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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4036/2024

ELIZA KHATOON @ ELIZA BEGUM
DAUGHTER OF ABUBAKKAR SIDDIQUE @ ABUBAKKAR SIDIK,
WIFE OF MUNTAJ ALI
AND PERMANENT RESIDENT OF VILLAGE- KACHARI GAON,
P.S.- JURIA, DIST.- NAGAON, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI.
PIN- 110001.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER

NEW DELHI- 110001.

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM

HOME DEPARTMENT
DISPUR
GUWAHATI- 781006
ASSAM.

4:THE DISTRICT COMMISSIONER
NAGAON

PIN -782001
ASSAM.

5:THE SUPERINTENDENT OF POLICE(B)
NAGAON
PIN- 782001
ASSAM.

6:THE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GUWAHATI- 781004
ASSAM

Advocate for the Petitioner : MR SARFRAZ NAWAZ, SAMIM RAHMAN,MR S A BARBHUYAN,A W AMAN

Advocate for the Respondent : DY.S.G.I., SC, ECI,SC, F.T,GA, ASSAM

B E F O R E

HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MR. JUSTICE RAJESH MAZUMDAR
ORDER

16.11.2026
(Kalyan Rai Surana, J)

Heard Mr. AW Aman, learned counsel for the petitioner. Also heard Ms. D. Borpujari, learned CGC; Ms. A. Verma, learned standing counsel for the FT and Border matters; Ms. S. Katakey, learned standing counsel for the ECI; and Mr. P. Sarmah, learned Additional Senior Govt. Advocate for the State respondent.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Eliza Khatoon @ Eliza Begum has assailed the opinion

dated 12.01.2023, passed by the learned Member, Foreigners Tribunal 4th, Nagaon, Juria, in F.T. Case No. 33/2016, arising out of Police Reference F.T. Case No. 471/15, by which the petitioner was declared to be a foreigner of post 25.03.1971 stream.

3. The learned standing counsel for the FT and Border matters has made a submission in support of the impugned opinion.

4. However, on perusal of the records, it is noticed that the petitioner has exhibited the following 6 (six) documents :

(a) School certificate issued by the Headmistress of Pragjyoti Balika Prathamik Bidyalaya, Pub-Futaljar (Ext.1);

(b) Voters' list of 1965 (Ext.2);

(c) Voters' list of 1970 (Ext.3);

(d) Voters' list of 1997 (Ext.4);

(e) Certified copy of *jamabandi* (Ext.5); and

(f) Certificate issued by the Gaonburah (Ext.6)

5. However, the learned Tribunal, while appreciating the documentary evidence, has referred to the Gaonburah Certificate as Ext.2, and thus there has been an inadvertent wrong appreciation of the documentary evidence in the discussion made in the impugned opinion while referring to the said exhibited documents because while excluding the documents for consideration, the learned Tribunal has excluded Ext.1 and Ext.2 for consideration. Ext.1 was discarded as it contained the State Emblem, but while discussing Ext.6, the Tribunal had referred to the exclusion of Ext.2, which is infact the voters' list of 1965, and there is no reason assigned for excluding Ext.2.

6. On a further perusal of the learned Tribunal's records, which were called for, it is seen that the Headmistress of the School in her deposition and during the cross-examination, which was recorded on 25.05.2022, had brought the School Register. In the learned Tribunal records, the photocopy of the School Register is available at page 131 to 135 and page 137. At page 136 of the Tribunal's record, there is another certificate dated 26.05.2016 and the learned Member has endorsed the said photocopies to be seen by affixing the signature and rubber stamp of the learned Tribunal at page 137.

7. The said set of photocopied school Register reflect the name of one Aliza Begum in the said register with other particulars as mentioned therein. The learned Tribunal though had taken notice of the said documents, had not referred to the same while discussing the School Certificate (Ext.1). though, the learned Tribunal had recorded that the Headmistress of the School had produced the School Register.

8. As mentioned hereinbefore, the learned standing counsel in the FT and Border matters, while making her submission in favour of impugned opinion, had submitted that save and except the wrong reference to the document, the petitioner could not prove her link with her projected father and the documents are not sufficient evidence to prove the citizenship of the petitioner.

9. Taken note of the said submissions.

10. It is the duty of the learned Tribunal to appreciate the documents with reference to the numbering of the exhibits in the correct order. There is no reason for the learned Tribunal to refer to the School Certificate as Ext.6 and thereafter exclude Ext. 2 from consideration, which shows that at the time of passing the impugned opinion, the learned Tribunal did not take into

consideration the correct numbering of the said exhibited documents, which was excluded as Ext. 2.

11. Therefore, as the Court is exercising certiorari jurisdiction and not appellate or revisional jurisdiction, this Court would not substitute its views on the opinion rendered by the learned Tribunal.

As the learned Tribunal is the original forum for appreciation of pleadings and exhibited documents, the matter has to be sent back to the learned Member, Foreigners Tribunal 4th, Nagaon, Juria for correct appreciation of the documentary evidence and also to take into consideration the entries made in the Admission Register, which was produced before the said Tribunal and the Tribunal shall take note of the marking made the said photocopied documents as "seen".

12. The Court is inclined to direct the petitioner, who is duly represented by the learned counsel to appear before the said learned Tribunal on or before 18.12.2026 and by producing a certified copy of the order, wait for further orders to be passed by the said learned Tribunal.

13. It is provided that on the date of appearance of the petitioner, he shall be ready and willing to take bail of such reasonable sum as may be deemed fit and proper by the learned Tribunal. It is provided that the bail so granted by the learned Tribunal shall be ordered to remain valid for a period of 30 (thirty) days from the date of the fresh opinion that may be passed by the said learned Tribunal.

14. The Registry shall sent back the Tribunal records along with copy of the order to be made a part by the record of the learned Tribunal.

15. The learned standing counsel for the FT and Border matters shall also

transmit a downloaded copy of this order to the concerned authorities for their information as to the manner in which the learned Foreigners Tribunals are functioning.

16. The writ petition stands partly allowed to the extent as indicated above with the order of remand.

17. There shall be no order as to cost.

JUDGE **JUDGE**

Comparing Assistant