

BEFORE THE FOREIGNERS' TRIBUNAL, NO.1 BONGAIGAON, ASSAMBNGN/FT/2773/2007.(REF IM(D)T CASE NO. 71/2007)P R E S E N TSHRI DULAL SAHA, MEMBERFOREIGNERS' TRIBUNAL BONGAIGAON NO.1STATE OF ASSAMPETITIONER-VRS-MUSST. JAMILA KHATUN.W/O- MD.SHER ALI.APPEARANCEADVOCATE FOR THE STATE- MR.DEBABRATA DAS (A.G.P.).ADVOCATE FOR THE O.P.-D.A.RAHIM & SAHIDUR RAHMAN.DATE OF EVIDENCE-25-10-22,09-12-22,30-01-23,04-05-23,14-09-23.DATE OF ARGUMENT-04-10-23.DATE OF ORDER -10 -11-23.O R D E R

This is a reference made Under Rule 2(1) of the Foreigners (Tribunal) Order 1964, for rendering opinion as to whether Musstt.Jamila Khatun, W/O- Md.Sher Ali, D/O-Lt. Jilem Sheikh is a foreigner from specified territory, who entered in the state of Assam after 25th March 1971 or not.

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

The gist of the written statement is that, O/P is a Citizen of India by birth. She was born at Village- Balarpet, P.S. Abhayapuri District-Bongaigaon in the year of 1975. Jilimuddin is her father & Sokina Khatun is her mother. Father died in the year 1995.Sakina Khatun is the natural mother & Sahar Banu is the step mother. Both mother died. Sadek Ali is her grandfather & Maymon Nessa is her grandmother. She married to Sher Ali of Village No.2 Kawadi- Sonaikhola P.S. Manikpur. The name of grandparents & father enrolled in the voter list of 1966 & 1970 at Village- Balarpet under 42 No. Abhayapuri L.A.C. Her father was an absolute owner of a plot of land measuring 2 Bigha vide Dag No.262, Patta No.170 situated at Village- Balarpet. The name of her father & step mother also appeared in the voter list of 1993 at village- Balarpet under 34 No. Abhayapuri(North) L.A.C. The name of O.P. appeared in the voter list of 2015, 2022 at Village-No.2 Kawadi under 33 No. Bijni L.A.C. She is a holder of EPIC, Ration Card, Panchayat Link & Residential Certificates. One voter list for the year 2010 has been submitted through Addl. w/s. Hence she claims to be an Indian Citizen & prayed to absolve her from the allegation leveled against her.

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For the purpose of discharging burden as required U/S. 9 of the foreigners Act,1946,to prove that, she is not a foreigner but a Citizen of India , O/P submitted as many as **14 (fourteen)** documents. O/P examined herself as D.W.1 , one Kishore Basumatary (Inspector of Food & Civil Supply) examined as D.W.2. One Sahid Ali as D.W. 3, Dalim Kr.Barman (Lot Mandal) as D.W.4 & Tarun Kr. Deb (G.P. Secretary) as D.W. 5. All witnesses are dully cross examined by the state. O/P submitted her evidence in Chief in the form of an Affidavit, where she narrated more or less same versions as she narrated in her w/s. The particulars of documents may be noticed as under:-

Ext- A is the certified copy of voter list in the year 1966 at village Balarpet under 42 No. Abhayapuri (S.C.) L.A.C. which contains the name of Sadek Ali, S/O-Nur Boxa, Mayman Nessa, W/O- Sadek Ali, Jalimuddin, S/O- Sadek Ali in the Sl.No. 13 to 15, House No.6.

Ext-B is the certified copy of voter list in the year 1970 at village Balarpet under 42 No. Abhayapuri (S.C.) L.A.C. which contains the name of Sadek Ali, S/O-Nur Boxa, Mayman Nessa, W/O- Sadek Ali, Jilimuddin, S/O- Sadek Ali in the Sl. No. 13 to 15, House No.6.

Ext- C is the Jamabandi in the name of Md. Jilimuddin.

Ext- D. is the certified copy of voter list in the year 1993 at Village Balarpet under 34 No. Abhayapuri North L.A.C. which contains the name of Jilimuddin, S/O- Sadek Ali, Sahar Banu, W/O-Jilimuddin in the Sl.No. 89 & 90, House No.71.

Ext-E is the certified copy of voter list for the year 2015 at village-Kawadi No.2 (Sonaikhola), under 33 No. Bijni L.A.C. which contains the name of Jamela Bibi, W/O- Sher Ali in Sl.No. 1013 & House No.265.

Ext -F is the certified copy of voter list for the year 2020 at village-Kawadi No.2 (Sonaikhola), under 33 No. Bijni L.A.C. which contains the name of Jamila Khatun W/O- Sher Ali in Sl.No. 653 & House No.265.

Ext -G is the EPIC of Jamila Khatun, W/O-Ser Ali.

Ext -H is the Ration Card in the name of Jamela Bibi, W/O: Sher Ali.

Ext- I is the Gaon Panchayat certificate in the name of Jomila Khatun, D/O-Lt. Jilim Uddin dtd.07-010-2022.

Ext-J is the relationship Certificate issued by president of 11 No. Alukhunda G.P. dtd.03-02-20.

Ext-K the certified copy of voter list for the year 2010 at village-Kawadi No.2 (Sonaikhola), under 33 No. Bijni L.A.C. which contains the name of Jomela Bibi, W/O- Sher Ali in Sl.No. 836 & House No.265.

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Ext-L is the certified copy of voter list for the year 1997 at village- Bogulamari under 44 No. Jaina L.A.C. which contains the name of Sokina Khatun, Shahid Ali, Sayfol Badshah, Sahera Khatun in the Sl. No.571 to 574, House No. 168.

Ext-M is the certified copy of voter list for the year 2022 at village- Bagulamari under 44 No. Jaina L.A.C. which contains the name of Shahid Ali, Sayful Badhsah, Sahera Khatun, Chayna Khatun, Chan Mamud Sheik in the Sl.No.328 to 332, House no.168.

Ext-N – is the EPIC of Shahid Ali, S/O- Jilim.

As indicated above, the proceedee claimed one Jilimuddin as her father & Sakina Khatun as her mother. Sadek Ali as her grandfather & Mayman Nessa as her grandmother. The name of grandparents & father recorded in the voter list of 1966 & 1970 (Ext-A & B) at Village- Balarpet. Again the name of her father & step mother (Sahar Bhanu) recorded in the voter list of 1993 at Village: Balarpet.

Voter list of with the name of the O/P are 2010(Ext.K), 2015(Ext-E) 2020(Ext-F) at village- 2 No. Kawadi Dist- Bongaigaon under 34 No. Abhayapuri L.A.C., which however bears no relevance as her relation is shown with her husband (Sher Ali) not with father (Jilimuddin).

The documents brought on record for the purpose of establishing her linkage to said Jilimuddin are Ration Card as Ext.H, G.P. Certificate as Ext.I, Residential Certificate a Ext.J.

Ext.H (Ration Card) though can't be taken into consideration to determine one's Citizenship status. Nevertheless, it can be taken into consideration as corroborative evidence to one's relation with his/her father or mother. One Kishore Basumatary, Inspector of Food & Civil supply Department examined as D.W.2. Who in terms of examination submitted one Selection list of beneficiaries & Members personal details which was downloaded from the RCMS portal as Ext.H(i) & Ext-H(ii) respectively. This Ext-H(ii) contains the information that, Sher Ali is shown as her husband, Jolimuddin as her father & Sokina Bewa as her mother. Hence this part of information corroborated the version of O/P the fact that, she is the daughter of Jolimuddin & Sokina Bewa.

Ext.I (G.P. Certificate)- This certificate was issued by one Ramjan Ali, President of Srijangram G.P Dtd.07-01-22 which contains the information that, O/P is the daughter of Lt.Jilimuddin of Village- Balarpet & who married to Sher Ali of Village- Sonaikhola Pt.II. The G.P. Certificate has been proved by D.W.5 (Tarun Kr. Deb), Who in terms of his evidence produced all original documents ,on the basis of which Ext.I was issued. D.W.5 submitted investigation report of concerned Ward Member, Statements of villagers etc. Hence D.W.5 successfully proved the source of information regarding the contents of Ext.I. Hence Ext.I is accepted.

That, apart, One Shahid Ali, S/O- Jilimuddin of Village- Balarpet came forward & deposed his evidence as D.W.3.This witness submitted one certified copy of voter list 1997 at Village- Bagulamari under Jaina L.A.C where his name is recorded together with their mother Sokina Khatun. Hence his statements can be taken into consideration as trustworthy. This witness specifically stated

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that, O/P Jomila Khatun is his elder sister. He also corroborated the narratives of O/P. The information/Particulars brought on record by D.W.3 (Sahid Ali) is from his personal knowledge as he is from the family member of the parental's family of O/P & hence his evidence is accepted.

Ext.J(Relationship Certificate) Though O/P exhibited one relationship Certificate issued by president of 11 No. Alukhunda G.P. dtd.03-02-20. As this certificate is not proved by the O/P as per law. Hence not accepted.

From the discussion above it can be safely say that, O/P Jamila Khatun successfully establishes her relation with her Indian parents & thereby discharged statutory burden U/S.9 of the Foreigners Act.1946, the fact that she is not a Foreigner, but an Indian Citizen by birth.

Considering the above facts & circumstances stated above, I am of the opinion that, Jamila Khatun, W/O-Sher Ali, D/O- Lt. Jilem Sheikh of village- No.2 Kawadi Sonaihol, P.S.- Bongaigaon, Dist Bongaigaon, Assam is not a Foreigner.

Inform 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 10th day of November 2023.

Transcribed at my dictation
and corrected by me.

Memo No. BFT/08/07-23/261-A
Member
Foreigners Tribunal No. 1
Bongaigaon (Assam)

Dated 10/11/2023

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

Copy to:-

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

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