

BEFORE THE MEMBER, FOREIGNERS TRIBUNAL - 5TH

MORIGAIN: ASSAM

No. M.F.T.(J).2019/1366

Date: Morigaon the 25/Jan/2019

Case No. F.T.(D) 980/2017 (New Number)

F.T.(D) 614/2011 (Old Number)

D/N Case No. 869/98 dt. 16/06/1998

State Vs. Jasmin Begum
W/O A. Latif
Vill- Moirabari
P.S- Moirabari
Dist- Morigaon, Assam

Present: Sri P. Kr. Baruah
Member, Foreigners Tribunal, (5th) Morigaon

For the State:

For the Respondent: Md. NurMahamod Ali Akanda, Advocate, Morigaon

Date of Argument: 28/11/2018
25/01/2019

ORDER

The reference has been received from the Superintendent of police (B)Morigaon against Jasmin Begum, W/O- A. Latif, resident of Vill- Moirabari police station of Morigaon district of Assam wherein it was alleged that suspected person entered into India (Assam) on or after 25/03/1971 and she could not produce any document regarding her Indian Citizenship and that she is not an Illegal Migrant.

On receipt of the reference, notice was issued to the proceeded and having received notice; the O.P. appeared in the Tribunal and contested the reference filing a written statement claiming herself to be an Indian Citizen.

Since as per Section 9 of the Foreigners Act, 1946 it is the burden of the Proceedee to prove his/her citizenship and accordingly the O.P. was examined with reference to her claim of Indian Citizenship and the documents submitted by O.P. has also been scrutinized.

Point for determination:-

Whether the Proceedee is a foreigner?

Decision with reasons:

The DW.-1 is the opposite party (O.P. for short) Jasmin Begum, W/O- A. Latif, resident of above mentioned address. The O.P. has submitted and exhibited total = 11 (Eleven) documents from Ext-(A) to Ext-(K) in support of her Indian Citizenship.

I have gone through the written statement the entire case record and have verified all the exhibits submitted in favour of O.Ps' Indian citizenship minutely. But, the O.P has not been able to satisfy the Tribunal in respect of her claim of Indian citizenship for the following reasons:-

- 1) The O.P. has stated in her deposition on 26/11/2018 that the name of her father is Abdul Kadir and the name of her mother is Sultana Mazeda. Again in response to court's query the O.P. said that the actual name of her mother is Mazeda Sultana Begum. The O.P. never said her mother's name only as Mazeda Begum. So, the woman whose name is found enlisted in the voter lists of 1965 (Ext-A) and in 1970 (Ext-B) as Mazeda Begum whom O.P. wants to show her mother's name as Mazeda Begum in her deposition. So, similarly the name having enlisted in voter lists of 1965 (Ext-A) and in 1970 (Ext-B) as A. Kadir also cannot be actual father of O.P while the name of the wife of A. Kadir is not found in the above mentioned voter lists as Sultana Mazeda or as Mazeda Sultana Begum as has been stated by the O.P in her deposition. So, the voter lists of O.P's own parents, while "The Hon'ble Court of Gauhati High Court also in Khalil Ali @ KhalilurRahman and others Vs. Union of India and others reported in 2015 has held that - "Mere filing of some documents and picking up any name from such document so as to establish relationship with the said person as father or mother or even Grand-Father or Grand-Mother does not amount to its proof".
- 2) The Ext-© is a Hand Written Jamabandi of the year of 1970 whereby the O.P. wants to show the name of her purported father (A. Kadir) is there in the jamabandi of 1970 against in plot of land covered by P.P. No- 429 and Dag No-16. But, the contents of this Hand Written Jamabandis not proved by the issuing authority. Again it is also not proved by any related Sale Deed that the particular plot of land covered by P.P. No- 429 and Dag No- 16 was bought before (15/03/1971). So, this Ext-(C) cannot be accepted as an admissible document in respect of O.P's Indian Citizenship.
- 3) While O.P. has failed to establish her link with the purported father and mother by help of Ext-(A) (voter list of 1965), Ext-(B) (voter list of 1970) and Ext-(C) (hand written jamabandhi of 1970) and with any person (father or mother) relatable to a period prior to 25/03/1971, as such question does not arise of taking into consideration some documents of post 25/03/1971, such as Ext-(D) (voter list of 1997), Ext-(E) (voter list of 2018) are also of no use in respect of proving the O.P as Indian Citizenship.
- 4) The Ext-(F) is a School Transfer Certificate issued by one Head Mistress named A. Begum on 01/10/2018 and there by wants to show that O.P. studied till Class-(III) in the Moirabari Boys L.P. School. But, the contents of the certificate is not proved by the concerned Head Mistress A. Begum. So, this Ext-(F) (School Teacher Certificate) cannot be accepted as an admissible document.

(but Mazeda Begum)

is original 1970

- 5) The Ext-(G) is a Computer Copy of the jamabandhi of Vill- TatikataPather by which the O.P. wants to show that she obtained land inherited from her father A. Kadir. But, it has not been proved by any related Sale Deed that the particular plot of land covered by P.P. No- 12 and Dag No-492 from which she claims to have obtained land share inherited from her father was bought by her purported father before 25/03/1971 at Village-TatikataPather. So, the Jamabandi (Ext-G) cannot be accepted as an admissible evidence in respect of O.P's Indian Citizenship.
- 6) The Ext-(H), Ext-(I), Ext-(J) and Ext-(K) are four certificates issued by GaonBurahs of Village- TatikaPather, Village- Moirabari Village- Hatimuria and Village- SitalmariPather respectively in respect of O.P's marriage, identity and residence etc. but, while the contents of these certificate are not proved by the respective GaonBurahs, as such these certificates are not accepted in respect of proving O.P's Indian citizenship.

While the O.P. herself has failed to prove herself to be an Indian citizen by any believable and admissible document as such the versions of other witnesses such as D.W.-2 and D.W.-3 are also not believed to be true in respect of proving O.P's Indian Citizenship.

Under such circumstances, I see that O.P. Jasmin Begum, W/O- A. Latif has miserably failed to establish her link with her father and mother and as such I opine that the O.P. Jasmin Begum W/O- A. Latif, resident of Vill- Moirabari, P/S- Moirabari, Dist- Morigaon, Assam is a Foreigner who has entered into India (Assam) after 25/03/1971. Hence, the District authority should take necessary step to deport O.P. to specified territory immediately.

The reference is answered in affirmative
 The reference is disposed of on contest.
 Inform all concerned along with a copy of the order.

Member
 Foreign Tribunal No.5th
 Morigaon
 Date- _____ Morigaon

25/Jan/2019

No. M.F.T (J).2019/1366

Copy to:-

- 1. The District Magistrate, Morigaon for information and necessary action.
- 2. The Superintendent of Police (Border) Morigaon, for information and necessary action.