GAHC010226692023

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

Case No. : WP(C)/5985/2023

MUSSTT JAYGUN NESSA @ JOYGUN NESSA @ JOYGON NESSA
W/O- SAHJAMAL ALI,
D/O- ABDUL MATLEB @ MATLEB HUSSAIN,
VILLAGE- BELTOLA PATHER (NEPALIKHUTI) DOHIKATA,
P.O AND P.S- MORNOI,
DIST- GOALPARA, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS, SASTRI BHAWAN, TRILOK MARG, NEW DELHI- 110001.

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NEW DELHI-110001

3:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

4:THE SUPERINTENDENT OF POLICE (B)
P.O AND DIST- GOALPARA
ASSAM
PIN-783101

5:THE DEPUTY COMMISSIONER
P.O AND DIST- GOALPARA
ASSAM
PIN-783101

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M)

7:THE ELECTORAL REGISTRATION OFFICER
37 NO GOALPARA EAST LAC
P.O- GOALPARA
DIST- GOALPARA
ASSAM
PIN-78310

Advocate for the Petitioner : MR. N UDDIN, MR. M ISLAM,MR S K CHHETRY

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

Advocates for the petitioner : Mr. N. Uddin

Advocate for the respondents : Mr. A.K. Choudhry, CGC Mr. G. Sarma, FT & Border Mr. A.I. Ali, ECI, Ms. R.B. Bora, Jr. Govt. Adv

Date on which judgment is reserved :30.09.2026.

Date of pronouncement of judgment : 18.11.2026.

Whether the pronouncement is of the operative part of the judgment :Full judgment.

Whether the full judgment has been pronounced :N/A.

JUDGEMENT AND ORDER (CAV)

(Susmita P. Khaund, J)

Factual Matrix:-

1. The petitioner in this case is Musstt. Jaygun Nessa @ Joygun Nessa @ Joygon Nessa, who is aggrieved by the impugned opinion dated 30.06.2022, passed by the learned Member, Foreigners Tribunal 4, Goalpara, in connection with Case No. FT (G-4) M/257/18, declaring the petitioner to be a foreign national, who entered into India illegally on or after 25.03.1971.

2. A reference against the petitioner was forwarded by the Superintendent of Police (Border), Goalpara vide Ref. FT Case No. 613/2010 dated 22.12.2010, expressing doubt over the nationality of the petitioner. The reference was transferred to the Foreigners Tribunal 4th Goalpara for disposal. Notice was issued to the petitioner, who appeared and filed written statement along with copies of documents on 27.11.2018.

3. To substantiate her pleadings, the petitioner examined herself as a witness (DW-1) and she adduced the evidence of her father Abdul Matleb @ Matleb Hussain as DW-2, the evidence of the Secretary of 74 No. Uzirachar as DW-3 and the Gaon Burah of Moukhowa & Uzirachar, Abdul Rouf as DW-4.

4. The following documents were exhibited by the petitioner:-

Exhibit A:- A copy of NRC of 1951.
Exhibit B:- Certified copy of voters' list of 1970.
Exhibit C:- Certified copy of the voters' list of 1985.
Exhibit D:- Certified copy of voters' list of 1997.
Exhibit E:- Certificate issued by the Gaonburah, Moukhawa, Uzirochar.
Exhibit F:- Certificate issued by Secretary, 74 Uzirar Char GP.
Exhibit G:- Certified copy of voters' list of 1997, showing the petitioner's name with her husband.

Arguments for the petitioner:-

5. It is contended that notices were issued to the petitioner on 17.07.2018 without furnishing copies of the LVOs report, EROs report, enquiry report, reference, and the main grounds on which the petitioner is suspected to be a foreigner. It is averred that the petitioner clearly mentioned in her written statement that she is an Indian citizen by birth. She was born in the year 1978 at village Uzirar Char under P.S. Baghbar. She mentioned her father's name as Matleb Hussain @Abdul Matleb @Matleb Ali, and her mother's name as Anowara Khatun. In addition, the petitioner stated that she had two step-mothers, whose names are Shukuron Nessa and Samartha Bhanu. The petitioner's grandfather's name is Duikha Sk @Dukhiya Sk and grandmother's name is Mamila Khatun @Mamla Khatun. The petitioner further stated through her written statement that her grandparents had three sons and one daughter namely,

(i) Musha Sk,

(ii) Matleb Hussain @Matleb Ali (petitioner's father),

(iii) Abdul Hashem, and

(iv) one daughter namely, Samarthabhan Nessa.

Therefore, the petitioner had clearly mentioned the names of her grandparent’s siblings, parents, and her own siblings.

6. It is submitted that the petitioner's grandfather's name appeared as Dukhiya Sk- S/o-Biyakul in the NRC of 1951 of Village, Moukhowachar Nonke. The petitioner also stated that the names of her grandparents appeared in the voters list of 1970 as Doila Munshi and Mamla Khatun, W/o-Duikha in the Village, Uzirar Char under 52 No. Baghbor LAC. Her grandmother's name

appeared in the voters list of 1975 under the said Village, Uzirar Char and step mother's name appeared in the voters list of 1985 as Shukuran, W/o-Matleb at serial No. 278 in the Village-Uzirar Char under 45 Baghbar LAC.

7. Learned counsel for the petitioner has contended that the petitioner had clearly mentioned in the written statement that the names of her stepmothers appeared in the voters list of 1997 as voters of the said Village-Uzirar Char. In the year 1996, the petitioner got married to Shah Jamal @Sahjamal Ali, S/o of Banij Ali of Village-Uzirar Char under Baghbar LAC. Accordingly, the petitioner and her husband's name appeared in the voters list of 1997 from that village.

8. It is submitted that the petitioner and her husband's name appeared in the voters list in 2005 and 2018 from Village-Dohikata, Goalpara East. Link certificates were issued by the Gaonburah of Village-Uzirar Char and the Secretary of Uzirar Char, GP. It is contended that to substantiate her stance, the petitioner adduced evidence of DW1 and the evidence of her father and the evidence of two Gaonburahs. She exhibited several documents under Section 74 of the Indian Evidence Act, 1872 (The Evidence Act for short). These documents being public documents are to be admitted and proved under Sections 76, 77, 78, 80 and 90 of the Evidence Act. However, the learned Trial Court had erroneously discarded the evidence holding the petitioner to be a foreigner who entered into India from a specified territory.

Arguments for the Respondents:-

9. Learned counsel for the FT matters laid stress in his argument that this petition is liable to be dismissed. The linked documents produced by the petitioner does not connect the petitioner to her parents and grandparents. The names are different and discrepancies have surfaced in the names of the

petitioner’s grandfather and father. Even the petitioner's grandmother is not linked with her grandfather Doila. The petitioner tried to project that Doila is her grandfather, whereas in the same voters list of 1970, the petitioner's grandmother is shown as wife of Duikha and not as wife of Doila. Actually, who is the grandfather of the petitioner? Doila or Duikha?

10. It is thus submitted that the petitioner is not at all connected to her parents and grandparents. She has failed to establish any linkage with her parents and grandparents. To bridge the gap, the petitioner tried to project that her father had married thrice, so that she could at least connect one woman as her mother. The cross-examination of the witnesses totally demolishes the petitioner's case. The respondents have thus submitted that the petition is liable to be dismissed.

Decision of the Tribunal:-

11. The learned Tribunal has held that the Exhibit-A i.e., Copy of NRC entry record reveals that the NRC of 1951 was issued on 24.04.1969 in the name of Dukhiya Sk, S/o- Biyakul aged about 50 years of Village-Moukhuwa Char. The name of the other family members were reflected as Mamila Khatun-W/o-Dukhiya, Abul Hussain, Meheran Nessa as son and daughter of Dukhiya. Thus, the proceedee projected Dukhiya Sk and Mamila Khatun as her grandparents.

12. However, in Exhibit-B, the voters list of 1970, the village is shown as Uzirar Char under 52 Baghbar LAC and the names of the petitioner's grandfather and grandmother are shown as Doila Munshi, S/o- Biyakul, aged 60 years and grandmother's name is shown as Mamla Khatun-W/o- Duikha, aged about 50 years.

13. On the contrary, the petitioner stated in her written statement and evidence-

in-chief that her grandfather had three sons and one daughter and the names are not similar to the names reflected in the voters list as Abul Hussain and Meheran Nessa. She stated that her grandfather's daughter's name is Samarthabhan Nessa. Thus, the entry record of NRC 1951 and the statement of the petitioner is not similar. When her grandfather's age was shown as 50 years in the year 1951, how could his age be 60 years in the year 1970? Moreover, her grandfather's name appears as Doila Munshi and her grandmother Mamla Khatun is shown to be wife of Duikha and not Doila in the voters list of 1970. Thus, her grandmother is not wife of Doila but Duikha, according to the voters list of 1970 and then Doila Munshi cannot be her grandfather. Moreover, the age discrepancies cannot be ignored.

14. It was held that it is unbelievable that Duikha SK of entry record of NRC 1951 and Doila Munshi of voters list of 1970 is one and the same person. It was further held by the petitioner that after the voters list of 1970, the voters list of 1985 of Village-Ujirar Char, was exhibited and the name of Matleb, son of Duikha aged about 35 years has appeared. The petitioner had projected that Matleb, son of Duikha, is her father and Shukuron, wife of Matleb, aged about 27 years, is her step mother. This voters list was not accepted as evidence as the name of Matleb was found along with his wife, but not along with his father. It was held that this Matleb cannot be the son of Doila Munshi of voters list of 1970 or Duikha Sk of entry record of NRC 1951.

15. It was also observed by the Tribunal that the petitioner did not submit any document between the period from 1970 to 1985.In the voters list of 1997 of Village-Ujirar Char under 45 Baghbor LAC, discrepancies surfaced in the names of Abdul Matleb, son of Duikha, aged about 44 years and Anowara Khatun, wife of Abdul Matleb, aged about 37 years, as well as Samartha Bhanu, wife of Abdul

Matleb, aged about 26 years. The documents exhibited to establish the linkage of the petitioner with her projected parents and grandparents were also not accepted by the Tribunal.

16. It was observed by the Tribunal that the petitioner submitted the certificate issued by the Secretary of 74 No. Ujirar Char LAC and exhibited the same as Exhibit-F and she exhibited the certificate issued by the Gaonburah of Moukhawa, Ujirar Char, Charge No. 22, Village as Exhibit-E. It was held that the certificates were not issued in a proper manner. At the time of cross examination of the Gaonburah, he stated that the certificate was issued for the purpose of updating NRC.

17. The Tribunal observed that there was no counter signature on the copy brought by the Gaonburah. The marriage certificate was also not attached with the documents submitted with the application. The Gaonburah was not aware how the date of marriage was recorded. On the Issue register produced by the Gaonburah, it is not clear when and who had received the certificate, despite the fact that the signature of the DDO of Mandia Development Block could be seen and the date is recorded as 07.07.2015 and the date of issuing the certificate is recorded as 04.07.2015. This witness also did not know how the signature of the DDO could be procured after the issuance of the certificate. The DDO was not aware why No. 2980 was recorded on the certificate and he admitted that this number was not found on the counter folio brought with him.

18. It was held by the learned Tribunal that after analysing the evidence of the Issuing authority, it was found that the Exhibit-E certificate was not issued in a proper manner. This witness at the time of his cross-examination also stated that the name of the grandfather of the petitioner is Dukhiya and in the voters list of 1970, the petitioner's grandfather's name is recorded as Doila Munshi,

and as Duikha Munshi in the voters list of 1970. This witness also stated that he had no proof that the name of Doila Munshi and Duikha is of the same person. There is no certificate of 1966 in the name of Duikha or Doila Munshi and the age is also not mentioned in the certificate. It was thus held by the Tribunal that both the certificates were issued without verifying any related material.

Analysis and Conclusion:-

19. The argument of the learned counsel for the petitioner that the notice was not served properly as the copies of the EROs report and LVOs report and the grounds of issuing the notice have not been mentioned, holds no water. The notice at page-20 of the Tribunal's records clearly reveals that the grounds of issuance of notice have been clearly mentioned. The petitioner appeared before the Tribunal and submitted her written statement. Thus she is acquainted with the EROs report, the LVOs report or the report of the Inquiry officer.

20. It is true that the petitioner had submitted a detailed written statement but the differences which emerged through the documentary evidence and the oral evidence adduced by the petitioner could not substantiate the pleadings of the petitioner.

21. Through her pleadings and evidence, the petitioner stated that she was born and brought up in the village of Ujirar Char under Baghbar P.S. and her date of birth was 1978. The names of her grandparents are Duikha Sk @Dukhiya Sk and Mamila Khatun @Mamla Khatun. The name of her father is Matleb Hussain @Abdul Matleb @Matleb Ali; and the names of her three mothers are as follows:

(i) Shukuron Nessa (stepmother);

(ii) Anowara Khatun (biological mother); and

(iii) Samartha Bhanu (stepmother).

22. The petitioner mentioned the name of her husband as Sahjamal and she also stated that she is blessed with three sons and two daughters. Further the petitioner stated that her grandparents had three sons and one daughter namely:-

(i) Musha Sheikh;

(ii) Matleb Hussain @Matleb Ali (father of petitioner);

(iii) Abdul Hashem; and

(iv) Samarthabhan Nessa.

23. The petitioner stated through her pleadings and evidence that she has four brothers and six sisters namely;

(i) Abul Hussain;

(ii) Anowar Hussain;

(iii) Shohida Khatun;

(iv) Sobiya Khatun;

(v) Soneka Khatun;

(vi) Obiron Nessa;

(vii) Amir Hamza;

(viii) Rukiya Khatun;

(ix) Rashidul; and

(x) Azmina Khatun.

24. The petitioner further stated through her pleadings and evidence that the name of her grandfather was recorded as Dukhiya, S/o- Biyakul at serial No. 1, House No. 189, LDC No. 120-0007-5465 and image ID No. 02103088, as a citizen of India. It is to be noted that in the said NRC, her grandfather's name was mentioned as Duikha Sk instead of Dukhiya, whereas Duikha and Dukhiya Sk is one and the same person and is identified by both names. NRC of 1951 is marked as Exhibit-A.

25. There is a clear departure of evidence from the pleadings. In the pleadings, the petitioner did not mention about change of address after 1960, but in her evidence-in-chief, the petitioner stated that in the year 1960, due to erosion, her grandparents had shifted from their residence at the village of Moukhowa Char to the village of Uzirar Char. The petitioner also explained that the names of her grandparents were thus not enrolled in the voters list either at village of Moukhowa Char or at the village of Uzirar Char, before 1960. As a result their names have been dropped from the voters list of 1966 and hence their names have been enrolled in the voters list of 1970 at village Uzirar Char.

26. It is trite law that evidence cannot traverse beyond pleadings. When the petitioner had given every detail she could have, in a written statement, what stopped her from mentioning the change of address from the year 1960. It is also pertinent to note that the petitioner gave her year of birth but she did not provide her date of birth. It has been held by the Supreme Court in the case of ***Sarbananda Sonowal Vs. Union of India reported in (2205) 5 SSC 665*** that:-

> "*There is good and sound reason for placing the burden of proof upon the person concerned who asserts to be a citizen of a particular country. In order to establish one's citizenship, normally he may be required to give evidence of (i) his date of birth (ii) place of birth (iii) name of his parents*

> *(iv) their place of birth and citizenship. Sometimes the place of birth of his grandparents may also be relevant like under Section 6-A(1)(d) of the Citizenship Act. All these facts would necessarily be within the personal knowledge of the person concerned and not of the authorities of the State. After he has given evidence on these points, the State authorities can verify the facts and can then lead evidence in rebuttal, if necessary. If the State authorities dispute the claim of citizenship by a person and assert that he is a foreigner, it will not only be difficult but almost impossible for them to first lead evidence on the aforesaid points. This is in accordance with the underlying policy of Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."*

27. In this case, it was the responsibility of the petitioner to mention her name and all the details in her written statement. It is not true that the petitioner had mentioned each and every detail in her written statement as the petitioner did not mention about shifting from one village to another in her written statement. This discrepancy thwarts the evidence of the petitioner, as the underlying policy of Section 106 of the Evidence Act was not followed.

28. A case under the Foreigners Tribunals Act has to be proved as per the mandate of Section 9 of the Foreigners Act, 1946 which reads:-

> "*Burden of proof.-If in any case not falling under Section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), lie upon such person."*

29. Thus, the onus was on the petitioner to establish her lineage with her parents and her grandparents. The petitioner failed to mention her date of birth as well as shifting of her grandparents abode, from one place to another after 1960. Her evidence was not found to be credible. The discrepancies in her grandparents' names as well as the discrepancies in the relation between her grandmother and her grandfather and the evidence that the petitioner's father

had three wives cast doubt over the veracity of the petitioner's evidence. The petitioner failed to prove her citizenship with reliable, cogent and credible evidence.

30. It is apt to mention that the petitioner exhibited the NRC of 1951 which cannot be accepted as evidence as the NRC was issued by the President/Secretary of Barpeta District Congress in the year 1969. The entry in the NRC record reveals that the names of the petitioner's grandparents are not similar to the voters list of 1970. A comparison is made between the NRC of 1951 and the voters list of 1970 in the tabular form as follows:-

NRC of 1951	Voters List of 1970
Exhibit-A	Exhibit-B
Village:-Mowkhowa Char	Village:-Uzirar Char
Family members- (i) Dukhiya Sk,S/o-Biyakul, (ii) Mamila Khatun, W/o-Dukhiya, (iii) Abul Hussein, S/o-Dukhiya, (iv) Meheni Nessa, D/o-Dukhiya.	Family members- (i) Doila Munshi, S/o- Biyakul, (ii) Mamla Khatun, W/o-Duikha.

31. If this NRC of 1951 and the voters list is compared, the petitioner's grandmother's name appears to be Mamila Khatun in the NRC of 1951 whereas her grandmother's name appears as Mamla Khatun and she's shown as wife of Duikha and not Dukhiya. In the voters list of 1970, another person's name appears and his name is shown as Doila Munshi, S/o- Biyakul. Although, the

petitioner tried to explain that Duikha, Duikhya, Doila, is the same person, this justification of the petitioner was not found to be reliable.

32. The petitioner relied on the voters list of 1970 wherein her grandfather's name is shown as Doila Munshi, S/o- Biyakul, whereas her grandmother, Mamla Khatun is shown as wife of Duikha instead of Doila. Now, the question arises, who is the petitioner's grandfather Doila, Duikha or Dukhiya.The petitioner tried to justify these discrepancies in name by stating in her written statement that Doila, Duikha and Dukhiya is the same person. If the petitioner's grandfather is either Doila or Dukhiya, then how could his name appear as Doila and Dukhiya in the same voters list, i.e., the voters list of 1970.

33. Thereafter, the petitioner exhibited a voters list of 1985, which is a voters list after 15 years.The voters list is marked as Exhibit-C. The petitioner's father's name appears as Matleb, and his age is shown as 35 years, whereas her mother's name appears as Shukuron, wife of Matleb, and her age is shown as 27 years. Then, the petitioner exhibited another voters list marked as Exhibit-D, which is a voters list after a gap of another 12 years. In this voters list, the name of the village appears to be similar to that of the voters list of 1970, but the petitioner's father's name appears as Abdul Matleb, aged 44 years.The names of two women figures as Anowara Khatun, aged 37 years, shown as wife of Abdul Matleb, and another woman, Samartha Banu, wife of Abdul Matleb, and her age is shown as 26 years.

34. The discrepancy is not only of age, but names are also not similar. Instead of Matleb, the petitioner's father's name appears as Abdul Matleb in the voters list of 1997, and his age appears as 44 years instead of 47 years in the voters list of 1997. Again, here, names of two women have surfaced in the voters list of 1997, and Matleb's wife is shown as Shukuron in the voters list of 1985.

35. The petitioner then tried to explain that her father had three wives, and this is the reason why names of three women have appeared in two voters lists. Even if we check the ages, or scrutinize the ages given in the voters list submitted by the petitioner, there ought to have been some continuity in the voters lists starting from 1960 at least, upto 1997.

36. In a scattered manner, a voters list of 1970 and thereafter, after 15 years, a voters list of 1985 and after 12 years, a voters list of 1997 cannot establish lineage of the petitioner with her parents and grandparents when their names appear to be different, and their ages are also not similar. Continuous residency is a *sine qua non* to prove citizenship.

37. Moreover, the fact that the petitioner stated that she has three mothers, has not been substantiated by the evidence of the other witnesses. As the petitioner is a woman, her marriage was solemnized before her name could be included in the voters list along with her parents. The petitioner tried to bridge the gap in the voters lists by exhibiting documents issued by the Gaonburah as well as by the Secretary of the Gram Panchayat. The Secretary of the Ujirar Gram Panchayat, Satyanath Talukdar, deposed as DW3 that he brought with him the original register and the record book of Certificate (Exhibit-F) to prove the copy in original. Exhibit-F was issued by his predecessor, who was the earlier Secretary of the same Gram Panchayat. According to the Certificate, Jaygun Nessa's marriage was solemnized with Shah Jamal, S/o- Banij Ali of village Dohikota on 01.01.1996. However, in his cross-examination, he testified that the certificate was issued to update the NRC. There was no signature on the original register, no marriage certificate or Kabin Nama had been appended along with the register to prove the marriage of the petitioner. Thus, he was not aware from where the date of marriage of the petitioner was recorded in the register.

38. It is apparent that the petitioner's witness failed to substantiate the petitioner's evidence. This certificate was not proved by any contemporaneous record. If marriage has to be proved, there ought to have been some proof of marriage. The certificate was not even issued by him as his predecessor had issued the certificate marked as Exhibit-F. Thus, it has been correctly held by the Tribunal that Exhibit-F was not proved in a proper manner and certificate was not issued in a proper manner. The Tribunal has held that no counter-signature was found in the original register.

39. The petitioner also failed to prove her linkage to her father and grandfather, by adducing the evidence of DW4, Gaonburah. Abdul Rauf deposed as DW4 that he issued the certificate marked as Exhibit-E in favour of Jaygun Nessa, daughter of Abdul Matleb of Uzirar Char village. He stated that Jaygun Nessa's marriage was solemnized with Shah Jamal, S/o- Banij Ali of Dohikata village.DW4 further deposed that the Serial number of the certificate was 1742 and the Book number 8 had a signature marked as Exhibit-E(i). He deposed that the certificate was issued on the basis of an application filed by the father of the petitioner. The voters list of 1970 and 1975, reflects the name of the petitioner's grandfather and the voters list of 1997 and 2018, reflects the name of the petitioner's father, and the GP Secretary issued the certificate in favour of the petitioner, based on voters list of 1997 and 2008, reflecting the name of the petitioner. The voter ID of the petitioner, her father and husband were also enclosed along with the application. He further stated that the petitioner's father is known to him. Thus, this certificate was not found to be reliable, as the voters lists of the petitioner along with her husband cannot be taken into consideration as these are documents which could not be linked to the earlier voters lists of 1970 and 1985 exhibited by the petitioner.

40. It has already been held in the foregoing discussions that the voters list of 1970, 1985 and 1997 reflecting the petitioner's grandfather's and father's names are not at all connected as age discrepancies and name discrepancies have surfaced in the voters lists. It has also been held in the foregoing discussions that the village, starting from the 1970 voters list was not similar to the NRC of 1951. This certificate marked as Exhibit-E was issued relying on the voters lists. Thus this certificate has not been substantiated. The voter identity cards or EPIC of individuals do not at all prove their citizenship.

41. In his cross-examination, even DW4 admitted that the grandfather's name of the petitioner is Duikha whereas in the voters list of 1970, the grandfather's name of the petitioner appeared as Doila Munshi and in the same voters list his name appeared as Duikha. He thus deposed that there were no documents to prove that Duikha and Doila Munshi is the same person.It is admitted in his cross-examination that Duikha or Doila Munshi had no voters list for the year 1966. It was admitted that they print out the certificates but they have no official format. It was admitted that the signature of higher authorities was not taken on the certificates. He admitted in his cross-examination that in the Exhibit-E, the data regarding marriage are recorded by hand.

42. Thus, it has been correctly held by the Tribunal that "*it clearly manifests the fact that Exhibit-E and Exhibit-F are absolutely unsafe to be accepted as private documents without any reasonable and credible enquiry and investigation being carried out while issuing the same.*' There appears to be no ground to interfere with the decision of the Tribunal. Moreover, it would be apt to reiterate that the disclaimer in the Exhibit-F clearly reflects that "*it would be valid only if accompanied by legacy data or any other admissible documents issued for the person with whom linkage is claimed for inclusion in updated NRC.*" The Exhibit-

F shall be accepted only as a supporting document for establishing linkage with the parents for updation of NRC. A handwritten note in the Exhibit-E indicates that the petitioner got married to Shah Jamal, S/o-Banij Ali, of village Dohikota. A close scrutiny of Exhibit-E clearly reveals that the petitioner is shown as daughter of Abdul Matleb, on Exhibit-F, she is shown as daughter of Matleb Hussain, and on Exhibit-D, the petitioner is shown as daughter of Abdul Matleb. The petitioner claims to be daughter of Abdul Matleb through Exhibit-D, whereas she claims to be the daughter of Matleb through Exhibit-C. Discrepancies have emerged in the names of the petitioner's father as well as her grandfather. On the fact that age discrepancies have also emerged, no document was produced by the petitioner or no affidavit was produced by the petitioner to prove that Matleb, Abdul Matleb and Matleb Hussain is the same person or Duikha, Doila or Dukhiya is the same person. The petitioner also failed to prove that she was brought up by three stepmothers. Due to the discrepancies in the documentary as well as the oral evidence, it is held that the petitioner failed to prove the linkage documents produced by her with cogent, reliable and contemporaneous records.

43. In the case of ***Bijoy Das vs UOI reported in 2018 (3) GLT 118,*** this Court has laid down that in proceedings of this nature, oral evidence alone would not be enough and such evidence is required to be supported and corroborated by documentary evidence and contemporaneous records. However, in this case, the same has not been able to be done by the petitioner. We are of the view that the petitioner as proceedee had failed to discharge her burden to prove her citizenship.

44. Even in her cross-examination, DW1 stated that her father's name is Matleb Hussain @Abdul Matleb, whereas her own birth mother is Anowara Khatun and

she is alive. Both the parents of DW1 were alive at the time when her cross-examination was recorded. She could have easily produced her mother as a witness. She affirmed through her cross-examination that she has ten brothers and sisters. At least the names of her brothers ought to have been recorded in the voters list which she had produced. DW1's father deposed as DW2, but his evidence could not help improve DW1's case.

45. In view of the foregoing discussions, it is thus held that the petitioner failed to discharge her onus as per Section 9 of the Foreigners Act 1946. She failed to establish any linkage, with the help of the exhibited documents, with her projected parents and grandparents. DW1 and DW2 mentioned in their evidence that their family consists of eleven children and three wives, but the voters list does not reflect the names of (at least) the male members of the family. Even if it is assumed that all the female members got married before they attained majority to cast their vote, at least the names of her uncles and brother ought to have figured in the voters lists to link her with her projected father and grandfather.

46. In view of the foregoing discussions, we record our concurrence to the decision of the Tribunal. No infirmity is discernable and thus, this petition is dismissed.

47. The challenge to the impugned opinion fails and resultantly, this writ petition is dismissed. Accordingly, the consequences of the impugned order dated 30.06.2022, passed by the learned Member, Foreigners Tribunal 4, Goalpara, in connection with Case No. FT (G-4) M/257/18, thereby holding the petitioner above-named as a foreigner of post 25.03.1971 stream, shall follow. Bail order dated 11.10.2023 stands vacated.

48. There shall be no order as to costs.

49. The Registry shall send back the Tribunal's record along with a copy of this judgment and order, to be made a part of the record by the learned Tribunal for future reference.

JUDGE **JUDGE**

Comparing Assistant