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BEFORE THE FOREIGNERS TRIBUNAL 9TH, DHUBRI: ASSAM

Present: Sri K.K. Das
Member,

Case No.: **FT-9/129/GKJ/2019**
(S.P.(B), Dhubri IM(D)/T Case No.2211/1998)

Referring Authority: Union of India & others

Vs.

Proceedee : Aklima Sarkar
W/o : Rahman
Vill : Shernagar
P.S. : Agomoni
Dist.: Dhubri, Assam

Advocate for Referring Authority : Mr. AK Ray, Asst. Govt. Pleader

Advocate for Proceedee : I. Azad & R. Chakraborty, Advocate

Date of Argument : 21-09-2024

Date of Final Order : 09-04-2025

F I N A L O R D E R

The Reference case was forwarded by the Superintendent of Police, (B) Dhubri, Assam to render an opinion in respect of citizenship status of Proceedee abovenamed. The case was initially registered and initiated before the Foreigners Tribunal, (Second) Dhubri and upon constitution of 64 numbers of additional Tribunals as per Order of the Hon'ble Supreme Court, the Case was received on transfer and taken up for disposal by this Tribunal by issuing notice to the Proceedee.

Whether the Proceedee is an illegal migrant / Foreigner of the stream
Post 1971 or of any other stream?

and other family members in the year 1997 in Shernagar. The Proceedee thus prayed for dismissal of the case declaring her as an Indian citizen.

The Proceedee claimed to have possessed sufficient documents to prove her case of being an Indian national.

In course of evidence, the Proceedee produced and exhibited several documents to substantiate her claim of being an Indian citizen.

Ext. A – Copy of Certificate issued by Agomoni GP in the name of Aklima Begum.

Ext. B – Copy of certified voter list-1958 of village Kaldoba pt-I.

Ext. C – Copy of Final Khatian.

Ext. D – Copy of certified voter list-1971 of village Kaldoba pt-I.

Ext. E – Copy of certified voter list-1977 of village Kaldoba pt-I.

Ext. F – Copy of certified voter list-1985 of village Kaldoba pt-II.

Ext. G - Copy of certified voter list-1989 of village Kaldoba pt-I.

Ext. H - Copy of Periodic Khiraj Patta of village Kaldoba pt-I.

Ext. I - Copy of e-certified voter list-1997 of village Shernagar.

Ext. J - Copy of EPIC of Akhlisma Begum W/o Rahman Prodhani.

Ext. K – Copy of (e-PAN) of Akhlisma Begum.

The Proceedee presented herself for cross-examination as DW 1 and during cross-examination, the Proceedee, inter alia, discloses material facts such as names of grandparents, parents etc. The Proceedee has stated categorically that her grandparents Khusullah Sk @ Khus Mamud & Sonabhan Bibi had resided in village Kaldoba pt-I where his father Sanaddi Sk had been born and brought up. The Proceedee as DW-1 stated that her father had

solemnized 2 marriages, firstly with Basiran Bibi who had died issueless and on her death her father had solemnized his second marriage with Rokeya Bibi who had given birth to 2 sons and 6 daughters including the OP and they are namely Basiruddin Sk, Aklima Bibi (OP), Choto Akhli Bibi, Wahed Ali Sk, Ketani Bibi, Taslima Bibi, China Bibi and Roshka Bibi were also born in same ancestral house of Kaldoba pt-I. It is further deposed that she along with brothers & sister had inherited ancestral land properties in village Kaldoba pt-I which their paternal grandfather Khusullah Sk @ Khus Mamud since deceased had originally owned. The DW-1 stated her grandfather Khusullah Sk @ Khus Mamud since deceased had cast vote in the year 1958 and her father Sonauddin Sk since deceased had also cast vote in the year 1971 in village Kaldoba pt-I along with her uncles. The Proceedee stated further she got married to Rahman Pradhani of village Shernagar and she is exercising voting right regularly in every assembly elections of the State along with husband. The Proceedee refuted the suggestion of making false deposition in order to become an Indian citizen.


The Proceedee adduced evidence of Basir Uddin Sheikh as DW-2, claiming him as elder brother in defence. I have gone through her statements carefully made during cross-examination. The witness duly supported the defence version of the Proceedee.

Opinion and reasons thereof:

I have perused and scrutinized the oral evidence as well as have meticulously gone through the documents and materials available on record in the proceedings.

The Proceedee produced herself for being cross-examined by the learned Asstt. Government Pleader and she further adduced oral evidence of Basir Uddin Sheikh as DW-2 to establish and prove linkage with her father and his stay in the State of Assam. From the oral evidence, the parental linkage with Sonauddin Sk is found to be established in an adequate manner, since

Proceedee's elder brother appears this Tribunal and adduced evidence as DW-2 and who have categorically corroborated the deposition of the DW-1. The testimonies of DW-2 further substantiate the case of the Proceedee that she has been casting vote in matrimonial house of Shernagar along with her husband Rahman Pradhani since marriage. The DW-2 further made statement during cross examination that grandparents of Proceedee had cast vote in the year 1958 in Kaldoba pt-I and grandfather Sumullah Sk@ Khusullah had owned agricultural land in Kaldoba pt-I and father had also owned land in same village. The evidence of DW-2 remains unrebutted by the AGP and this Tribunal has also found nothing adverse in the depositions of both DWs.



In order to establish linkage with Sonauddin Sk as father, the Proceedee has also brought on record a Certificate issued by Agomani Gaon Panchayat (Exhibit-A) and adduced evidence of one *Sri Abdus Sobhan* (Secretary of Agomani GP)) as **DW-5**. The evidence of DW-5 and records carried by him reveal authenticity of the Certificate and its contents. Thus the claim of Proceedee is held as true that she is daughter of Sonauddin Sk of village Kaldoba pt-I of Dhubri district.

The certified Khatian of land (Exhibit- C) relied by Proceedee as well as evidence of one *Sri Kamala Kanta Roy*, LDA, Settlement Office, Dhubri & Kokrajhar as **DW-3** transpire that Sonauddin Sk son of Late Khas Mamud had purchased land measuring 7B-3K-15L covered by Dag No.1121 in village Kaldoba pt-I and accordingly his name had been recorded in the year 1973 in Khatian No.295 along with others. The Khiraj Patta No.13 (Exhibit-H) and oral evidence of one *Sri Ajit Kr Paul*, Lot Mandal of Agomani Revenue Circle as **DW-4** further establish that Sonauddin Sk whom the Proceedee claim as father had owned and possessed myadi patta land in village Kaldoba pt-I. The exhibited voter lists 1958 onwards indicates exercising voting right by Proceedee's grandparents and father continuously in Kaldoba pt-I and in the exhibited voter lists the names of grandparents of Proceedee is also found along

with her parents. That apart, the verification report bearing No.DEL-13/2023/pt/336 dated 30.08.2024 is received from the learned Election Officer, Dhubri as sought for and the said report is forwarded by the Election Officer with no adverse remark stating voter lists as authentic. Accordingly, the exhibited voter lists are evident to the contention of Proceedee in regard to existence of Somulla Sk (OP's grandfather) and Sonauddin Sk (OP's father) in Indian soil since the year 1958 to its subsequent period. The continuous existence of Sonauddin Sk in village Kaldoba pt-I having voting rights is further held established in sufficient manner. It is also come to the notice of this Tribunal that all names reflected in the exhibited electoral rolls are duly resembled with the names contended in her pleadings. The voter lists 1997 of village Shernagar and EPIC issued in her name also made this Tribunal to rely the contention of Proceedee as correct that she is also a regular voter of her matrimonial village Shernagar along with husband Rahman Pradhani.

From the above context, it appears that the pleadings of Proceedee and her exhibited documents are being substantiated each other which demonstrate that Proceedee's ancestor were genuine Indian nationals and the Proceedee being a descendant of genuine Indian cannot be termed as illegal migrant as alleged.

The evidence adduced by the Proceedee remains unchallenged by the Referral Authority and accordingly this Tribunal is of the considered view that Proceedee Aklima is a daughter of Sonauddin Sk and Rokeya Bibi of village Kaldoba pt-I under Dhubri district who has been residing in her matrimonial village Shernagar along with her husband Rahman Pradhani having her continuous voting right.

Thus, in consideration of entirety of documents produced, it appears that the Proceedee or her ancestors had not illegally entered into the territory of India or the State of Assam, as suspected.

The documents have been found to be reliable, trustworthy and acceptable being in order and having been issued by the proper authorities and as such, proved. The documents have thus got evidentiary value. The Proceedee from all possible aspects of the matter, cannot be termed or declared to be a foreigner of the stream Post 1971 or any other stream under the law. The Proceedee has been able to discharge the burden cast on her under Section 9 of the Foreigners Act, 1946 to prove the fact that she is not a foreigner under the law.

O R D E R

The Reference case is disposed of on contest. In view of the discussions made above, this Tribunal is of the considered opinion that the Proceedee appears as not being a foreigner of any stream. Therefore, the Reference case against the Proceedee is answered in negative.

Send a copy of this Final Order to the District Magistrate, Dhubri, the Superintendent of Police (B), Dhubri and the Election Officer, Dhubri for information and necessary action.

The Final Order containing the opinion of this Tribunal is delivered under my hand and seal on this the 9th day of April, 2025 at Dhubri, Assam.

Judgment and order passed by

Sd/-

(KIRTI KAMAL DAS)

Member
Foreigners Tribunal-9th

Dhubri, (Assam).