Abdul Mozid,S/O-Somir Uddin of Vill-Kaim Singrarpak under P/S-Bilasipara, Vide Sl.No.80 and House No.26 under Bilasipara LAC.
- II. Ex-"B" Certified copy of voter list in the year of 1966 in the name of proceedee's father Abdul Mozid Sheikh, S/O-Somir Uddin of Vill-Kajipara pt-II under P/S-Bilasipara, Vide Sl.No.13 and House No.3 under Bilasipara LAC/39.
- III. Ex-"C" Certified copy of voter list in the year of 1970 in the name of proceedee's father Abdul Mozid Sheikh, S/O-Somir Uddin of Vill-Kajipara pt-II under P/S-Bilasipara, Vide Sl.No.15 and House No.3 under Kokrajhar East LAC/39.
- IV. Ex-"D" Certified copy of voter list in the year of 1977 in the name of proceedee's father Abdul Mozid, S/O-Somir of Vill-Kajipara pt-II under P/S-Bilasipara, Vide Sl.No.139 and House No.32 under Bilasipara East LAC/29.
- V. Ex-"E" Original copy of Khiraj patta in the name proceedee's father Abdul Mozid, S/O-Lt.Somiruddin of Vill-Kajipara pt-II under P/S-Bilasipara, Vide Dag No.652 which was issued by the Asstt. Settlement Officer Chapor Rev.Circle dated on 16-09-2013.


Member
Tribunal - (3)
Gochpara



VI. Ex-"F" Original copy of Khiraj patta in the name proceedee's father Abdul Mozid, S/O-Lt.Somiruddin of Vill-Kajipara pt-II under P/S-Bilasipara, Vide dag No.03 which was issued by the Asstt. Settlement Officer Chapor Rev.Circle dated on 22-05-2012.

VII. Ex-"G" Compared with Original copy of Pension Payment order in the name proceedee's father A. Mazid which was issued by the Directorate of pension, Guwahati-6.

VIII. Ex-"H" Original copy of T.C in the name of Proceedee Momotaz Begum, D/O-Abdul Mozid of Vill-Singarpak which was issued by the Superintendent of Chapar Govt. High Madrassa dated on 24-06-1990.

IX. Ex-"I" Certified copy of voter list in the year of 1989 in the name of proceedee Momtaz Begum, W/O-Bojlur Rahman of Vill-Dharai under P/S-Lakhipur, Vide Sl.No.794 and House No.264 under Jaleswar LAC/39.

X. Ex-"J" Certified copy of voter list in the year of 1997 in the name of proceedee Momtaz Begum, W/O-Bojlur of Vill-Dharai under P/S-Lakhipur, Vide Sl.No.686 and House No.169 under Jaleswar LAC/39.

XI. Ex-"K" Certified copy of voter list in the year of 2005 in the name of proceedee Momtaz Begum, W/O-Bojlur Rahman of Vill-Dharai under P/S-Lakhipur, Vide Sl.No. 153 and House No.169 under Jaleswar LAC/39.

XII. Ex-"L" Certified copy of voter list in the year of 2015 in the name of proceedee Momtaz Begum, W/O-Bojlur Rahman of Vill-Dharai under P/S-Lakhipur, Vide Sl.No. 180 and House No.169 under Jaleswar LAC/39.

XIII. Ex-"M" Certified copy of voter list in the year of 2021 in the name of proceedee Momtaz Begum, W/O-Bojlur Rahman of Vill-Dharai under P/S-Lakhipur, Vide Sl.No. 232 and House No.169 under Jaleswar LAC/39.



[Handwritten Signature]
Member
Jaleswar Tribunal - (3)
Goalpara

10. That the proceedee's grandparent's names are Lt. Somir Uddin Sheikh and Rupjan Bibi@Rup Bewa and parent's name are Abdul Mozid@Abdul Mozid Sheikh and Rohima Khatun Bibi. That her father's name has been recorded in the voter list of 1959 of Vill-Kaim Singrarpak under P/S-Bilasipara, Vide Sl.No.80 and House No.26 under Bilasipara LAC. That her father's name has been also recorded in the voter list of 1966&1970 of Vill-Kajipara pt-II under P/S-Bilasipara under Kokrajhar East LAC/39.

11. That she was born and brought up at Vill- Kajipara pt-II(Singarpak) under P/S-Bilasipara, Dist-then Dhubri, Assam and she got married with Bajlur Rahman,S/O-Nurul Hoque of Vill-Dharai under P/S-Lakhipur, Dist-Goalpara,Assam. Accordingly her name along with spouse name has been recorded in the voter list of 1989,1997, 2005, 2015,2021&2022 of Vill-Dharai under P/S-Lakhipur under Jaleswar LAC/39.

12. Therefore as for as proceedee Mamotaz Begum, W/O-Bajlur Rahman has discharged her burden. She proved that her father's name is Abdul Mozid@Abdul Mozid Sheikh and he entered in Assam before 1959 from adduced documents by proceedee it is seen that these documents are all related to before 1959. I am considered opinion for the reason and discussion above that she has discharged her burden as per provision of Sec. 9 of Foreigner Act. 1946 and she proved that she is Indian citizen. She has proved that she is not foreigner. The reference has answered in negative.

13. Considering the entire material on record and discussion above, I am of the considered opinion that the evidence of OPS proved the proceedee Mamotaz Begum@Momotaz Begum is not foreigner as such; she acquired citizenship of India by birth. The case is decided accordingly. Thus the reference is disposed on contest.



The Opinion and Order passed on 25th day of Aug./ 2022.
Dictated and Corrected by me. *[Signature]*

1. Inform to Superintendent of Police (B) Goalpara, along with order copy.
2. Inform to District Magistrate Goalpara, along with order copy.

Copied by
Biswajit Saha
Copyist 08/19/22
Foreigners Tribunal 3
Goalpara

Certified to be True Copy
Vijay
08/19/22
U.D.A. cum Accountant
Foreigners Tribunal - 3
Goalpara

[Signature]
R.K.Khakhary
Member
Foreigners Tribunal No.3
Goalpara

Member
Foreigners Tribunal - (3)
Goalpara

