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BEFORE THE FOREIGNERS' TRIBUNAL, NO.1 BONGAIGAON, ASSAM

BNGN/FT/675/07

(REF IM(D)T CASE NO. 308/2005

P R E S E N T

SHRI DULAL SAHA ,MEMBER

FOREIGNERS' TRIBUNAL BONGAIGAON NO.1

STATE OF ASSAM

PETITIONER

-VRS-

HUJEMA KHATUN @ HAJEMA KHATUN @ HAJEMA BEGUM.

D/O- LT. HAJRAT ALI SHEIKH @ HAJRAT ALI.

APPEARANCE

ADVOCATE FOR THE STATE- MR.DEBABRATA DAS

FOR THE O.P.- SAHIDUR RAHMAN, D.A. RAHIM AND A.ROY.

DATE OF EVIDENCE-04/08/22 AND 03/11/22

DATE OF ARGUMENT- 09/01/23

DATE OF ORDER -25/01/2023

O R D E R

This is a reference made Under Rule 2(1) of the Foreigners (Tribunal) Order 1964, for opinion as to whether Hajima Khatun, W/O- Md. Julfikar Ali is a foreigner from Bangladesh, who entered into India after 25<sup>th</sup> March 1971 or not?

In compliance with the notice, O.P appeared and contested the case by filing written statement, evidence-in-chief in the form of an Affidavit and relying on documents.

The gist of the W/S as well as additional W/S is that, O/P born out of the wedlock of Hajrat Ali Sheikh @ Hajrat Ali and Jafirana Nessa @ Jafirana Begum in the year 1977 at village Garugaon Pt.I under Bongaigaon Dist. the then undivided Goalpara Dist. O/P's father expired in the year 2017 and mother expired in the year 2014.O/P's grandparents names were Saraddin Sheikh @ Sairuddin Sheikh @ Saraddi Sheikh @ Saruuddin Sheikh @ Saraddi @ Saruuddin and grandmother's name

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Sakina Bibi @ Sahena Bibi. O/P got married with one Julfikar Ali son of Turap Uddin. O/P were 8 brothers and sisters. That O/P's grandfather's actual name is Saraddin Sheikh. O/P's actual name is Hujema Khatun. O/P's grandparents casted their votes in the year 1966 under 41 No. Bijni L.A.C. O/P's grandmother was the absolute owner and possessor of a plot of land at village No. 1 Garugaon vide Patta No. 84 and Dag No. 143. That father of O/P also absolute owner and possessor two plots of land at village Garugaon No. 1 vide Patta Nos. 28 and 22 and Dag Nos. 110 and 104 respectively. O/P's parents casted their votes for the years 1997, 2005, 2010 and 2016 respectively under 34 Abhayapuri North L.A.C. O/P casted her votes along with her husband for the years 1997 under 34 No. Abhayapur North L.A.C. and 2013, 2015, 2016, 2019 and 2022 respectively under 32 No. Bongaigaon L.A.C. O/P's also obtained Next of Kin Certificate, Panchayat Certificate and a Ration Card. Hence, O.P. claims to be a Citizen of India.

Thus from the W/S what is discernible is that, O.P. is the daughter of Lt. Hazrat Ali Sheikh @ Hajrat Ali who was a citizen of India & O.P. being his daughter, is also citizen of India.

In her evidence-in-chief by way of Affidavit submitted on 17/03/22. O.P. narrated more or less same versions as she narrated in her written statement.

Now whether O/P could prove this issue by adducing cogent and reliable evidence.

Proceeding to the exhibits I find the following:-

Ext-A is the certified copy of 1965 voter list in respect of 41 No. Bijni L.A.C. wherein Sairuddin Sk age 40 son of Lt. Kasimuddin Sk, Sahena Bibi age 30 wife of Sairuddin and Askar Ali Sk age 22 relation name Sairuddin Sk have been recorded as voters.

Ext-B is the copy of Jamabandi vide Garugaon under the then Bijni Revenue Circle since the year 1969-70 recorded in the name of Sokina Bibi wife of Sarddin Sk.

Ext-C is the copy of Jamabandi vide Garugaon No.1 under the then Bijni Revenue Circle since the year 1964 recorded in the name of Hazrat Ali SI son of Saruddin Sk.

Ext-D is the another copy of Jamabandi vide Patta No. 22 and Dag No. 104 in the village Garugaon No.1 under the then Bijni Revenue Circle since the year 1977 recorded in the name of Hazrat Ali son of Saruddin Sk.

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Ext-E is the translated copy of 1997 voter list under 34 No. Abhayapuri North L.A.C. Here Hazrat Ali age 45 relation name Sokina Khatun and Jafiron Nessa age 30 relation name Hazrat Ali have been recorded as voters.

Ext-F and Ext-G are the certified copies of 2005 and 2010 voter lists under 34 No. Abhayapuri North L.A.C. Here Hazrat Ali relation name Saruddin and Jafiron Begum relation name Hazrat Ali and two other family members names have been recorded as voters.

Ext- H is the Voter Identity Card in the name of Hajarat Ali son of Charuddin.

Ext-I is the certified copy of 2016 voter list in respect of 34 No., Abhayapuri North L.A.C. Here Hazrat Ali age 65 son of Charuddin and other family members' names have been recorded as voters.

Ext-J is the Death Certificate in the name of Hajrat Ali vide Registration No. M-165 vide dtd. 24/06/2017.

Ext-K is translated copy of 1997 voter list in respect of 34 No. Abhayapuri North L.A.C. Here Julfikar Ali age 23 son of Turap Uddin and Hajoma Khatun age 19 wife of Julfikar Ali have been recorded as voters.

Ext-L is the Elector Photo Identity Card in the name of Hujema Begum wife of Jul Fikar Ali.

Ext-M is the Next of Kin Certificate. Here Hazrat Ali's Next of Kins name have been recorded as Hujema Begum (daughter), Abdul Ohid (son), Sayidur Rohman (son), Nur Islam (Sk), Mahar Ali (son), Jahara Khatun (daughter), Jahanara Khatun (daughter) and Taher Ali (son).

Ext-N is the Ration Card in the name of Hujema Begum wife of Julfikar Ali.

Ext-O and Ext-P are the certified copies of 2015 and 2022 voter lists in respect of 32 No. Bongaigaon L.A.C. Here Julfikar Ali son of Tarabuddin and Hujema Begum wife of Jul Fikar Ali have been recorded as voters.

Ext-Q is the Gaon Panchayat Certificate issued from 2 No. Chaprakata Gaon Panchayat Bongaigaon (Assam). Here it is certified that Hujema Begum daughter of Lt. Hajorat Ali and Lt. Jafiron Nessa W/O- Chaprakata Part-II who is known to him.

I have gone through all documents. It is found that, O/P claims that she is the daughter of Hajrat Ali and granddaughter of Sairuddin @ Saraddin Sk. Ext-A which is the certified copy of voter list of 1966 under 41 No. Bijni L.A.C. Here the name of Sairuddin Sk has been recorded as voter of that Constituency. Hence Ext-A establishes the existence of Sairuddin Sk on the Indian Soil since before 1966 & was a citizen of India.

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On the other hand Ext-C, which a certified copy of Jamabandi for the surveyed village Garugaon No.1. Here it has been recorded that, as per the order dtd. 3-2-64 of S.D.C. the name of Hajrat Ali son of Saraddin Sk has been recorded in place of earlier pattadar. Hence this document (Ext-C) establishes the existence of Hajrat Ali son of Lt. Saraddin Sk on the Indian Soil since 1964. That apart, this document establishes the relationship of Hajrat Ali with Saraddi Sk, whom claims to be her grandfather. This Ext-C accepted as because though Jamabandi can't be the basis for establishing Citizenship, yet, it has relevancy in establishing other relevant facts about relationship which would support the plea of a proceedee that he is an Indian. It was held by the Hon'ble Guahati High Court in W.P.(C) No. 2131/2018 on 7 August, 2022, (Monir Uddin Ahmed & others-Vs-Union of India). Thus, this Jamabandi can be used for the limited purpose establishing that the persons named therein possessed certain land and about the relationship of the persons whose names are recorded in the Jamabandi as well as the fact that they resided in the place recorded in the Jamabandi, which of course, are all rebuttable. But as mentioned above, there are no rebutted by the state on any of these aspects."

In the present case, proceedee exhibited Ext-C but though the genuiness of the Jamabandi has been questioned by the State, but it was not disproved by rebutted.

Again Ext-M, Next of Kin Certificate establishes the fact that, Hujema Khatun (O/P) is the daughter of Hazrat Ali. Ext-M is accepted as because this certificate has authenticated by the concerned authority.

Moreover, D.W.2, Naba Kr. Bora, Inspector Food & Civil Supplies, Bongaigaon submitted official documents vide Ext-M(ii). In Ext-M(ii) (Family Details), father's name of O/P recorded as Hazrat Ali & which is corroborated the O/P.

D.W.3, Paresh Ch. Pathak, corroborated the plea of O/P that, she is the daughter of Hajarat Ali.

From the above discussion, it has been established that O/P is the daughter of Hazrat Ali and Hazrat Ali is the son of Saraddin Sk. Hence being the granddaughter of Indian Citizen, O/P can't be treated as foreigner.

Thus from the above discussion, it can be said that, O/P has successfully establish her relationship with her parents & thereby discharged her statutory burden U/S 9 of the Foreigners Act, 1946.

Resultantly, O/P Hujema Khatun @ Hajema Khatun @ Hajema Begum, D/O- Lt. Hajrat Ali Sheikh @ Hajrat Ali and W/O- Jul Fikar Ali @ Julfikar Ali, Vill- Chaprakata Pt.II, P.S. & Dist. of Bongaigaon is hereby declared not foreigner.

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In form S.P. (B), Bongaigaon and Deputy Commissioner, Bongaigaon for N/A.

A free copy of this order be furnished to the O.P.

Given under my hand and seal of the Tribunal on 25<sup>th</sup> day of January, 2023.

Transcribed at my dictation  
and corrected by me.

Memo No. BFT/08/07-23/23 - A Dated 03/02/2023  
Copy to:-

1. The Deputy Commissioner, Bongaigaon.
2. The Superintendent of Police (B), Bongaigaon for N/A.

Member,  
Foreigners Tribunal, No. 1,  
Bongaigaon,  
Bongaigaon (Assam)

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Foreigners Tribunal, No. 1,  
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