

BEFORE THE MEMBER, FOREIGNERS TRIBUNAL NO.1 GOALPARA

PRESENT: Ipsita Gohain, Member

F. T Case No. 8098/G/16

(District Case No. 621/2004)



State of Assam Complainant

-VS-

Musstt. Ramila Begum

W/O Md. Jahanuddin

Village – Borpahar

P.S – Goalpara,

District - Goalpara, Assam Proceedee/ Opposite Party



For the State: Md. S. Hussain, Asst. Govt. Pleader
For the Proceedee: Mr. Ashim Mobarak
Dates of argument: 18.11.2022
Date of Opinion: 20.12.2022

This is a reference u/o 2 (1) of the Foreigners (Tribunals) Order 1964 which was forwarded by the Superintendent of Police (B), Goalpara to this Tribunal to render an opinion as to whether the Proceedee, Musstt. Ramila Begum, W/O Md. Jahanuddin, Village – Borpahar, P.S – Goalpara in the district of Goalpara, Assam is or is not a "Foreigner" within the meaning of Sec 2 (a) of The Foreigners Act 1946.

This reference was forwarded by the Superintendent of Police (B), Goalpara to the S.I (B) Bhubaneswar Sarmah of Goalpara P.S. to conduct an enquiry of the illegal migrant, Musstt. Ramila Begum, W/O Md. Jahanuddin, Village – Borpahar, P.S – Goalpara in the district of Goalpara, Assam conducted the enquiry and submitted a report to the Superintendent of Police (B), Goalpara and the Superintendent of Police (B), Goalpara forwarded the reference to (then) IM(D)T. After the IMDT Act was declared unconstitutional by the Hon'ble Supreme Court, the related reference was transferred to this Foreigners Tribunal which was registered and numbered as F.T. Case No. 8098/G/16.

Member

Foreigners Tribunal No. 1
Goalpara, Assam



This Tribunal, by order dated 06.04.2022 issued notice to the proceedee. The proceedee, Musstt. Ramila Begum, appeared before this tribunal on 29.4.2022 and filed her written statement along with some documents on 07.06.2022, wherein she has stated, inter-alia, that she, her parents and grandparents were all Indian Citizens by birth and that the name of her grandparents are Lt. Khobor Shah @ Ali and Lt. Gerpi Bibi and the name of her parents are Lt. Kofur Ali Sheikh @ Fokir Ali Sheikh and Lt. Kosiron Bibi @ Bewa and that her grandfather and father were born and brought up at village Jotsorobdi under the then Goalpara and now Krishnai P.S. and that the name of her father along with her uncle are found in registered land deeds of the years 1965 and 1966 and that the names of her parents do appear in the voter list of 1966 onwards and that name of her mother do appear in the voters list of 1989 after her father had expired and that she was born and brought up at village Jotsorobdi, P.S-the then Goalpara, now Krishnai and that she got married with one Jahanuddin Sheikh S/O Eli Sheikh of village Milannagar Santipur, P.S. Goalpara on 7.9.1990 and that thereafter her name was recorded in the voter list of 1997, 2005, 2017, 2021 and 2022 along with her husband and that she has produced a certificate issued on 19.6.2015 to establish her linkage with her parents and that this is a false reference against her and is liable to be dismissed.

Thereafter the proceedee had filed her evidence-in-chief exhibiting the following documents:-

Exhibit A: Registered Sale Deed issued on 8.6.65.

Exhibit B: Registered Sale Deed issued on 14.7.66.

Exhibit C: Certified copy of the Voters List of 1966 pertaining to (207) Jotsorobdi under 45 no. Goalpara East LAC incorporating the names of Kafur Ali Sheikh S/O late Khabar Shah, Pertani Bibi W/O Kofurali Shah and Kosiran Bibi W/O Kofurali Shah, aged about 42 years, 26 years and 24 years respectively.

Exhibit D: Certified copy of the Voters List of 1970 pertaining to (207) Jotsorobdi under 45 no. Goalpara East LAC incorporating the names of Kafur Ali Sheikh S/O late Khabar Shah, Pertani Bibi W/O Kofurali Shah and Kosiran Bibi W/O Kofurali Shah, aged about 46 years, 30 years and 28 years respectively.

Exhibit E: Certified copy of the Voters List of 1979 pertaining to (151) Jotsorobdi under 37 no. Goalpara East LAC incorporating the names of Kafur Ali S/O Khabar Shah, aged about 60 years.

Exhibit F: Registered Sale Deed issued on 2.2.84.

Exhibit G: Original Chitha issued on 30.4.22 in the name of Kofur Ali S/O late Khabar Ali, Solimuddin S/O late Khabar Ali and Surat Zamal S/O late Samsar.

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Exhibit H: Certified copy of the Voters List of 1989 pertaining to 116 Jotsorobdi under 37 no. Goalpara East LAC incorporating the names of Kosiran Bewa W/O Kafur, Kasim S/O Kafur, Ramisa khatun W/O Kafur and Nasiyabibi W/O Kafur, aged about 56 years, 25 years, 19 years and 20 years respectively.

Exhibit I: Death Certificate issued on 22.10.2013 in the name of late Kosibon Bewa W/O late Kafur Ali, Village- Jotsorobdi, Krishnai.

Exhibit J: Marriage Certificate issued by the Office of the Muslim Marriage and Divorce Registrar Kazi Office on 5.10.2019 certifying that Rabila Begum D/O Kafur Ali Sheikh of Jatsorobdi, P.S. Goalpara got married with Jahanuddin Sheikh S/O Eli Sheikh of Milan Nagar, Santipur, P.S. Goalpara.

Exhibit K: Certificate issued in the name of Robila Begum D/O late Kafur Sheikh of Jotsorobdi Barbhita on 19.6.2015.

Exhibit L: Certified copy of the Voters List of 1997 pertaining to Bhalukdubi under 37 no. Goalpara East LAC incorporating the names of Jahanuddin Sheikh S/O Eli Sheikh, Rabila Begum W/O Jahanuddin Sheikh, Iyar Ali S/O Jahanuddin Sheikh, Jaherun Begum W/O Jahanuddin Sheikh, Saberun Begum W/O Jahanuddin Sheikh and Abul Hussen S/O Jahanuddin Sheikh, aged about 55 years, 30 years, 19 years, 27 years, 22 years and 30 years respectively.

Exhibit M: Certified copy of the Voters List of 2005 pertaining to 7 Bhalukdubi under 37 no. Goalpara East LAC incorporating the names of Jahanuddin Sheikh S/O Eli Sheikh, Rabila Begum W/O Jahanuddin Sheikh, Iyar Ali S/O Jahanuddin Sheikh, Jiyar Ali S/O Jahanuddin Sheikh, Abeda Begum W/O Jiyar Ali and Ased Ali S/O Jahanuddin Sheikh, aged about 62 years, 37 years, 26 years, 24 years, 19 years and 20 years respectively.

Exhibit N: Certified copy of the Voters List of 2017 pertaining to 7 Bhalukdubi under 37 no. Goalpara East LAC incorporating the names of Rabila Begum W/O Jahanuddin Sheikh, Iyar Ali S/O Jahanuddin Sheikh, Jiyar Ali S/O Jahanuddin Sheikh, Ased Ali S/O Jahanuddin Sheikh, Abeda Begum W/O Jiyar Ali, Runa Begum W/O Iyar Ali, Anowara Begum W/O Ased Ali and Rafiqul Islam S/O Jahanuddin Sheikh, aged about 48 years, 37 years, 35 years, 31 years, 30 years, 28 years, 25 years and 19 years respectively.

Exhibit O: Certified copy of the Voters List of 2021 pertaining to 7 Bhalukdubi under 37 no. Goalpara East LAC incorporating the names of Rabila Begum W/O Jahanuddin Sheikh, Iyar Ali S/O Jahanuddin Sheikh, Jiyar Ali S/O Jahanuddin Sheikh, Ased Ali S/O Jahanuddin Sheikh, Abeda Begum W/O Jiyar Ali, Runa Begum W/O Iyar Ali, Anowara Begum W/O Ased Ali and Rafiqul Islam S/O Jahanuddin Sheikh, aged about 52

years, 41 years, 39 years, 35 years, 34 years, 32 years, 29 years and 23 years respectively.

The Proceedee has examined herself as DW 1, Kadarbhan Bibi as DW 2, Kashem Ali as DW 3, Romisa Khatun as DW 4, the Secretary of Manikpur Bhelakhamar G. P. as DW 5 and Naib Kazi, Lakhipur, Goalpara was examined as DW 6. All the DWs have been cross examined.

I have heard Learned Counsel for the Proceedee and the Learned Asst. Govt. Pleader as well.

On perusal of the W.S, evidence and documents relied upon by the Proceedee it is found that *Exts. C & D* are the certified copies of voter lists 1966 and 1970 of village (207) Jotsorobdi under 45 No. Goalpara East LAC, wherein, the names of Kafur Ali Sheikh, Pertani Bibi and Kosiran Bibi do appear and the proceedee has projected Kafur Ali Sheikh and Kosiran Bibi as her parents and Pertani Bibi as her stepmother. She has also produced two land documents registered on 8.6.65 and 14.7.66 as *Exts. A & B* where the seller has been shown as Kafur Ali Sheikh @ Fokir Ali Sheikh thus showing the presence of Kafur Ali Sheikh @ Fokir Ali Sheikh in India prior to 1.1.1966. Thereafter, she has produced Certified copy of the Voters List of 1979, Sale Deed registered on 2.2.84 and Original Chitha issued on 30.4.22 as *Exts. E, F and G*, showing the continuous presence of Kofur Ali, her projected father.

After the death of Kofur Ali, she has produced Certified copy of the Voters List of 1989 of village Jotsorobdi and a Death Certificate of Kosiron Bewa @ Kosiron Bewa bearing registration number 169/13 issued on 22.10.2013 as *Exts. H and I* showing the name of her projected mother, Kosiron Bewa.

The proceedee had got married with one, Jahanuddin Sheikh S/O Eli Sheikh of Milan Nagar, Santipur, P. S Goalpara and has produced a Marriage Certificate as *Ext. J* Certificate issued by the Office of the Muslim Marriage and Divorce Registrar, Kazi Office on 5.10.2019.

The Naib Kazi, Lakhipur, Goalpara was examined as DW 6 and he had said, inter-alia, that Exhibit J was issued on 5.10.2019 from their office to Rabila Begum D/O Kafur Sheikh of village Jotsarobdi and that Exhibit J (1) is the signature of the earlier Kazi, Lt. Shah Jahan Mollah and that the marriage was registered on 7.9.1990. During his cross-examination, the DW 6 had said that he had not found any application for the marriage and he does not know whether any enquiry was made before registering the marriage. He had further said that the contents of the certificate had been entered from the original Marriage register.


Naib Kazi,

Foreigners Tribunal,
Goalpara Assam



While it can be said that the marriage was conducted but from the evidence of the DW 6, it cannot be said that proper enquiry was made as regards to the identity of bride, the proceedee, Rabila Begum as being the daughter of Kafur Sheikh, before registration of the marriage and hence, this document cannot give any assistance to the Proceedee to prove her linkage with her projected father.

She has produced one Certificate as *Ext. K* issued on 19.6.2015 by the Secretary, Manikpur Bhelakhamar Gaon Panchayat certifying that Robila Begum D/O late Kafur Sheikh and Kasiban Bewa got married to Jahanuddin Sheikh S/O Lt. Ili Sheikh of Milan Nagar, Santipur on 7.9.1990.



The Secretary, Manikpur Bhelakhamar Gaon Panchayat, was examined as DW 5 and he had said, inter-alia, that *Ext. K* was issued on 19.6.2015 from their office to Rabila Begum D/O Kafur Sk of village Jotsarobdi and that *Ext. K (1)* is the signature of the earlier Secretary and *Ext. K (2)* is the signature of the B.D.O, Krishnai Development Block and he could identify both the signatures and that she got married to Jahanuddin Sk S/O Lt. Ili Sheikh of village Milannagar, Santipur. During his cross-examination, the DW 5 had admitted that he does not know Rabila Begum personally and the Certificate was issued for NRC purpose and on the basis of an application filed by Romisa Begum which was also signed by few village persons and he had brought the counter folio along with him. From the evidence of the DW 5, it is seen that the Certificate was issued by the Secretary on the basis of an application filed by one, Romisa Begum and signatures of few village persons were also found identifying the proceedee. The evidence of DW 6 seems to be trustworthy.


After her marriage she has produced Certified copies of Voters Lists of 1997, 2005, 2017 and 2021 as *Exts. I, J, K and L*, where the name of the proceedee does appear along with her husband, Jahanuddin Sheikh and other members. These Exhibits are not much of assistance to the proceedee as these Exhibits does not show her linkage with Kafur Ali Sheikh @ Fokir Ali Sheikh, her projected father but shows her continuous presence after 1997.

The DW 2, 3 and 4 - Kadarbhan Bibi, Kasem Ali and Romisa Begum @ Khatun had said more or less the same things in their evidence-in-chief and in their written statement as the proceedee.

In the cross-examination of DW 2, she had said that her mother, Kosiron Bibi is the third wife of her father, Kafur Ali and that they are one brother and four sisters and she is the eldest and Ramila is the fourth child and that they belongs to the "Goriya" community and that Ramila got married with Jahanuddin in 1990 and has two children.

DW 3, in his cross-examination, had said that his father is Kafur Ali and that they are from the "Goriya Community" and that his mother is Kosiron Bibi and she had

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expired about nine years ago and that their parents had one son and four daughters and he is the third issue and that Ramila is three years younger to him and that Ramila got married with Jahanuddin in 1990.

DW 4, in her cross-examination, had said that they are five brothers and sisters from their mother, Kosiron Bewa and that she is the youngest and that Ramila is her sister and is the fourth issue and is two years elder to her and that that their parents are Lt. Kafur Ali and Kosiron Bibi and that that they are from the "Goriya Community" and that Ramila got married with Jahanuddin in 1990 and has one son and one daughter and that her name is found in the Voters List of 1989 (Ext. H) along with her mother, Kosiron Bewa.

Thus the evidences of the DW 1, DW 2, DW 3, DW 4 and DW 5, when summed up together for discussion corroborates to the entries appeared in the admissible exhibits and appears to be trustworthy which substantiates the claim of the proceedee as being the daughter of Kafur @ Fokir Ali Sheikh and Kosiran Bibi @ Kosiban Bewa, whose presence in India is seen prior to 1.1.1966 and hence, in my considered opinion, the Proceedee has succeeded to discharge her burden under Section 9 of the Foreigners Act, 1946 and prove that she is not an illegal migrant.

OPINION:




Considering the materials on record and the discussions made herein this Tribunal is of the opinion that the Proceedee Musstt. Ramila Begum, W/O Md. Jahanuddin, Village - Borpahar, P.S - Goalpara in the district of Goalpara, Assam is not "an Illegal Migrant".

Hence the Reference case is answered in negative and in favour of the Proceedee.

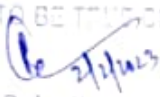
A copy of this Opinion be furnished to all concerned.

This Reference is thus disposed off on contest.

DATE OF FILING APPLICATIONS	DATE WHEN COPY WAS READY	DATE OF DELIVERY
21.12.2022	19.01.2023	02.02.2023
Copied By		Compared By
Babha		


Ipsita Gohain
Member, Foreigners Tribunal - 1
Goalpara, Assam

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U.D. Asst.
Foreigners Tribunal - 1
Goalpara, Assam