

GAHC010264632018



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

Case No. : WP(C) 8272/2018

1:LAKHI DAS
D/O- LAL MOHAN DAS, W/O- MADHAB DAS, R/O- VILL- PUB- MALOIBARI,
P.S. KHETRI, DIST- KAMRUP (M), ASSAM, PIN- 782403

VERSUS

1:THE UNION OF INDIA AND 8 ORS.
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWAN, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S.ROAD
BHANGAGARH
GHY
ASSAM
PIN- 781005

5:THE FOREIGNERS TRIBUNAL KAMRUP (M) NO. 1

AT GHY
ULUBARI
GHY-7
DIST- KAMRUP (M)
ASSAM

6:THE DY. COMMISSIONER
KAMRUP (M)
P.O. AND P.S. PANBAZAR
DIST- KAMRUP (M)
ASSAM
PIN- 781001

7:THE DY. COMMISSIONER OF POLICE (B)
CITY GHY
KAMRUP (M)
ASSAM
PIN- 781001

8:THE SUPERINTENDENT OF POLICE (B)
CITY GHY
KAMRUP (M)
ASSAM
PIN- 781001

9:THE OFFICER-IN-CHARGE
AT KHETRI P.S.
P.O. KHETRI
DIST- KAMRUP (M)
ASSAM
PIN- 78240

Advocate for the Petitioner : MS. D GHOSH

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 08-02-2019

(A.M. Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Mr. A.I. Ali, learned counsel

for the Election Commission of India, Mr. J. Payeng, learned counsel for the State of Assam appearing for the Foreigners' Tribunal and Border Areas, Ms. A. Verma, learned standing counsel for the authorities under the NRC as well as Ms. G. Sarma, learned counsel for the authorities under the Union of India.

Issue notice, returnable in 6 (six) weeks. Extra copy be furnished within three days.

Call for the records of F.T. Case No.03/2017 from the Foreigners Tribunal Kamrup (Metro) No.1, Guwahati.

In the meantime, the petitioner shall not be deported.

The petitioner makes a further claim that under the proviso to Section 2 of Immigrants (Expulsion from Assam) Act, 1950 the petitioner is entitled to be not removed from India or Assam, inasmuch as, her father had migrated to India on account of civil disturbance or on account of fear of such disturbance in the area which comprise of the erstwhile East Pakistan.

We have taken note of Section 3 of the said Act of 1950 which provides that the Central Government may delegate to any of the authorities specified therein the powers to invoke the provision of Section 2 of the Act.

It being so, pendency of the writ petition shall not be a bar on the part of the petitioner to make application to the appropriate delegated authority under Section 3 to make claim for her entitlement under the proviso to Section 2 of the Act of 1950.

JUDGE

JUDGE

Comparing Assistant