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15.05.2024	16.05.2024	16.05.2024	17.05.2024	17.05.2024

**BEFORE THE MEMBER,  
FOREIGNERS TRIBUNAL -10<sup>TH</sup> DHUBRI**

**Case No. FT-10/AGM/2186/2020.**

**{F.T. Case No. 10013/GKJ/11 (old)}.**

Reference: 'D' voter Case No. 21/D/07.

{S.P (Border), Dhubri's Letter No.BO/DBB/'D' voter/2011/3935 dated 23/05/2011}.

State of Assam

..... Referral Authority

-Versus-

Anjumanara Bibi

Wife of Motior Rohman @ Motiar Rahman



..... Opposite Party

Date of Order

: 23/04/2024.

Appearance:

For the Referral Authority

: Ms. Sangita Koeri, Asstt. Govt. Pleader.

For the opposite party

: Mr. I. Azad,

Mr. R. Chakraborty, Advocates.

**PRESENT:**

Rafiqul Islam, Member

**ORDER**

23/04/2024

1) This is a reference made in the year 2011 by the Superintendent of Police (B), Dhubri on the basis of the report of the Electoral Registration Officer, 25 No. Golakganj Legislative Assembly Constituency against the opposite party Anjumanara Bibi, Wife of Motior Rohman @ Motiar Rahman, (earlier Golakganj), Dist:-Dhubri (Assam) and to render an opinion as regards the citizenship of the opposite party. Initially the reference was made to the Foreigners Tribunal No.2, Dhubri and subsequently the reference was transferred to this Tribunal to render opinion in terms of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964, as amended.

2)

The reference is that the name of the opposite party was included in the

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draft electoral roll of 2005 at Village:-Uttar Maragadadhar at the time of house-to-house enumeration during the period from 01/10/2004 to 25/11/2004 and the Electoral Registration Officer, 25 No. Golakganj Legislative Assembly Constituency having doubt about the citizenship of the opposite party got the matter verified by an on-the-spot local verification and on consideration of the report of such verification, the Electoral Registration Officer had the reasonable doubt that the opposite party is not a citizen of India. Accordingly the matter was forwarded to the Competent Authority for deciding the question whether the opposite party is a citizen of India or not and thereafter the reference was made by the Superintendent of Police (B), Dhubri for opinion of the Tribunal.

3) Notice issued to the opposite party was duly served and on receipt of the notice, the opposite party entered appearance and filed written statement along with certain documents claiming to be an Indian citizen by birth and denying the allegations brought against her.

4) Opposite party filed written statement inter-alia stating that she was born on 26/02/1990 at Village:-Kaimari Part-III, P.S:-Golakganj (now Agomani), District:-Dhubri (Assam) and brought up thereon. He father's name is Amjat Ali @ Amzad Ali @ Amjad Ali, mother's name is Jamiron Bibi, grandfather's name is Geda Sheikh and grandmother's name is Ahimon Bibi. Her parents and grandparents were the original inhabitants of Village:-Kaimari Part-III, P.S:-Golakganj, District:-Dhubri (Assam). Her father has altogether 5 brothers and sisters viz, i) Ajmat Sk., ii) Jarina Bewa, iii) Hashmat Sk., iv) Jariful Bibi and v) Amjad Ali (opposite party's father). She has altogether 3 brothers and sisters viz, i) Anjuma Bibi @ Anjumanara Khatun (opposite party), ii) Jamat Ali @ Jamat Ali Sk. and iii) Najima Khatun. She got married to one Matiyar Rahman, S/o-Jaynal Abedin of Village:-Maragadadhar, P.S:-Agomani, District:-Dhubri (Assam) and since her marriage she has been residing at her matrimonial house at Village:-Maragadadhar. During their conjugal life 5 children were born out of their wed-lock viz, i) Akhirul Islam, ii) Khairul Islam, iii) Fakirul Islam, iv) Momotaz Khatun and v) Fajirul Islam. Her grandparents' names entered in the voter lists of 1966, 1970 at Village:-Kaimari Part-III. Her parents' names entered in the voter lists of 1989, 1997 at Village:-Kaimari Part-III. About 27 years ago, her parents shifted to Village:-Kaimari Part-VII from Village:-Kaimari Part-III due to erosion of river Gangadhar and thereafter her parents' names entered in the voter lists of 2005, 2010 (along with her brother Jamat Ali Sk.) and 2022 (along with her brother Jamat Ali Sk. and sister Najima Khatun) at Village:-Kaimari Part-VII. Her father and others are the possessors of a plot of land situated at Village:-Kaimari Part-III covered by Dag No. 49 (old), vide K.M Patta No. 44. Her father is the possessor of another plot of land situated at Village:-Kaimari Part-III covered by Dag No. 646, vide Khatian No. 106. After marriage her name entered in the voter lists of 2005, 2010 (along with her husband and brother-in-law Kadar

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Ali) at Village:-Uttar Maragadadhar but she has been marked as 'D' voter in the said voter list 2010.

5) Now, the main point for determination in the reference is whether the opposite party is a foreigner within the meaning of the expression 'foreigner' as defined in the Foreigners Act, 1946?

6) Opposite party examined herself as DW-1, father of the opposite party as D.W-2 and the official witnesses as D.W-3 and D.W-4 and exhibited some documents. None was examined for the Referral Authority.

7) Heard the arguments advanced on behalf of the parties. I have gone through the materials on record as submitted by the Referral Authority at the time of making the reference and the written statement as well as the oral and documentary evidence of the opposite party.

8) Opposite party as DW-1 filed evidence-in-chief on affidavit stating more or less the same thing as narrated in the written statement and exhibited certain documents in support of her Indian citizenship and opposite party was subjected to cross examination. In her cross-examination, she deposed that she got married to Matiyur Rahman of Village:-Maragadadhar and her name entered in the voter list of 2005 at Village:-Uttar Maragadadhar but she has been marked as 'D' voter. She admitted that she obtained a linkage certificate from the Secretary of Baterhat Gaon Panchayat and in the said certificate the name of her matrimonial village has been recorded as Maragadadhar.

9) Opposite party produced/exhibited the following documents in support of her Indian citizenship:

- 1) Copy of certificate dated 06/07/2015 issued by the Secretary, Baterhat Gaon Panchayat in the name of opposite party as Ext:1 (proved in original).
- 2) Certified copy of voter list of 1966 of Geda Sk. and Ahimon Bibi under 35 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-III as Ext:2.
- 3) Certified copy of voter list of 1970 of Geda Sk. and Ahimon Bibi under 35 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-III as Ext:3.
- 4) Certified copy of voter list of 1989 of Amzad Ali and Jamiron Bibi under 25 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-III as Ext:4.

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- 5) Certified copy of voter list of 1997 of Amzad Ali and Jamiron Bibi under 25 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-VII as Ext:5.
- 6) Certified copy of voter list of 2010 of Amzad Ali, Jamiron Bibi and Jamat Ali Sk. under 25 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-VII as Ext:6.
- 7) Copy of Rayoti Khatian No. 106, Dag No. 646 in the name of Geda Sk. and others as Ext:7.
- 8) Copy of land revenue receipt dated 28/12/2022 in the name of Hafizul Sk. as Ext:8 (proved in original).
- 9) Copy of Elector Photo Identity Card No. GJF3744421 in the name of Amjad Ali as Ext:9 (proved in original).
- 10) Copy of Elector Photo Identity Card No. GJF3744432 in the name of Jamiran Bibi as Ext:10 (proved in original).

10) DW-2, Amjat Ali @ Amzad Ali @ Amjad Ali, father of the opposite party, filed evidence-in-chief on affidavit and in his evidence-in-chief he supported the evidence of DW-1 and deposed almost the same thing as deposed by the opposite party. In his cross-examination, he deposed that his parents died at Village:-Kaimari Part-III and he born at Village:-Kaimari Part-III and presently they are residing at Village:-Kaimari Part-VII. He deposed that he has 2 daughters and 1 son and opposite party is his daughter. He deposed that opposite party was born at Village:-Kaimari Part-III and rest were born at Village:-Kaimari Part-VII. His parents' names entered in the voter lists of 1966, 1970 at Village:-Kaimari Part-III.

11) D.W-3 deposed that he is the Secretary of BATERHAT Gaon Panchayat under Agomani Development Block. He deposed that he has been working as the Secretary of BATERHAT Gaon Panchayat since the year 2021 and exhibited his Service Identity Card as Ext:A. He deposed that Ext:1 certificate was issued by the earlier Secretary of BATERHAT Gaon Panchayat on 06/07/2015 in the name of Anjuma Bibi, D/o-Amzat of Village:-Kaimari Part-VII to the effect that Anjuma Bibi got married to Matiyur Rahman of Village:-Maragadadhar under Golakganj Revenue Circle and the certificate was countersigned by the Block Development Officer, Agomani Development Block. He deposed that one Amzat Ali, S/o-Geda Sk. of Village:-Kaimari submitted an application before the Secretary, BATERHAT Gaon Panchayat on 06/07/2015 for a linkage certificate of Anjuma Bibi claiming her to be his daughter and said application was recommended by the Member of Kaimari Ward No. 10 and also by the President. He deposed that on the recommendation of the President and Member of the Gaon Panchayat the earlier Secretary issued the Ext:1 certificate and produced the original application submitted

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for the purpose along with the documents and also the counterpart of the Ext:1 certificate and the issue register of the certificate.

12) D.W-4 deposed that she is the Senior District Administrative Assistant of the office of the District Commissioner, Dhubri and she has been authorised by the Additional District Commissioner, Dhubri to appear before the Tribunal pursuant to a summon received by him. She deposed that Ext:7 is the draft Chitha of land situated at Village:-Kaimari Part-III, land covered by Dag No. 646 (new), 618 (old), Patta No. 69 (new), 42 (old), which stands in the name of Kuttub Mandal, S/o-Omar. She deposed from the record that 1) Geda Sk., 2) Abdul Sobhahan, 3) Abdul Ajit, all sons of Machu Sk., 4) Fajar Ali, S/o-Tomej Ali, 5) Abdul Aziz, S/o-Nadu Sk. were the original riots of the said plot of land. She further deposed that by an order dated 20/06/2007 of the Assistant Settlement Officer, Agomani the name of Amzad Sk., S/o-Geda Sk. was recorded and accordingly record was corrected and produced the Ryoti Khatian book of Village:-Kaimari Part-III and the draft Chitha book of Village:-Kaimari Part-III. She deposed that Ext:7 was issued from the office of the District Commissioner, Dhubri.

13) Now let us appreciate the evidence of DWs including the documents exhibited in the case to determine the nationality status of the opposite party. It appears from Ext:2 and Ext:3 certified copies of voter lists that the names of Geda Sk. and Ahimon Bibi, whom the opposite party has claimed to be her grandfather and grandmother, were entered in the voter lists 1966 and 1970 under 35 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-III. It appears from Ext:4 certified copy of voter list that the names of Amzad Ali and Jamiron Bibi, whom the opposite party has claimed to be her parents, were entered in the voter list of 1989 under 25 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-III. It is the case of the opposite party that her parents shifted to Village:-Kaimari Part-VII from Village:-Kaimari Part-III due to erosion of river Gangadhar about 27 years ago and thereafter her parents' names entered in the voter lists at Village:-Kaimari Part-VII. From Ext:5 certified copy of voter list it appears that the names of Amzad Ali and Jamiron Bibi, whom the opposite party has claimed to be her parents, were entered in the voter list of 1997 under 25 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-VII. It appears from Ext:6 certified copy of voter list that the names of Amzad Ali, Jamiron Bibi and Jamat Ali Sheikh, whom the opposite party has claimed to be her father, mother and brother respectively, were entered in the voter list of 2010 under 25 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-VII. From Ext:7 it appears that Geda Sk, whom the opposite party has claimed to be her grandfather, was possessing land at Village:-Kaimari Part-III and said land was subsequently possessed by Amzad Sk., S/o-Geda Sk, whom the opposite party has claimed to be her father. To prove Ext:7 opposite party examined DW-4, who in her evidence produced



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the Ryoti Khatian book of Village:-Kaimari Part-III and the draft Chitha book of Village:-Kaimari Part-III and deposed that Ext:7 was issued from the office of the District Commissioner, Dhubri. Therefore Ext:7 is proved. Ext:8 revenue receipt has no evidentiary value in absence of proof and hence no reliance can be placed on Ext:8. It appears from Ext:9 and Ext:10 that Elector Photo Identity Cards were issued in the names of Amjad Ali and Jamiran Bibi, whom the opposite party has claimed to be her parents, being the resident of Village:-Kaimari Part-VII. It is the case of the opposite party that she got married to one Matiyar Rahman, S/o-Jaynal Abedin of Village:-Maragadadhar, P.S:-Agomani, District:-Dhubri (Assam) and since her marriage she has been residing at her matrimonial house at Village:-Maragadadhar. In cross examination opposite party deposed that village Uttar Maragadadhar is their neighbouring village and she could not say as to how her name entered in the voter list of Uttar Maragadadhar in the voter list of 2005. In order to establish the linkage of the opposite party with her father, opposite party has exhibited the Ext:1 certificate issued by the Secretary of BATERHAT GAON PANCHAYAT and to prove Ext:1 opposite party examined the DW-3. DW-3 in his evidence deposed that Ext:1 certificate was issued by the earlier Secretary of BATERHAT GAON PANCHAYAT on 06/07/2015 in the name of Anjuma Bibi, D/o-Amzat of Village:-Kaimari Part-VII to the effect that Anjuma Bibi got married to Matiyar Rahman of Village:-Maragadadhar under Golakganj Revenue Circle and the certificate was countersigned by the Block Development Officer, Agomani Development Block. He deposed that one Amzat Ali, S/o-Geda Sk. of Village:-Kaimari submitted an application before the Secretary, BATERHAT GAON PANCHAYAT on 06/07/2015 for a linkage certificate of Anjuma Bibi claiming her to be his daughter and said application was recommended by the Member of Kaimari Ward No. 10 and also by the President and on the recommendation of the President and Member of the Gaon Panchayat the earlier Secretary issued the Ext:1 certificate. DW-3 produced the original application submitted for the purpose along with the documents and also the counterpart of the Ext:1 certificate and the issue register of the certificate. Therefore Ext:1 is proved and accepted to be a linkage document. DW-2, father of the opposite party, in his evidence supported and corroborated the evidence of the opposite party. It appears that the name of DW-2 was entered in the voter list of 1989 (Ext:4) at Village:-Kaimari Part-III and also in the voter lists of 1997 and 2010 (Ext:5 and Ext:6) at Village:-Kaimari Part-VII and is a regular voter (Ext:9) and therefore there is no reason to disbelieve the testimony of DW-2. In order to prove Ext:2, Ext:3, Ext:4, Ext:5 and Ext:6, on the prayer of the opposite party summon was issued to the Election Officer, Dhubri and on receipt of summon the Election Officer, Dhubri has submitted report regarding issuance of the respective certified copies of voter lists vide letter dated 02/09/2023 duly authenticated by him. Therefore the exhibited certified copies of voter lists are accepted to be genuine and secondary evidence.



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14) From the evidence on record and finding no rebuttal evidence, there is no reason to disbelieve the testimony of the opposite party and documents exhibited by the opposite party in support of her testimony. Since the names of the grandparents of the opposite party were entered in the voter lists of 1966 and 1970 (Ext:2 and Ext:3) under 35 No. Golakganj Legislative Assembly Constituency at Village:-Kaimari Part-III, names of the parents of opposite party were entered in the voter list of 1989 at Village:-Kaimari Part-III (Ext:4), names of the parents of opposite party were entered in the voter lists of 1997 and 2010 at Village:-Kaimari Part-VII (Ext:5 and Ext:6) and they are regular voters (Ext:9 and Ext:10), the evidence of the opposite party are sufficient enough to prove that the grandfather of the opposite party was a citizen of India. As the grandfather of the opposite party was residing in India since before 01/01/1966 and the parents of the opposite party have been residing in India all along, the father of the opposite party is a citizen of India. As the parents of the opposite party were residing in India (Assam) at the time of birth of the opposite party and born to Indian parents in Indian soil, being the descendant of citizens of India, the opposite party is a citizen of India. The linkage of the father of opposite party with her grandfather has been established from Ext:4, Ext:5, Ext:6, Ext:7 and Ext:9 and the linkage of opposite party with her father has been established from Ext:1 and the evidence of DW-2 and therefore the opposite party cannot be termed as a foreigner as suspected by the referral authority.

15) For the aforesaid reasons and discussions, the evidence and documents examined by opposite party in support of the case are found to be sufficient and trustworthy to prove that the opposite party is not a foreigner.

16) Considering the entire materials on record and the discussions above, I am of the considered opinion that the opposite party Anjumanara Bibi, Wife of Motior Rohman @ Motiar Rahman, Vill:-Uttar Maragadadhar, P.S:-Agomani (earlier Golakganj), Dist:-Dhubri (Assam) is not a foreigner.

17) The reference is answered in negative.

18) Intimate the Superintendent of Police (Border), Dhubri, the District Magistrate, Dhubri and the Election Officer, Dhubri along with a copy of the order.

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U.D.A.,-Cum-Accountant,  
Foreigners' Tribunal (10<sup>th</sup>) Dhubri.  
Authorised under Section