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27.05.2025	03.06.2025	03.06.2025	05.06.2025	05.06.2025

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

Case No. FT-10/AGM/2341/2020.

{F.T. Case No. 9783/GKJ/11 (old)}.

Reference: F.T. Case No. 148/08.

State of Assam

..... Referral Authority

-Versus-

Mazirun Bewa @ Maziran Bewa

Wife of Late Samsul Fakir

Opposite Party

Date of Order : 21/05/2025.

Appearance:

For the Referral Authority : Ms. Sangita Koeri, Asstt. Govt. Pleader.

For the opposite party : Mr. Iskandar Azad, Advocate.

PRESENT:

Rafiqul Islam, Member

ORDER

21/05/2025

1) This is a reference under Order 2 (1) of the Foreigners (Tribunals) Order, 1964 made by the Superintendent of Police (B), Dhubri in the year 2008 against the opposite party Mazirun Bewa @ Maziran Bewa, Wife of Late Samsul Fakir, Village:-Jhapusabari Part-III, Police station:-Agomani (earlier 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,

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1946 and the Foreigners (Tribunals) Order, 1964, as amended. From the record of reference received as aforesaid it has been found that earlier an enquiry was conducted under the provisions of the Illegal Migrants (Determination by Tribunals) Act, 1983 by the Superintendent of Police (B), Dhubri against the opposite party and a reference was created suspecting her to be an illegal migrant and during enquiry found that the opposite party is not an illegal migrant. Thereafter again in the year 2008 the instant reference has been made under Order 2 (1) of the Foreigners (Tribunals) Order, 1964 by the Superintendent of Police (B), Dhubri.

2) The record of reference reveals that the finding of the Inquiry Officer during the second enquiry was that the opposite party is not a foreigner and the conclusion and recommendation of the Superintendent of Police was that 'Fdd. to the Foreigners Tribunal, Dhubri with the intimation that the suspect does not appear to be a foreigner. Hence the case may perhaps be dropped'. However, as the reference was received in spite of the aforesaid fact, notice was issued to the opposite party in order to dispose of the case.

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 16/12/1963 at Village:-Balabhut, P.O:-Tufanganj, District:-Coochbehar (West Bengal). Her father and grandfather are also citizens of India by birth and they were originally residents of Village:-Balabhut, P.O:-Tufanganj, District:-Coochbehar (West Bengal). When she was 2/3 years old, her parents shifted from Village:-Balabhut to Village:-Jhapusabari Part-IV, P.S:-Golakganj, District:-Goalpara (now Dhubri), Assam. Subsequently they again shifted from Village:-Jhapusabari Part-IV to Village:-Jhapusabari Part-III within the same district. Her grandfather's name is Kismot Ali @ Kesmot @ Kesmot Mondal, grandmother's name is Moyna Bibi, father's name is Moinuddin Sk. @ Moinuddin Mondal @ Mainuddin Sheikh and mother's name is Rahela Bibi. Her father has altogether 4 brothers and sister including her father viz,

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i) Moinuddin Sk. @ Moinuddin Mondal (deceased), ii) Genda Sk. @ Genda Mondal (deceased), iii) Atab Ali Sk. @ Atab Ali Mondal (deceased) and Momiron Bibi. She has only 1 brother and no sister namely Abdul Samad Sheikh @ Abdus Samad Sheikh. She got married to one Samsul Fakir, S/o-Janser Fakir of Village:-Jhaposabari Part-III, P.O:-South Jhaposabari, P.S:-Agomani (earlier Golakganj), District:-Dhubri (Assam) about 40 years ago and during their conjugal life 1 child was born out of their wed-lock viz, Rokeya Khatun. Her father's name entered in the voter list of 1960 at Mouza:-Balabhut (Dakhin Part) and also in the voter list of 1977 at Village:-Jhaposabari Part-IV. Her name entered in the voter lists of 1997 (along with her father), 2005 and 2024 at Village:-Jhaposabari Part-III. The name of her younger brother Abdus Samad has been entered in the voter list of 2005 in a separate house number at Village:-Jhaposabari Part-III. Her father and uncles Genda Mondal and Atab Ali Mondal got settlement of land by way of registered Pattan Nama bearing Deed No. 3570 dated 30/03/1962 from one Akbar Ali Bepari in respect of land measuring 6 Bigha covered by Touzi No. 419 land situated at Mouza:-Jhaposabari.

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, younger brother of the opposite party as D.W-2 and official witnesses as D.W-3 and D.W-4 and exhibited some documents in support of her claim. 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

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his Voter Identity Card No.

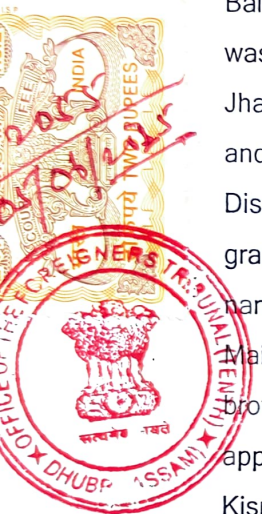
as Ext:J (proved in original), PAN

as Ext:K (proved in original) and Aadhaar Card No.

Ext:L (proved in original) and he was subjected cross examined. In his cross-examination, he admitted that after death of the husband of opposite party opposite party started to reside at their home at Village:-Jhapusabari Part-III.

11) Now let us appreciate the evidence of DWs including the documents exhibited in the case to determine the nationality status of the opposite party. From the evidence of the opposite party it has been found that the opposite party has claimed that she was born on 16/12/1963 at Village:- Balabhut, P.O:-Tufanganj, District:-Coochbehar (West Bengal) and when she was 2/3 years old, her parents shifted from Village:-Balabhut to Village:-Jhapusabari Part-IV, P.S:-Golakganj, District:-Goalpara (now Dhubri), Assam and she was brought up at Village:-Jhapusabari Part-IV, P.S:-Golakganj, District:-Dhubri, Assam. It is the claim of the opposite party that her grandfather's name is Kismot Ali @ Kesmot @ Kesmot Mondal, grandmother's name is Moyna Bibi, father's name is Moinuddin Sk. @ Moinuddin Mondal @ Mainuddin Sheikh and mother's name is Rahela Bibi and she has only 1 brother namely Abdul Samad Sheikh @ Abdus Samad Sheikh and no sister. It appears from Ext:A certified copy of voter list that the name of Moinuddin, S/o Kismat, whom the opposite party has claimed to be her father, was entered in the voter list of 1977 under 25 No. Golakganj Legislative Assembly Constituency at Village:-Jhapusabari Part-IV. From Ext:B certified copy of voter list it appears that the name of opposite party was entered in the voter list of 1997 under 25 No. Golakganj Legislative Assembly Constituency at Village:-Jhapusabari Part-III with Moinuddin Sheikh, S/o Kechmat Ali, whom the opposite party has claimed to be her father. It appears from Ext:C and Ext:D certified copies of voter lists that the name of opposite party has been entered in the voter list of 2005 under 25 No. Golakganj Legislative Assembly Constituency at Village:-Jhapusabari Part-III and in the voter list of 2024 under 6 No. Golakganj Legislative Assembly Constituency at Village:-Jhapusabari Part-III. In all the Ext:B, Ext:C and Ext:D voter lists the name of her relation has been recorded as Moinuddin Sheikh, whom the opposite party has claimed to

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be her father. It is the further claim of the opposite party that her father with other family members subsequently shifted to Village:-Jhapusabari Part-III from Village:-Jhapusabari Part-IV and permanently settled thereon. It appears from Ext:E deed that Md. Moyenuddin Mandal, Md. Genda Mandal and Atab Mandal, all sons of Late Kismat Mandal of Village:-Jhapusabari, Sub-Registry-Dhubri, Dist:-Goalpara, whom the opposite party has claimed to be her father and uncle, purchased a plot of land executing a registered Deed No. 3570 dated 30/03/1962 in the office of the Sub-Registrar, Dhubri. To prove Ext:E opposite party examined DW-3, the authorised person of the Sr. Sub-Registrar, Dhubri who in his evidence deposed that Ext:E is the certified copy of Sale Deed No. 3570 of 1962. He deposed that the Sale Deed was registered in the office of the Sub-Registrar, Dhubri on 30/03/1962 and the Deed was executed between Akbar Ali Bepari, S/o-Hajibashap Mamud Bepari of Village:-Balabhut, P.S:-Tufanganj, District:-Coochbehar (seller) and Moynuddin Mandal, Genda Mandal and Atab Ali Mandal, all sons of Late Kismat Mandal of Village:-Jhapusabari, P.S:-Golakganj, District:-Goalpara and produced the Volume Book No. 61/62, Book No. 1 in which Deed No. 3570 of 1962 has been recorded. He deposed that Ext:E is the certified copy of Sale Deed No. 3570 and same is the exact copy of Deed No. 3570 as has been recorded in the Volume Book and Deed No. 3570 has been recorded in page No. 53 and 55 of the Volume Book. Therefore Ext:E is proved. It is the case of the opposite party that she got married to Samsul Fakir, S/o-Jamser Fakir of Village:-Jhapusabari Part-III, P.O:-South Jhapusabari, P.S:-Agomani (earlier Golakganj), District:-Dhubri (Assam) about 40 years ago and during their conjugal life 1 child was born out of their wed-lock viz, Rokeya Khatun. To prove the linkage opposite party exhibited a certificate issued by the Prodhan, Balabhut Gram Panchayat as Ext:F. Opposite party examined DW-4, the Prodhan of Balabhut Gram Panchayat to prove Ext:F. Though it is the claim of the opposite party that she was born on 16/12/1963 at Village:-Balabhut, P.O:-Tufanganj, District:-Coochbehar (West Bengal) and when she was 2/3 years old, her parents shifted from Village:-Balabhut to Village:-Jhapusabari Part-IV, P.S:-Golakganj, District:-Goalpara (now Dhubri), Assam and she was brought up at Village:-Jhapusabari Part-IV, P.S:-Golakganj, District:-Dhubri, Assam, the Prodhan of Balabhut Gram Panchayat issued the Ext:F certificate



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beyond his jurisdiction as the opposite party was not residing at Village:- Balabhut at the time of her marriage. DW-4 in his evidence admitted that Majiran Bewa had not claimed that she married to Samsul Fakir of Village:- Jhapusabari and the Member also in his report had not disclosed that Majiran Bewa married to Samsul Fakir of Village:-Jhapusabari. In spite of the said fact DW-4 issued the Ext:F certificate and Ext:F is not proved and therefore no reliance can be placed on Ext:F as linkage document. It appears that Elector Photo Identity Card was issued in the name of opposite party in the year 2015 being the voter of Village:-Jhapusabari Part-III (Ext:G), wherein the name of Moinuddin Sheikh has been recorded as her relation name, whom the opposite party has claimed to be her father. It appears from Ext:H that Aadhaar Card has been issued in the name of opposite party and that PAN Card No. was issued in the name of opposite party (Ext:I). Though it appears from the PAN card of opposite party that her father's name is Mainuddin Sheikh and that her date of birth is 16/12/1963, the Ext:E sale deed shows that father of the opposite party was residing at Village:-Jhapusabari on 30/03/1962. Therefore Ext:E and Ext:I are self contradictory and hence no reliance can be placed on Ext:I. Opposite party examined her brother as DW-2 and DW-2 in his evidence supported and corroborated the evidence of opposite party (DW-1). It has been found that the name of father of DW-2 is Mainuddin Sheikh and the name of DW-2 is also available in record of reference as the brother of opposite party. Therefore there is no reason to disbelieve the testimony of DW-2. To prove the Ext:A, Ext:B, Ext:C and Ext:D certified copies of electoral roll, on the prayer of the opposite party summon was issued to the Election Officer, Dhubri and in response to the summon, the Election Officer, Dhubri vide his letter dated 07/01/2025 has submitted the authenticated report of those certified copies duly sign and seal by him and therefore Ext:A, Ext:B, Ext:C and Ext:D are accepted to be genuine and secondary evidence.

12) 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 father of the opposite party was residing at Village:-Jhapusabari having

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landed property and executed the sale deed dated 30/03/1962 in the office of the Sub-Registrar, Dhubri (Ext:E), name of the father of opposite party was entered in the voter list of 1977 at Village:-Jhapusabari Part-IV (Ext:A) and in the voter list of 1997 at Village:-Jhapusabari Part-III (Ext:B), the evidence of the opposite party are sufficient enough to prove that the father of opposite party was a citizen of India. As the father of opposite party was residing in India since before 01/01/1966 and the father of opposite party had all along resided in India having landed property and the father of opposite party was residing in India at the time of birth of the opposite party, being the descendant of citizen of India, the opposite party is a citizen of India. The linkage of opposite party with her father has been established from Ext:B, Ext:C and Ext:D and the evidence of DW-2 and therefore the opposite party cannot be termed as a foreigner. Moreover, the finding of the Inquiry Officer during enquiry was that the opposite party is not a foreigner and the conclusion and recommendation of the Superintendent of Police was that 'Fdd. to the Foreigners Tribunal, Dhubri with the intimation that the suspect does not appear to be a foreigner. Hence the case may perhaps be dropped'.

13) 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.

14) Considering the entire materials on record and the discussions above, I am of the considered opinion that the opposite party Mazirun Bewa @ Maziran Bewa, Wife of Late Samsul Fakir, Village:-Jhapusabari Part-III, Police station:-Agomani (earlier Golakganj), District:-Dhubri (Assam) is not foreigner.

15) The reference is answered in negative.

16) 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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