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18.03.2024	18.03.2024	18.03.2024	19.03.2024	19.03.2024

**BEFORE THE MEMBER,
FOREIGNERS TRIBUNAL -10TH DHUBRI**

Case No. FT-10/AGM/2136/2020.

{F.T. Case No. 9403/GKJ/11 (old)}.

Reference: 'D' voter Case No. 177/D/07.

{S.P (Border), Dhubri's Letter No.BO/DBB/'D' voter/2011/4216 dated 24/05/2011}.

State of Assam Referral Authority
-Versus-
Ranjina Bibi @ Rajina Bibi



..... Opposite Party

Date of Order : 13/02/2024.

Appearance:
Of the Referral Authority : Ms. Sangita Koeri, Asstt. Govt. Pleader.
Of the opposite party : Mr. Iskandar Azad, Advocate.

PRESENT:

Rafiqul Islam, Member

ORDER

13/02/2024

- 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 Ranjina Bibi @ Golakganj), District: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.
- The reference is that the name of the opposite party was included in the draft electoral roll of 2005 under 25 No Golakganj Legislative Assembly Constituency

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at Village:-Ramraikuti Part-I 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 is a citizen of India by birth. She was born on 25/02/1990 at Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar (West Bengal). Her father and grandfather are also citizens of India by birth and they are residents of Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar (West Bengal) and they have voting right and immovable properties thereon since before 1966. Her grandfather's name is Sk. Tasar @ Tasar Uddin @ Tasaruddi Sekh, grandmother's name is Hasna Bibi, father's name is Ibrahim Sk. @ Ebrahim Sk. @ Ali Ebrahim and mother's name is Majiran Bibi. Her father had altogether 2 brothers including her father viz, i) Efaj Sk. and ii) Ibrahim Sk. @ Ebrahim Sk. @ Ali Ebrahim (opposite party's father). She has altogether 3 brother and sisters including her viz, i) Mojibar Sk. @ Mojibar Rahman, ii) Morjina Bibi and iii) Ranjina Bibi @ Rajina Bibi @ Ranjina Khatun @ Ranjina Khatun Bibi (opposite party). She got married to one Anowar Sk., S/o-Habiulla of Village:-Ramraikuti Part-I, P.O:-Satrasal, P.S:-Agomani, District:-Dhubri (Assam) about 20 years ago and during their conjugal life 4 children were born out of their wed-lock viz, i) Raj Sk., ii) Nur Nobi Sk., iii) Alifa Khatun and iv) Anisa Khatun. Her grandparents' names entered in the voter lists of 1966 and 1971 along with her paternal uncle Sk. Efaj at Mouza/Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar under No.8 Tufanganj Assembly Constituency. Her grandfather's name also entered in the voter list of 1983 along with her father at Mouza/Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar. Her parents' names entered in the voter lists of 1995 (along with her brother Mojibar Rahman), 2001 and 2011 (along with her sister Marjina Bibi) at Mouza/Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar. Her father was regularly casting his vote till his death under Tufanganj (R) LAC at Village:-Balabhut (Part). Her grandfather purchased a plot of land measuring 0.33 land situated at Taluk:-Balabhut covered by Touzi No. 573, Thak No. 1105 by executing a registered Sale Deed vide Deed

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No. 1842 of 1967. Her grandfather purchased another plot of land measuring 1.06 land situated at Taluk:-Balabhut covered by Touzi No. 573, Thak No. 1105 by executing a registered Sale Deed dated 09/04/1979 vide Deed No. 4717. Her grandfather was the Rayat/Tenant of various plots of land situated at Mouza:-Balabhut vide Khatian No. 2303, Dag Nos. 8852, 8861, 8808, 8623 and 8785. Her father died on 01/08/2019 and her mother died on 13/07/2021 at Village:-Balabhut. Her father has paid tax, rates and fees to the Secretary/Tax Collector of Balabhut Gram Panchayat. Her father was the Owner/ Rayat/Lessee of a plot of land measuring 0.12 parts of 0.1666 lands situated at Mouza:-Balabhut covered by Khatian No. 679, Dag No. 11042. Her name entered in the voter list of 2005 along with her husband at Village:-Ramraikuti Part-I but she has been marked as 'D' voter in the said voter list. She was a student of Balabhut No. 1 Sarkari Prathamik Vidyalaya and she had passed class-IV examination from the said school in the year 1999-2000. She is a Rayat/Tenant of a plot of land situated at Mouza:-Balabhut vide Khatian No. 16228, J.L No. 125.

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, brother of the opposite party as D.W-2 and the official witnesses as D.W-3, D.W-4 and D.W-5 and exhibited some documents. None was examined for the Referral Authority.

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

- 1) Certified copy of voter list of 1966 of Sk. Tasar, Bibi Hasna and Sk. Efaj under 8 No. Tufanganj (Toposil) Assembly Constituency at Village:-Balabhut as **Ext:A.**
- 2) Copy of voter list of 1971 of Sk. Tasar, Bibi Hasna and Sk. Efaj under 8 No. Tufanganj (Toposil) Assembly Constituency at Mouza:-Balabhut as **Ext:B.**

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- 4) Copy of voter list of 1995 of Ali Ibrahim, Majiran Bibi and Majibar Rahman under 9 No. Tufanganj (Topo) Assembly Constituency at Mouza:-Balabhut as **Ext:D**.
- 5) Copy of voter list of 2001 of Ali Ibrahim and Majiran Bibi under 9 No. Tufanganj (Topo) Assembly Constituency at Mouza:-Balabhut as **Ext:E**.
- 6) Copy of Elector Photo Identity Card vide No. WB/02/009/519672 in the name of Ali Ebrahim as **Ext:F**.
- 7) Copy of registered Sale Deed No. 1842 of 1967 in the name of Tasar Uddin Sekh as **Ext:G**.
- 8) Copy of registered Sale Deed No. 4717 dated 09/04/1979 in the name of Tasar Uddin Sekh as **Ext:H**.
- 9) Copy of Khatian No. 2203, Dag No. 8852 in the name of Tasaruddi Sekh as **Ext:I**.
- 10) Copy of Khatian No. 2203, Dag No. 8861 in the name of Tasaruddi Sekh as **Ext:J**.
- 11) Copy of Khatian No. 2203, Dag Nos. 8808, 8623 and 8785 in the name of Tasaruddi Sekh as **Ext:K**.
- 12) Copy of Death Certificate dated 22/08/2019 in the name of Ibrahim Sekh as **Ext:L**.
- 13) Copy of Death Certificate dated 23/08/2021 in the name of Majiran Bibi as **Ext:M**.
- 14) Copy of Legal Heir Certificate dated 19/09/2019 issued by the Prodhan, Balabhut Gram Panchayat in the name of Ibrahim Sekh as **Ext:N**.
- 15) Copy of linkage certificate dated 15/06/2011 jointly issued by the Prodhan and Sahayak, Balabhut Gram Panchayat in the name of opposite party as **Ext:O**.
- 16) Copy of certificate dated 08/09/2022 issued by the Prodhan, Balabhut Gram Panchayat in the name of opposite party as **Ext:P**.
- 17) Copy of Aadhaar Card vide No. 5172 9385 1671 in the name of Ibrahim Sekh as **Ext:Q**.
- 18) Certified copy of land record vide Dag No. 11042, Khatian No. 679, J.L No. 125 issued from office of the B.L & L.R.O'S, Tufanganj-I in the name of Ibrahim Sekh as **Ext:R**.
- 19) Copy of Birth Certificate dated 07/03/1990 vide registration No. 980/90 in the name of opposite party as **Ext:S**.



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20) Copy of School Certificate dated 28/05/2009 issued by the Head Teacher, Balabhut No. 1 Govt. Primary School in the name of opposite party as Ext:T.

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23) Certified copy of land record vide Khatian No. 16228, J.L No. 125 issued from office of the B.L & L.R.O'S, Tufanganj-I in the name of opposite party as Ext:W.

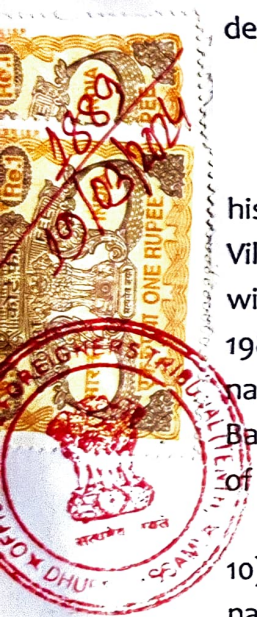
9) DW-2, Majibar Rahman, brother of the opposite party, filed evidence-in-chief on affidavit and in his evidence-in-chief he supported the evidence of DW-1 and deposed almost the same thing as deposed by the opposite party and exhibited his

his grandfather died after his birth and his grandmother died prior to his birth at Village:-Balabhut. He further deposed that his name entered in the voter list of 1995 with his parents at Village:-Balabhut and his father's name entered in the voter list of 1983 at Village:-Balabhut with his grandfather and also deposed that his grandparents' names entered in the voter lists of 1966 and 1971 with his uncle Efaj Sk. at Village:-Balabhut. DW-2 deposed that opposite party is his sister and she got married to Anowar of Village:-Ramraikuti and residing with her husband and he is a regular voter.

10) It appears from Ext:A and Ext:B certified copies of voter lists that the names of Sk. Tasar, Bibi Hasna and Sk. Efaj, whom the opposite party has claimed to be her grandfather, grandmother and uncle respectively, were entered in the voter lists 1966 and 1971 under 8 No. Tufanganj (Toposil) Assembly Constituency at Village:-Balabhut. From Ext:C certified copy of voter list it appears that the names of Sk. Tasar Uddin and Sk. and Ibrahim, whom the opposite party has claimed to be her grandfather and father, were entered in the voter list of 1983 under 9 No. Tufanganj (Topo) Assembly Constituency at Village:-Balabhut. It appears from Ext:D certified copy of voter list that the names of Ali Ibrahim, Majiran Bibi and Majibar Rahman, whom the opposite party has claimed to be her father, mother and brother respectively, were entered in the voter list of 1995 under 9 No. Tufanganj (Topo) Assembly Constituency at Village:-Balabhut. From Ext:E certified copy of voter list it appears that the names of Ali Ibrahim and Majiran Bibi, whom the opposite party has claimed to be her parents, were entered in the voter list of 2001 under 9 No. Tufanganj (Topo) Assembly Constituency at Mouza:-Balabhut. Ext:F shows that Elector Photo Identity Card No. WB/02/009/519672

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was issued in the name of Ali Ebrahim, whom the opposite party has claimed to be her father in the year 1995. Ext:G copy of registered Sale Deed No. 1842 of 1967 in the name of Tasar Uddin Sekh has not been proved and hence no reliance can be placed on Ext:G sale deed. It appears from Ext:H registered Sale Deed No. 4717 dated 09/04/1979 that Tasar Uddin Sekh, whom the opposite party has claimed to be her grandfather executed the sale deed. To prove Ext:H opposite party examined D.W-4, who in his evidence produced the true copy of Deed No. 4717 duly signed by the District Sub-Registrar, Tufanganj and he has produced the letter dated 12/09/2023 issued by the Addl. District Sub-Registrar, Tufanganj. Ext:H is therefore proved and accepted to be trustworthy piece of documentary evidence. Ext:I, Ext:J and Ext:K show that Khatian No. 2203 were issued in the name of Tasaruddin Sheikh, whom the opposite party has claimed to be her grandfather, for plots of land covered by Dag No. 8852, Dag No. 8861 and Dag Nos. 8808, 8623 and 8785 respectively situated at Mouza:Balabhut. To prove Ext:I, Ext:J and Ext:K opposite party examined DW-3, who produced Ext:I Khatian No. 2203 duly signed and authenticated by the B.L & L.R.O, Tufanganj-I. Ext:I, Ext:J and Ext:K are the copy of Khatian No. 2203 and same were issued in respect of separate dag numbers. Ext:I khatian is therefore proved. Ext:L death certificate, Ext:M death certificate, Ext:N legal heir certificate and Ext:O linkage certificate have no evidentiary value in absence of proof and hence no reliance can be placed on Ext:L, Ext:M, Ext:N and Ext:O. It is the case of the opposite party that she got married to one Anowar Sheikh of Village:-Ramraikuti Part-I, P.S:-Agomoni, District:-Dhubri and after marriage her name entered in the voter lists in her husband's residence but she has been marked as 'D' voter in the voter list of 2005. It appears from Ext:P certificate dated 08/09/2022 issued by the Prodhan, Balabhut Gram Panchayat that opposite party is the daughter of Ebrahim Ali Sekh of Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar and opposite party got married to Anowar Sheikh of Village:-Ramraikuti Part-I, P.S:-Agomoni. To prove Ext:P opposite party examined D.W-5 who in his evidence deposed that Ext:P certificate was issued by the earlier Gram Prodhan of Balabhut Gram Panchayat on 08/09/2022 in the name of Ranjina Khatun, D/o-Ebrahim Ali Sk. of Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar to the effect that Ranjina Khatun got married to Anowar Sk. of Village:-Ramraikuti , P.S:-Agomani, District:-Dhubri (Assam) and produced the issue register of the certificate. Ext:P certificate is therefore accepted to be a linkage document. Ext:Q, aadhar Card, Ext:S birth certificate, Ext:T school certificate, Ext:U Aadhar card, Ext:V PAN card have no evidentiary value in absence of their proof and hence no reliance can be placed. It appears from Ext:P certificate dated 08/09/2022 issued by the Prodhan, Balabhut Gram Panchayat that opposite party is the daughter of Ebrahim Ali Sekh of Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar and opposite party got married to Anowar Sheikh of Village:-Ramraikuti Part-I, P.S:-Agomoni. To prove Ext:P opposite party examined D.W-5 who in his evidence deposed that Ext:P certificate was issued by the earlier Gram Prodhan of Balabhut Gram



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Panchayat on 08/09/2022 in the name of Ranjina Khatun, D/o-Ebrahim Ali Sk. of Village:- Balabhut, P.S:-Tufanganj, District:-Coochbehar to the effect that Ranjina Khatun got married to Anowar Sk. of Village:-Ramraikuti , P.S:-Agomani, District:-Dhubri (Assam) and produced the issue register of the certificate. Ext:P certificate is therefore accepted to be a linkage document. It appears from Ext:R certified copy of land document that Ibrahim Sheikh, whom the opposite party has claimed to be her father, was the owner of a pot of land covered by Khaian No. 679 and it appears from Ext:W certified copy of land document that Ranjina Khatun Bibi, D/o Ibrahim Sheikh is one of the shareholder of land covered by khatian No. 679. To prove Ext:R and Ext:W opposite party examined DW-3, who produced Ext:W Khatian No. 16228, Ext:R Khatian No. 679 duly signed and authenticated by the B.L & L.R.O, Tufanganj-I. Ext:R and Ext:W are therefore proved. DW-2, brother 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 1995 (Ext:D) with his father and is a regular voter Ext:X and therefore there is no reason to disbelieve the testimony of DW-2. In order to prove Ext:A, on the prayer of the opposite party summon was issued to the Director, Directorate of State Archives, Govt. of West Bengal and on receipt of summon Director, Directorate of State Archives vide his letter dated 23/11/2023 submitted report regarding issuance of the certified copy of voter list and produced the duly signed copy of extract of voter list. Therefore Ext:A certified copy of voter list is accepted to be genuine and secondary evidence.

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 opposite party were entered in the voter lists of 1966 and 1971 (Ext:A and Ext:B) under 8 No. Tufanganj (Toposil) Assembly Constituency at Village:-Balabhut, name of the father of opposite party was entered in the voter list of 1983 under 9 No. Tufanganj (Topo) Assembly Constituency at Village:-Balabhut with her grandfather (Ext:C), names of parents of opposite party were entered in the voter list of 1995 with DW-2 under 9 No. Tufanganj (Topo) Assembly Constituency at Village:-Balabhut (Ext:D), the evidence of the opposite party are sufficient enough to prove that the grandparents and parents of opposite party were citizens 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 were residing in India at the time of birth of the opposite party and the opposite party was 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:C and linkage of opposite party with her father has been established from Ext:P and the evidence of DW-2 and

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therefore the opposite party cannot be termed as a foreigner as suspected by the referral authority.

12) 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.

13) Considering the entire materials on record and the discussions above, I am of the considered opinion that the opposite party Ranjina Bibi @ Rajina Bibi, Wife of Anowar, Vill:-Ramraikuti Part-I, P.S:-Agomani (earlier Golakganj), Dist:-Dhubri (Assam) is not a foreigner.

14) The reference is answered in negative.

15) 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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