

Date of Application for Copy	Date fixed for notifying the requisite number of Stamp & Folio	Date of delivery of the requisites Stamp & Folio	Date of which the copy was ready for delivery	Date of making over the copy of the Applicant
29-12-22	29-12-22	29-12-22	29-12-22	29-12-22

Petition No.....

By.....

FOREIGNER'S TRIBUNAL -II, GOALPARA
PRESENT: - Sri Debananda Das, B.Sc. LL.B., Member

OPINION

F.T(2) Case No. GFT -2/764/22

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F.T(2) Case No. GFT-2/765/22

IM(D)T Case No.151/2005

&

ERO,S Case No-94/103/37

Police Reference No.GLP/B/III-3/2005/1172, dated 22/2/2005

&

Police Reference No.GLP/B/Doubtful I.M/98/471, dated 04/5/1998.

State..... complainant

-Vs-

Ajiban Nessa @ Ajibun Nessa..... Opposite Party.

For the State	:-	Md. M. Hussain .Asstt G.P.
For the Opp. Party	:-	Mr. Ashim Mobarak, Advocate.
Date of Evidence	:-	12/12/22
Date of Argument	:-	20/12/22
Date of Opinion	:-	22/12/22

This is reference U/S 2(i) of the Foreigners' Tribunal (Order) 1964 for opinion whether the Opp. Party **Ajiban Nessa @ Ajibun Nessa, W/O: - Afjel Ali @ Abjal Ali,** [REDACTED] **Assam** is a foreigner or not

The reference is that the S.I.(B). Rezzak Ali, Goalpara, suspected the Opp. Party to be a foreigner as she failed to produce any authentic document at the time of spot inquiry.

There after the S.I.(B) referred the matter to the Superintendent of Police, (Border), Goalpara, Assam.



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The Superintendent of Police, (Border), Goalpara, referred this case to the IM(D)T Tribunal for opinion.

After struck down of the IM(D)T Tribunal in Sarbananda Sonowal Vs Union of India (AIR 2007) SC 2920, (2005) 5scc665 (Sonowal I) this case is referred to this tribunal for Opinion. After receiving the referenced this tribunal registered the u/s. 2(i) of the Indian Foreigner's Act, 1946 and issued notice to the OP.

The Opp Party **Ajiban Nessa @ Ajibun Nessa, W/O: - Affel Ali @ Abjal Ali, [REDACTED] Assam** after receiving the notice from this Foreigner Tribunal-2, Goalpara, appeared, engaged Advocate filed a petition stating that he she has another case of this tribunal and she also received the notice of the case No GFT-2/765/22, after preliminary inquiry it is found OP is one and same person of both the case. As per ruling of the Honourable High Court both the cases are tagged in one case and one trial will be took place.

The OP filled her Written Statement along with some documents, claiming that her grandfather and father is an Indian, and she is also Indian by birth and adduced evidences as **OPW-1, & OPW-2**.

Point for decision: - Whether the O.P Ajiban Nessa @ Ajibun Nessa, W/O: - Affel Ali @ Abjal Ali, R/O, [REDACTED] Assam a Foreigner or not?

In the WS as well as in evidence in chief the Opp. Party stated as OPW-1, as her father is Indian Citizen by birth, she was born and brought up at village - Dabpara (Revenue Village - Karipara) under Matia P/S, Dist. Goalpara, Assam about 68 years ago. Her father's name is **Lt. Abdul Sheikh @ Abdul Rahman S/O- Lt. Rahmatulla** and her mother's name is **Motijan Bewa @ Buri Pagli Bewa W/o- Lt. Abdul Sheikh @ Abdul Rahman** respectively. She stated that her parents name is enlisted in the voter's list of 1966, 1970, 1979 & 1985. OP also stated that she married with one Abjel Ali S/O- Tofik Sheikh of village- Bamunpara, P.S: - Matia, Dist. Goalpara, Assam about 47 years ago. Thereafter her name is first time enlisted in the voter list of 1979 along with her husband as Ajibun Nessa W/o- Abjel of the 37th Goalpara East L.A.C and marked as 'D' has been written as her name. She also stated that father is an Indian as well as she is also Indian Citizen by birth.

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The Secretary of Karipara Gaon Panchayat, where name of OP mentioned as *Ajibun Nessa* is daughter of *Abdul Sk* of village- Karipara, P. S: - Matia, Dist. Goalpara. Vide Memo No. KGP/M.W./SFT/2015/442, dated- 17-06-2015, issued by the Secretary of Karipara, Gaon Panchayat and counter signed by the BDO of Matia Dev. Block. And *Ext.J* is the Pan Card in the name of O.P *Ajibun Nessa* D/o- *Abdul Sheikh*. She also stated that her grandfather and father is an Indian. She claimed that she also an Indian Citizen by birth. In her support she exhibited some documents.

In cross this **OPW-1** stated that she is daughter of ***Abdul Sk @ Abdul Rahman Sk S/O- Rahmot Ullah***, r/o. village- Debpara Karipara, P.S: - Matia, Dist. Goalpara, Assam. Her father name is enlisted since 1966 and 1970 voter list. She was born and brought up at her father's house at village- Debpara Karipara, P.S: - Matia, Dist. Goalpara, Assam about 68 years ago. She never went to School. OP also stated that she married with ***Abjel Ali S/O- Tofik Sk*** Vill- Bamunpara P/s- Matia, Dist- Goalpara, Assam. Her name is enlisted in 1997 and marked as "D". Her father has land properties in 1944. Her father name is enlisted in 1965, 1970 voter list. Her father expired in 1985. Her mother's name is ***Motijan Bewa @ Buri Pagli Bewa***. Step mother is *Ajimun Nessa*. Her father has 3 sons & daughter 1. She is only one daughter. She is 3rd. She is Indian Citizen. She belongs to Gariya Assamese Muslim Community and not migrated person. She has 3 sons and 1 daughter. It is not a fact that she deposed falsely.

OPW-2 *Amzed Ali S/O- Lt. Abdul Sheikh @ Abdul Rahman*, elder brother of the O.P also adduced his evidence stated that O.P *Ajiban Nessa* is his younger sister. His father name is ***Abdul Sk @ Abdul Rahman S/O- Rahmatullah R/O***, Vill- Karipara Debpara, P/S- Matia, Dist- Goalpara, Assam, where He and O.P was born & brought up. Her father expired in 1985. He has 3 brothers & 1 sister. He is 2nd & OP is 3rd. O.P married with ***Abjel Ali S/O-Tafik Sk***, R/O, Vill- Bamunpara, Dist- Goalpara, Assam. O.P has 1 son & one daughter. He denied the suggestion of that he belongs Mia community not they belongs to Garia Muslim. This OP's side witnesses are dully cross by the Asstt. 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

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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**.

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

The OP exhibited the certified copy voter list of **Lt. Abdul Sheikh @ Abdul Rahman** which is mentioned as below.

Ext: -A is the original copy of NRC of 1951 in the name of Abdul Sk S/O- Rahmatullah of Vill- Karipara (278), P/S- Goalpara, Dist- Goalpara, Assam, vide Union No. 6 (Six), House No.61, House holding No-51, Issue No-246197 Dt- 12/11/1997, issued by Dy. Supdt, of Police (B) Goalpara.

Ext: -B is the Original copy of Purchased Deed vides Sl. No-1174, Deed No-1138 dated-06/05/1954 in the name of Abdur Rahman Sk S/O- Lt. Rahmotullah Sk, P/S & Dist- Goalpara.

Ext: -C is the Original copy of Khatian of Bijni Tea Estate in the name of Abdul Sk S/O- Rahmotullah dated-29/11/1961.

Ext: -D is the certified copy of Jamabandi in the name of Abdul Sk S/O- Rahmotulla.

Ext: -E is the voter list Certified copy of **1966** in the name of **Abdul Sheikh S/o- Rohmotullah Mistri** of Vill- Karipara Pt-III, under 45th Goalpara East LAC, vide Part No.128, House No.84, Sl. No. 257 and age are shown as 55 years.

Ext: -F is the voter list Certified copy of **1970** in the name of **Abdul Sheikh S/o- Rohmotullah Mistri** of Vill- Karipara Pt-III, under 45th Goalpara East LAC, vide Part No.128, House No.84, Sl. No. 268 and age are shown as 59 years.

Ext: -G is the voter list Certified copy of **1979** in the name of **Abdul Rahman S/o- Rohmotlulya** of Vill- Karipara Pt-III, under 37th Goalpara East LAC, vide Part No.177, House No.65, Sl. No. 205 and age are shown as 66 years.

Ext: -H is the voter list Certified copy of **1985** in the name of **Abdul Sheikh S/o- Rohmotlulya** of Vill- Karipara Pt-III, under 37th Goalpara East LAC, vide Part No.94, House No.149, Sl. No. 780 and age are shown as 68 years.

After gone through the above exhibited documents it is found that **Abdul Sheikh @ Abdul Rahman S/o. Rohmotullah Mistri @ Rohmotullah** r/o. village- Karipara Pt-III, P.S: -Goalpara, Dist. Goalpara, Assam, and his name was enlisted in the voter list of **1966, 1970, 1979 & 1985**. So, **Abdul Sheikh @ Abdul Rahman S/o. Rohmotullah Mistri @ Rohmotullah** r/o. village- Karipara Pt-III, P.S: -Goalpara, Dist. 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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The OP and other witnesses stated that OP **Ajibun Nessa** is daughter of **Abdul Sheikh @ Abdul Rahman**. OP's father name was enlisted in the voter list of 1966 to 1985 at village- Karipara Pt-III, P/S- Goalpara, Dist- Goalpara, Assam, where OP was born. OP married with **Abjel Ali S/O- Tofik Sk** Vill- Bamunpara P/s- Matia, Dist- Goalpara, Assam. In her support of exhibited the documents as below.

Ext: -I is the linkage certificate of Karipara Gaon Panchayat mentioned as Ajibun Nessa is daughter of Abdul Sk of village- Karipara, P. S: - Matia, Dist. Goalpara, Vide Memo No. KGP/M.W./SFT/2015/442, dated- 17-06-2015, issued by the Secretary of Karipara, Gaon Panchayat and counter signed by the BDO of Matia Dev. Block.

Ext: -J is the Pan Card issued by Income Tax Department, Govt. of India in the name of **Ajibun Nessa D/O- Abdul Sheikh** vide Card No- CCBNP9969C.

Ext: -K is the voter list Certified copy of **1979** in the name of **Ajibun Nessa W/o- Abjel** of Vill- Bamunpara, under 37th Goalpara East LAC, vide Part No.174. House No.37, Sl. No. 104 and age are shown as 25 years.

Ext: -L is the voter list Certified copy of **1985** in the name of **Ajibun Nessa W/o- Abjol** of Vill- Bamunpara, under 37th Goalpara East LAC, vide Part No.92. House No.13, Sl. No. 593 and age are shown as 30 years.

In the above mentioned as **Ext-I** is Linkage Certificate and **Ext-J** is Pan Card as **Ajibun Nessa** is daughter of **Abdul Sheikh** it is supporting document. Hence this document is admitted as per Indian Evidence Act. From this document it is mentioned OP **Ajibun Nessa's** father name is **Abdul Sheikh**. The Op's bother also adduced his evidences as OPW-2. After carefully scrutinized all the witnesses' evidences and documentary evidences it is crystal clear that the OP **Ajibun Nessa** is daughter of **Abdul Sheikh**.

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.

From the foregoing discussions, it is crystal clear that O.P. **Ajibun Nessa** is daughter of **Abdul Sheikh @ Abdul Rahman**. I have already held that **Abdul Sheikh**

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@ **Abdul Rahman** is an Indian Citizen. The O.P. **Ajibun Nessa**, therefore naturally as a daughter of **Abdul Sheikh @ Abdul Rahman**, is an Indian Citizen by birth.

Therefore, from the facts discussed above, I give my opinion that **Ajiban Nessa @ Ajibun Nessa, W/O: - Afjel Ali @ Abjal Ali, R/O, Vill- Bamunpara, P.S. Matia, and Dist. Goalpara, Assam**, the proceeded/opp. Party is **not a Foreigner of any stream, and she is an Indian National. Moreover this Opposite party belongs to Garia Muslim Community.**

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

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Sri Debananda Das,
Member,
Foreigners Tribunal-II
Goalpara