

APPLICATION NO.	APPLICATION RECEIVED ON	DATE ON WHICH COPY WAS MADE READY	FEE 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/1742/2022

Ref. F.T Case No-451/2009



STATE

VS

Musstt. Omesha Bibi

[Signature]
Member
Foreigners Tribunal - (3)
Goalpara

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

Argument On: - 10-04-2023

Order Passed On: - 10-04-2023

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

For The Proceedee: - Advocate Mr. Ashim 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.451/2009 expressing doubt about the nationality of the opp. Party(o.p. for short) namely Omesha Bibi,W/O-Mujafar Hussain as mentioned INTERROGATION REPORTON FOREIGN NATIONAL. (report of the inquiry officer) and Form No.I,II&III of Vill-Dharai Pt-I(Bazar), 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 Omesha Bibi 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.

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Foreigners Tribunal
Goalpara

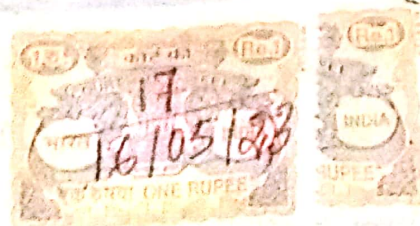


4. I have gone through the evidence on affidavit filed by. The OP as well as the document evidence on record carefully. On perusal of the affidavit the proceedee age is 55 yrs. By religion Islam, is Indian citizen by birth.

5. That the proceedee deposed that her grandparent's name are Lt.Asmatulla Sheikh and Lt.Sakila Khatun@Sakila Bibi and parent's name are Lt.Sopial Sheikh@Sofial Sk@Sofial Saikh@Sofiar Rohman@Sofial Seikh and Saleha Bibi. That, her father has been recorded in the NRC of 1951 of Vill-Takimari under P/S-Lakhipur, Vide Sl of Goalpara, Assam. That, due to erosion of mighty Brahmaputra her grandfather along with father has been shifted in to the village of Haribhanga under P/S-Phulbari from the village of Takimari.

6. That proceedee was born and brought up at Vill-Haribhanga under P/S-Phulbari, Dist-West Garo Hills, Meghalaya and she got married with Mojaffar Hosen,S/O-Lt.Naibulla Sheikh of Vill-Dharai under P/S-Lakhipur, Dist-Goalpara,Assam. Accordingly her name along with husband name has been recorded in the voter list of 1985,1997,2005,2015&2021 of Vill-Dharai under P/S-Lakhipur under Jaleswar LAC/39.

7. That the proceedee has produced a D.W.2, namely Saleha Bibi,W/O-Lt.Sofial Sheikh of Vill-Haribhanga under P/S-Tikrikilla, Dist-West Garo Hills, Meghalaya. That the proceedee is her daughter. Proceedee was born and brought up at Vill-Haribhanga under P/S-Phulbari, Dist-West Garo Hills, Meghalaya and she got married with Mojaffar Hosen,S/O-Lt.Naibulla Sheikh of Vill-Dharai under P/S-Lakhipur, Dist-Goalpara,Assam. She don't know when she casted her votes. She also don't know when she shifted from Takimari to Haribhanga. It is not fact that the proceedee is not her daughter. 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 Salam Seikh, S/O-Lt.Sofial Sheikh of Vill-Haribhanga under P/S-Tikrikilla, Dist-West Garo Hills, Meghalaya. That the proceedee is his younger sister. It is not fact that her family was in Bangladesh in the year of 1966. It is not fact that the submitted NRC documents are not belongs to her family. It is not fact that the proceedee was born in Bangladesh. It is not fact that the proceedee is foreigner and came from Bangladesh after 1971.

9. That the proceedee produced a D.W.4, namely Mantaz Ali,S/O-Mokbul Hussain of Vill-Borkolia Pt-I under P/S-Fakirganj, Dist-Dhubri, Assam. Ex-H is the Kabin Nama. The marriage was solemnized between Hasen,S/O-Nayeruddin of Vill-Dharai under P/S-Lakhipur and Omesha Bibi,D/O-Safial Sk of Vill-Haribhanga under P/S-Fulbari, Dist-West Garo Hills, Meghalaya on 15-04-1983, Vide No.115/1983 before the witness. Ex-H(i) is the signature of Kazi.

10. That the proceedee has produced a D.W.5, namely Jel Hq. Sorkar,S/O-Fesku Sorkar of Vill-Haribhanga under P/S-Tikrikilla, Dist-West Garo Hills, Meghalaya. Ex-I is the Gaon Burah certificate which was issued by him to the proceedee Omesha Khatun Bibi,D/O-Sofial Sheikh of Vill-Haribhanga under P/S-Tikrikilla, Dist-West Garo Hills. Proceedee married to Mojaffar Hosen,S/O-Nayebuddin Sheikh of Vill-Dharai under P/S-Lakhipur, Dist-Goalpara, Assam. The certificate vide ref. No.10622/07/22 dated 27/07/22 issued by him. Ex-I(i) is the signature of himself.

11. That the proceedee produced a D.W.6, namely Kamala Kanta Ray,S/O-Lt.Dhaneswar Barman of Vill-Kismat Hasdaha Pt-ii under P/S-Dhubri, Dist-Dhubri, Assam. Ex-C is the Khatian which was issued in the name of Asmot Ullah Sk,S/O-Umanoullah Sk and Kabjuddin Sk,S/O-Asmot Ullah, Vide Khatian No.484. It has 3 bigha 3 katha 3 lecha. The above said land recorded since 18-01-1962 in the name of above noted person. The land situated in the revenue village Khopati pt-II under South Salmara revenue circle, Dist-then Goalpara now South Salmara



Mankachar under Poramana Kalumalupara Dihisinghimari, Dist-Goalpara.

12. In Support of the aforesaid Contentions, the OPs have submitted certified copy of voter list in the year of 1985,1997,2005, 2015&2021 along with land documents.

I. Ex-"A" Original copy of N.R.C-1951 in the name of proceedee's father Safial Sk, S/O-Ashmatulla of Vill-

II. Ex-"B" Original copy of Final Khatian in the name of proceedee's grandfather Ashmatulla Sheikh, S/O-Manulla Sheikh of Vill-Takimari under P/S-South Salmara, Vide No.484 dated 27-06-1962.

III. Ex-"C" Certified Original Chita copy of land in the name of proceedee's grandfather Ashmatulla Sheikh, S/O-Manulla Sheikh of Vill-Takimari under P/S-South Salmara, Vide No.484 dated 01-11-2018 issued by Settlement officer Dhubri.

IV. Ex-"D" Original copy of Annual Khiraj Patta in the name of proceedee's father Md.Sofiar Rohman, S/O-Ashmotulla which was issued by the C.E.M Garo Hills district council dated 31-01-1987.

V. Ex-"G" Original copy of death certificate in the name of proceedee's father Sofial Seikh, S/O-Lt.Asmotulla Seikh which was issued by the registrar Birth&death Tikrikilla PHC dated on 09-08-2019.

VI. Ex-"H" Original copy of Kabin Nama in the name of Proceedee **Omesha** Khatun Bibi, D/O- Sofial Sheikh of

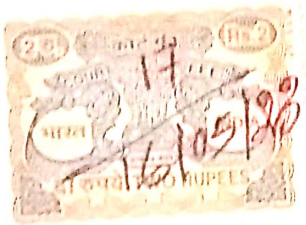


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Foreigners Tribunal (3)
Goalpara

Vill-Haribhanga under P/S-Phulbari which was issued by the Muslim marriage registrar&Kazi, Ghahmari dated on 15-04-1983.

VII.Ex-"I" Original copy of Gaonburah certificate in the name of Proceedee Omesha Khatun Bibi, D/O-Lt. Sofial Seikh of Vill-Haribhanga under P/S-Tikrikilla which was issued by the Gaonburah of Bogilabhita Haribhanga, West Garo Hills dated on 27-07-2022.

VIII.Ex-"J" Certified copy of voter list in the year of 1985 in the name of proceedee Omesha Bibi, W/O-Mojaffar of Vill-Dharai under P/S-Lakhipur, Vide Sl.No.177 and House No.5 under Jaleswar LAC/39.



IX. Ex-"K" Certified copy of voter list in the year of 1997 in the name of proceedee Omesha Khatun Bibi, W/O-Mojaffar of Vill-Dharai under P/S-Lakhipur, Vide Sl.No.583 and House No.134 under Jaleswar LAC/39.

X. Ex-"L" Certified copy of voter list in the year of 2005 in the name of proceedee Omesha Khatun Bibi, W/O-Mojaffar Hosen of Vill-Dharai under P/S-Lakhipur, Vide Sl.No.29 and House No.134 under Jaleswar LAC/39.

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Foreigners Tribunal
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XI. Ex-"N" Certified copy of voter list in the year of 2015 in the name of proceedee Omesha Khatun Bibi, W/O-Mojaffar Hosen of Vill-Dharai under P/S-Lakhipur, Vide Sl.No.40 and House No.134 under Jaleswar LAC/39.

XII.Ex-"O" Certified copy of voter list in the year of 2021 in the name of proceedee Omesha Khatun Bibi, W/O-Mojaffar Hosen of Vill-Dharai under P/S-Lakhipur, Vide Sl.No.49 and House No.134 under Jaleswar LAC/39.

13. That the proceedee's grandparent's names are Lt. Asmatulla Sheikh and Lt. Sakila Khatun@Sakila Bibi and parent's name are Lt. Sopiai Sheikh@Sopiai Sk@Sopiai Saikh@Sopiai Rohman@Sopiai Seikh and Saleha Bibi. That, her father has been recorded in the NRC of 1951 of Vill-Takimari under P/S-Lakhipur, Vide Sl.No.3 and House No.10 in the district of Goalpara, Assam. That, due to erosion of mighty Brahmaputra her grandfather along with with father has been shifted in to the village of Haribhanga under P/S-Phulbari from the village of Takimari.

14. That proceedee was born and brought up at Vill-Haribhanga under P/S-Phulbari, Dist-West Garo Hills, Meghalaya and she got married with Mojaffar Hosen, S/O-Lt. Naibulla Sheikh of Vill-Dharai under P/S-Lakhipur, Dist-Goalpara, Assam. Accordingly her name along with husband name has been recorded in the voter list of 1985, 1997, 2005, 2015 & 2021 of Vill-Dharai under P/S-Lakhipur under Jaleswar LAC/39.

15. Therefore as for as proceedee Omesha Bibi, W/O-Mujafar Hussain has discharged her burden. She proved that her father's name is Lt. Sopiai Sheikh@Sopiai Sk@Sopiai Saikh@Sopiai Rohman@Sopiai Seikh and he entered in Assam before 1951 from adduced documents by proceedee it is seen that these documents are all related to before 1951. 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.

16. Considering the entire material on record and discussion above, I am of the considered opinion that the evidence of OPS proved the proceedee Musstt. Omesha Bibi 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 10th day of April /2023. 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.

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Goalpara**

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**U.D.A. cum Accountant
Foreigners Tribunal - 3
Goalpara**

**R.K.KhaKhalary
Member**

**Foreigners Tribunal No.3
Goalpara
Member
Foreigners Tribunal - (3)
Goalpara**

