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



BNGN/FT/560/2007

REF IM(D)T CASE NO. 112/2004)

P R E S E N T

SHRI DULAL SAHA, MEMBER

FOREIGNERS' TRIBUNAL BONGAIGAON NO.1

STATE OF ASSAM

PETITIONER

-VRS-

MICHIRAN BIBI.

W/O- LT. ABDUL KHALEK.

D/O- LT. KASEM ALI.

APPEARANCE

ADVOCATE FOR THE STATE- MR.DEBABRATA DAS (A.G.P.)

ADVOCATE FOR THE O.P. D.A. RAHIM AND S. ROHMAN.

DATE OF EVIDENCE-14-03-24,15-07-24.

DATE OF ARGUMENT-05-11-2024.

DATE OF ORDER -10-12-2024.

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. Michiron Bibi, D/O- Lt. Kasem Ali, W/O-Md. Abdul Khalek 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 was born from the wedlock of Kasem Ali @ Kasem @ Kasam Ali and Daliman Bibi @ Daliman around the year 1950 at village Salmara Gaon (Salmara),P.S. the then Bijni presently Manikpur, Dist. the then undivided Goalpara presently Bongaigaon(Assam).O/P's father expired in the year 1977 and mother expired in the year

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1978. That, grandfather's name of the O/P is/was Saitulla Sheikh and grandmother's name was Nasiran Bibi. Great grandfather's name of the O/P is /was Aijuddin. They are all expired since long back. The grandfather of the O/P blessed with one son and one daughter namely Kasem Ali @ Kasem and Jamful Bibi @ Samful Nessa, both expired. O/P got married with one Abdul Khalek S/O- Mahej Sheikh of village Salmara Gaon under Manikpur P.S. around the year 1971. O/P blessed with five son and six daughter namely Mirjafar Ali, Abdul Munnaf, Mubarak Ali, Amir Hussain, Afjalur Rahman, Saleha Khatun, Habija Khatun, Maeda Khatun, Hasina Ahmed, Jahanara Khatun and Muslima Khatun. That O/P are eight brothers and sisters namely Hasiran Bibi, Misiran Bibi, Basiran Bibi, Malehan Bibi, Rupbhan Bibi @ Upbhan Bibi, Saleha Bibi, Majiran Bibi, Abdus Samad (expired) and Abdur Rejjak. That, O/P's father's actual name is Kasem Ali and actual name of O/P is Michiran Bibi. The name of grandfather, father, mother and one Aunt Samful Nessa of the O/P along with other relative appeared in the NRC of 1951 in the village Salmara under P.S. Bijni. That, the name of grandfather, grandmother, father and mother of the O/P appeared in the voter list of 1966 in the village Salmara under the then 41 Bijni L.A.C. That after marriage the name of the father and mother of the O/P appeared in the voter list of 1971 in the village Salmara under the then 34 No. Abhayapuri North L.A.C. In the year 1971 after marriage the O/P along with her husband was residing temporarily in the house of Janik Ali hence their name appeared in the house of Janik Ali. O/P along with her other family members also casted their votes in the years 1997, 2006, 2011, 2015 and 2022 respectively. O/P obtained also Elector Photo Identity Card vide No. JGY4036105 and Panchayat Certificate issued by the Secretary of No. 4 Nowapara G.P and a Ration card issued by FCS and CA, Bongalg o be a citizen of India by birth & prayed to absolve her from the allegation le

For the purpose s required U/S. 9 of the Foreigners' Act, 1946, to prove that, she is not a foreigner, as many as **14 (Fourteen)** documents exhibited by her. O/P also examined herself as D.W.1 & one Dipen Kumar Nath (Head Teacher of 490 No. Barbakhra L.P. School) as D.W.2., Janik Ali as D.W.3. All witnesses are cross examined by the state.

Particulars of documents may be noticed as under:-

Ext- A is the copy of NRC (under objection). Here the names of Saitulla Sheikh, Kasom Ali, Daliman Bibi, Samful Nessa and Josomuddin Sk have been recorded.

Ext-B is the certified copy of 1966 voter list at Village- 247 No. Salmara in respect of 41 No. Bijni L.A.C. Here Saitulla Sk son of Aijuddin, Nasiran Bibi wife of Saitulla, Kasem son of Saitulla and Daliman wife of Kasem have been recorded as voters.

Ext- C is the certified copy of 1971 voter list at Village- 247 No. Salmara in respect of 42 No. Abhayapuri North L.A.C. Here Saitulla Sk son of Aijuddin, Nasiran Bibi wife of Saitulla, Kasem son of Saitulla and Daliman wife of Kasem have been recorded as voters.

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Ext-D is the another certified copy of voter list for the year 1971 of village- 247 No. Salmara in respect of 34 No. Abhayapuri North L.A.C. Here Janik Ali son of Abdul Mirjafar, Umesalem Begum wife of Janik Ali, Hazera Khatun wife of Asoruddin, Abdul Khalek son of Mahejuddin and Misiran Bibi wife of Abdul Khalek have been recorded as voters.

Ext-E is the certified copy of voter list for the year 1997 of village- 21 No. Salmara in respect of 34 No. Abhayapuri North L.A.C. Here Abdul Khalek son of Mahej Sk and Misiran Bibi wife of Abdul Khalek, Mirjafar Ali relation name Abdul Khalek and Abdul Munnaf relation name Abdul Khalek have been recorded as voters.

Ext-F is the certified copy of voter list for the year 2006 of village- 21 No. Salmara in respect of 34 No. Abhayapuri North L.A.C. Here Abdul Khalek son of Mahej Sk and Misiran Bibi wife of Abdul Khalek, Mirjafar Ali relation name Abdul Khalek and Abdul Munnaf relation name Abdul Khalek have been recorded as voters.

Ext- G is the translated copy of 2011 voter list at village 21 No. Salmara under 34 No. Abhayapuri North L.A.C. Here Hasina Ahmed, Misiran Bibi, Mirjafar Ali, Abdul Munnaf, Majeda Khatun, Mubarak Ali and Mahida Begum relations name Abdul Khaleque have been recorded as voters.

Ext -H is the certified copy of 2015 voter list at village 21 Salmara under 34 No. Abhayapuri North L.A.C. Here Misiron Bibi W/O Abdul Khalek, Mirjafar Ali son of Abdul Khalek and other family members names have been recorded as voters.

Ext -I is the certified copy of 2022 voter list at village 21 Salmara under 34 No. Abhayapuri North L.A.C. Here Abdul Khalek son of Mahej Sk, Misiron Bibi W/O Abdul Khalek, Mirjafar Ali son of Abdul Khalek and other family members names have been recorded as voters.

Ext -J is the EPIC in the name of Michiran Bibi wife of Abdul Khalek
vide

Ext-K is the Ration Card in the name of Misiran Bibi relation name
Abdul Khaleque.

Ext-L is the certified copy of 1979 voter list at village 254 Salmara under 34 No. Abhayapuri North L.A.C. Here Naisad Ali son of Abdul Jalil, Kayed Bhan Bibi wife of Nawsad, Abdul Khalek son of Mahej and other family members names have been recorded.

Ext-M is the School Certificate vide dtd. 22/03/94 issued by the Head Teacher of 490 No. Barbakhara L.P. School. It contains the information that Miss. Misiron Nessa daughter of Kasem Ali of village Salmara, P.S. Bijni under Bongaigaon Dist. read upto the class I.

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Ext-N is the G.P. Certificate vide dtd. 06/02/24 issued by the Secretary of 4 No. Nowapara G.P. It contains the information that Michiran Bibi D/O- Kasam Ali of village Lungjhar, P.S. Fagunagaon under P.S. Manikpur in the dist of Bongaigaon, Assam is the resident of said village.

From the above, what is discernible is that, O/P is the daughter of Kasem Ali & Daliman Nessa & her parents are Citizens of India & O/P being the daughter of Indian Citizens, she is also a Citizen of India. Now whether O/P could prove this fact in issues by adducing cogent & reliable evidence or not? Hence O/P is to prove following two issues :-

- (i) Whether Kasem Ali and Daliman Nessa are Citizens of India, whom O/P claims to be her parents? and
- (ii) Whether O/P is the daughter of said Kasem Ali & Daliman Nessa ?

I take up the issue No. (ii) first, i.e. whether O/P is the daughter of Kasem Ali & Daliman Nessa, because unless this fact in issue has been proved, it may not necessary to delve into an examination of the Citizenship status of Kasem Ali & Daliman Nessa, whom the O/P claims to be her parents.

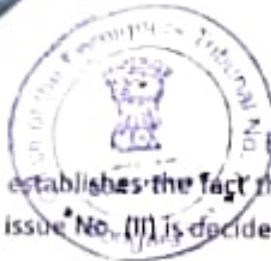
To prove the issue No. (ii), O/P submitted one School Certificate vide Ext-M, one G.P. Certificate vide Ext-N and the evidence of Janik Ali vide D.W. 3.

Ext. M -School Certificate was issued by the Head Teacher of 490 No. Barbakhara L.P. School dtd. 12/3/94 which contains the information that, Miss Misiran Nessa D/O Kasam Ali, Vill Salmara P.S. Bijni, Dist. Bongaigaon was reading in class I at 490 No. Barbakhara L.P. School. She passed the class I in the year 1964.

This School Certificate is taken into consideration as because O/P examined one Dipen Kumar Nath as D.W.2, who is the Head teacher of 490 No. Barbakhra L.P. School, who in terms of his examination produced Admission Register of 1956 vide M(i) . In Ext. M(ii) it has been recorded in Sl.no.125. that, Musstt. Michiran Nessa, D/O Md. Kasim Ali of village Barbakhra admitted in 'Ka man' dt.01-07-1961 at the age of 6 years. Hence from Ext. M, it has been established that, O/P Michiran Nessa is the D/O of Md. Kasim Ali of village Barbakhra.

Ext.N- G.P. Certificate issued by the Secretary of 4 No. Nowapara G.P. It contains the information that Michiran Bibi D/O- Kasam Ali of village Lungjhar, P.S. Fagunagaon under P.S. Manikpur in the Dist. of Bongaigaon, Assam is the resident of said village. This certificate can't be taken into consideration as it was not prove as per law.

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from the above, what is discernible is that, School Certificate (Ext-M) establishes the fact that, O/P is the daughter of Kasem Ali of village Salmara under Bijni P.S. Hence issue No. (II) is decided in favor of the O/P.

On the other hand, Issue No. (i) Ext-B is the voter list of 1966 and Ext-C voter list of 1971 establishes the existence of Kasem Ali and Daliman Nessa on the Indian soil since before 1966 meaning they are/were bonafide Indian citizens. Hence issue No. (i) is also decided in favour of the O/P.

That apart, O/P herself casted vote for the year 1971 at vill. Salmara along with her husband namely Abdul Khaleque. Moreover, D.W. 3 name of Janik Ali also recorded in the voter list of 1971 together with O/P. Because D.W. 3 is also from the same family O/P's in-laws. Hence whatever he stated in his evidence, from his personal knowledge. Therefore, statements of D.W. 3 can be taken into consideration as corroborative statements.

Considering the above facts and circumstances stated above, it can be easily said that, O/P successfully discharged the statutory burden as incorporated U/S 9 of the Foreigners' Act, 1946, the fact that, O/P is not a foreigner but Citizen of India.

Resultantly, I am of the opinion that, **Michiran Bibi, D/O- Lt. Kasem Ali, W/O-Abdul Khalek** of village-Salmara **Assam is not a Foreigner.**

Inform S.P. (B), Bongaigaon and District 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 December, 2024.

Transcribed at my dictation
and corrected by me.

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

Dated 10-12-2024

Memo No.BFT/08/07-24/ 479-A

Copy to:-

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

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