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24-4-23	24-4-23	24-4-23	24-4-23	24-4-23

Copy of Judgement in Foreigners Tribunal(3rd) , Case No.915/12 in the Court of Foreigners Tribunal(3rd) Darrang, Mangaldai.

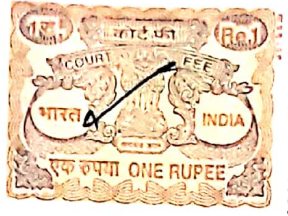
Parties

State of Assam(1st Party)

-Vs-

Musstt. Anowara Khatoon

Copy issued No 15
Date 24.4.2023



**BEFORE THE MEMBER, FOREIGNERS' TRIBUNAL (3RD) DARRANG,
MANGALDAI**

FT (3)CASE NO. 915/2012

Ref-FT Case No. 1332/98

Present

Sonit Saikia
Member, Foreigners' Tribunal (3rd)
Darrang, Mangaldai



STATE OF ASSAM

-Vs-

...Petitioner

Musstt. Anowara Khatoon

... Opposite Party

APPEARANCE

AGP for the State
Advocate for the Opposite Party
Date of Order

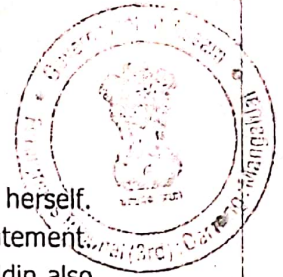
... None appear
... Mafizuddin Ahmed, *Abdul Hai*
... 23-03-2023

FINAL-ORDER

1. This case was originally forwarded by the Superintendent of police (B) Darrang, Mangaldai expressing doubt about the nationality of Opp. Party (OP in short) namely Anowara Khatoon, W/O. Md. Billal Haque, resident of
Assam with a prayer for decide as to whether OP is or not an illegal migrant.

2. On receiving reference this court registered a case and issue notice to the proceedee in the address as mentioned in the reference. As per

Sonit Saikia
Member
Foreigners Tribunal (3rd)
Darrang : Mangaldai




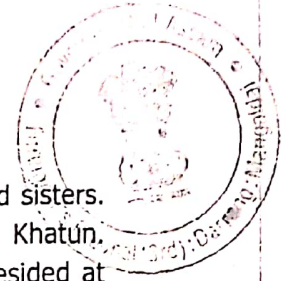
report of the process server notice of the case received by OP herself. On receipt of the notice OP appeared and filed her written statement. She adduced evidence as DW-1. One Wazuddin and Somuruddin also adduced evidence in this case as DW-2 & DW-3 respectively.

3. In her written statement OP taken up stand is that she is an Indian citizen by birth. The allegation made against her is baseless, false and just to harass her. She projected Asoruddin, Moiful Nessa and Meserdeu is her father, mother and grand-father. She had another mother namely Arifjan Nessa. OP claims that she was born at Village-Nagajan under Kharupetia Police Station and got married to one Billal Ali S/o- Hussen Ali of Village- Mandalpara. OP again stated that name of her father and mother is Asudeo and Moiful Nessa. Name of her purported father listed in the voter list of 1966 under No.52 Baghbar LAC. In the year 1971 name of her purported father and mother listed in the voter list of No.52 Baghbar LAC. Thereafter, family of her father shifted to Darrang district in the year 1980 and after shifting name of her father, mother and other family members listed in the voter list of 1997 under No.68 Dalgaoon LAC. Her own name also enlisted in the voter list of 1997, 2010 and 2019. The voter list of 1966 and 1971 name of her father wrongly inserted as Asudeo in place of Asoruddin Deo. OP claims that Asoruddin Deo and Asudeo is the same person. Her father possessed landed property. So, she has prayed that she is not an illegal migrant of Assam/India.

In support of her pleadings proceeedee Anowara Begum aged about 44 years W/o-Billal Ali, resident of village-Mandalpara, P/s-Kharupetia filed evidence-in-chief by way of an affidavit as DW-1 and supported all the material facts as stated in her written statement which I have discussed above. In her **cross-examination** DW-1 stated that her father expired about 6/7 years ago. Name of her father and mother is Asoruddin and Moiful Nessa. She knows that her father casted vote but she cannot say when her father casted vote. She denied the suggestion is that her father did not cast vote. She cannot say whether her brothers casted vote with her parents or not. Her mother expired about one and half years ago. She does not know full name of her brother. She admitted that there is no other name of her father.

One Wazuddin aged about 60 years S/o-Asoruddin @ Aso Deo, resident of Village-Nagajan, P/s-Kharupetia filed evidence-in-chief by way of an Affidavit as DW-2 and stated that he is the elder brother of OP. Remaining statement of DW-2 is almost same thing as stated by OP in her pleadings. In his **Cross-Examination** DW-2 stated that his father expired about 40 years ago. Name of his mother is Moiful Nessa


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and she expired about 2 years ago. He has four brothers and sisters. He is eldest son in his family. Name of his sister is Anowara Khatun. OP got married to village-Mandalpara. Originally his family resided at Baghbor. At the age of his 19 years his father shifted to Kharupetia in the district of Darrang and settled there. After shifting he cast vote. Name of his grand-father is Meser Deo. His father expired at Baghbor. His mother cast vote with his father and he also cast vote with his mother. DW-2 admitted that his father died at Baghbor. Before marriage OP did not cast vote. He denied the suggestion is that OP is not his sister and she is not the daughter of Asoruddin.

One Somuruddin aged about 51 years S/o-Asoruddin of Village-Nagajani, P/s-Kharupetia also filed evidence-in-chief by way of an Affidavit as DW-3 and stated that he is the elder brother of OP. He was born and brought up at Village- Satra Kanara, P/s- Baghbor Police Station, District-Barpeta but later on they shifted to Village-Nagajan in the district of Darrang in the year 1989 and settled there. The remaining statement of DW-3 is almost same things as stated by DW-1/OP in her pleadings. In his **Cross-Examination** DW-3 stated that his father originally resided at Baghbor and at his childhood his father shifted to Kharupetia. He is the eldest son in his family. OP is his sister. His father expired at Baghbor. He has been casting votes since 1993. He casted vote with his mother. OP got married to village-Mandalpara with one Billal Ali. He denied the suggestion that OP is not his sister and she is not the daughter of Asoruddin.

4. Proceeding to the Exhibits, I have carefully gone through and perused the documents exhibited and relied upon by OP herein and also thread barely scrutinized the same.


Exhibit-1 is the certificate issued by gaonburah to Anowara Begum.

Exhibit-2 is the Certificate issued by gaonburah to Anowara Begum.

Exhibit-3 is the certified copies of voter list of 1966 under No. 52 Baghbor LAC of village-Satra Kanara, wherein name of Asudeu S/o-Meserdeu aged about 45 years, Moiful Nessa W/o- Asudeu aged about 30 years and Tarikjan Nessa W/o- Asudeu aged about 22 years are appeared as voters.

Exhibit- 4 is the certified copies of voter list of 1971 under No. 52 Baghbor LAC of village-Satra Kanara, wherein name of Asudeu S/o-Meserdeu aged about 49 years, Moiful Nessa W/o- Asudeu aged about 34 years and Tarikjan W/o- Asudeu aged about 26 years are appeared as voters.

Exhibit-5 is the certified copy of voter list of 1989 under 68 Dalgaon LAC wherein name of Asoruddin Deu S/o- Meser aged about 90 years,


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Moiful Nessa W/o- Asoruddin aged about 70 years, wazduddin Deu S/o- Asoruddin aged about 40 years, Nurjan Nessa and Samsuddin Deu are appeared as voters.

Exhibit-6 is the certified copy of voter list of 1997 under 68 Dalgaon LAC wherein name of Moiful Bewa W/o- Asor, Wazduddin, Narjahan Sumaruddin, Nurjahan and Farman are appeared as voters.

Exhibit-7 is the marriage link certificate issued by Secretary, Fakirpara Gaon Panchayat to Anwara.

Exhibit-8 is the certified copy of voter list of 1997 under No. 68 Dalgaon LAC wherein name of Hussen Ali, Asia Khatun, Billal Ali, Jamal Uddin, Anowara Begum W/o-Billal aged about 20 years and Hanufa Bibi are appeared as voters.

Exhibit-9 & 10 are the certified copies of voter list of 2010 & 2018 under No. 68 Dalgaon LAC wherein name of Billal Ali and Anowara Begum are appeared as voters.


Exhibit-11 & 12 are the land revenue paying receipt.

Exhibit-13, 14 & 15 are the voter identity card in the name of Anowara Begum, Wajuddin and Rahman Ali respectively.

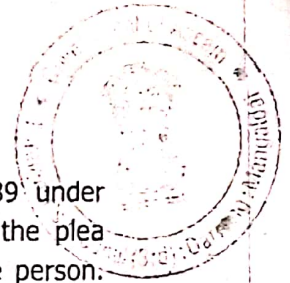
Exhibit-16 is the AADHAR card in the name of Anowara Begum.

Exhibit-17 is the PAN Card in the name of Anowara Begum.

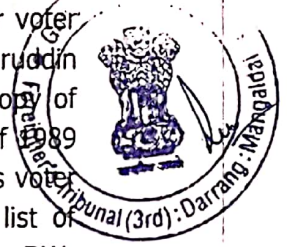
5. Heard arguments and gone through the materials available on record, written statement, evidence and also documents exhibited by OP in this case.
6. On minute examining the materials available on record it is found that OP projected Asoruddin @ Asudeo is her father and Moiful Nessa is her mother. She also projected Meserdeu is her garnd-father. In her pleadings OP claims that her purported father originally resided under Baghbar LAC but later on he shifted to Darrang District. To prove citizenship status of her purported father and mother OP exhibited voter list of 1966 and 1970 under No.52 Baghbar LAC as Exhibit-3 & 4. On perusal of that voter list name of one Asudeu S/o- Meserdeu is appeared as voter. OP also exhibited another copy of voter list for the year 1989 under No.68 Dalgaon LAC as Exhibit-5. On this voter list name of one Asaruddin Deo S/o- Meser is reflected as voter. OP taken up plea is that Asudeu and Asaruddin is the same person. Comparing voter list of 1966 and 1970 under No.52 Baghbar LAC (Exhibit-3 & 4) with voter list of 1989 under No.68 Dalgaon LAC it is seen that father's name of Asudeu and Asoruddin Deu is same and on the other hand husband name of Moiful Nessa reflected in the voter list of 1966 and


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1971 under Baghbar LAC as Asudeu and in the year 1989 under Dalgaon LAC as Asoruddin Deu. So, we cannot brush out the plea taken by OP is that Asudeu and Asaruddin Deu is the same person. Therefore, considering aforesaid discussion it is taken into account that Asudeu and Asaruddin Deu is the same person and as per voter list of 1966, 1971, 1989 it is also considered that Asudeu @ Asaruddin Deu is not an illegal migrant of India/Assam. OP produces a copy of voter list of 1989 and 1997 under Dalgaon LAC. The voter list of 1989 under Dalgaon LAC name of Wazuddin i.e. DW-2 is appeared as voter with Asoruddin Deu and Moiful Nessa. Thereafter, the voter list of 1997 under Dalgaon LAC name of Wazuddin and Somuruddin i.e. DW-3 is reflected as voter with Moiful Nessa. From the analysis it is come to light is that Wazuddin i.e. DW-2 and Sumaruddin i.e. DW-3 is the son of Asudeu @ Asaruddin Deu and Moiful Nessa. The evidence of DW-2 & 3 is appeared as trustworthy and from their evidence it is holding that OP is the daughter of Asudeu @ Asaruddin Deu and Moiful Nessa and as such OP being the descendent of Asudeu @ Asaruddin Deu she is also not an illegal migrant of India/Assam.



7. Now net result of the above discussion is that OP had discharge her burden under section 9 of the Foreigners Act, 1946 to prove that she is not an illegal migrant of Indian.
8. I therefore hold and give my opinion is that OP viz. Anowara Khatoon, W/O. Md. Billal Haque @ Billal Ali of village-Nagajan, P/s- Dalgaon (now-Kharupetia), Dist.-Darrang, Assam is not an illegal migrant as suspected and alleged in the reference case and she is not a foreigner of any stream. Hence the reference case is answered in the negative and in favour of OP.
9. Intimate the Superintendent of Police (B), Darrang accordingly with a copy of order forthwith.

Reference stands disposed of.

Member

Foreigners Tribunal (3rd) Darrang,
Mangaldai

Memo No. FT(3)/

Copy Prepared & Compared by

Office Asst.
Foreigners Tribunal (3rd)
Darrang, Mangaldai

Certified to be true copy

UDA cum Accountant
Foreigners Tribunal (3rd)
Darrang, Mangaldai

