

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. _____ OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 24703 OF 2023)**

TARABANU BEGUM @ TARABHANU KHATUN

APPELLANT

VERSUS

THE UNION OF INDIA & ORS.

RESPONDENTS

O R D E R

1. Leave granted.
2. We have heard Mr. P V Surendranath, learned senior counsel for the appellant and Mr. Debojit Borkakati, learned standing counsel representing the State of Assam.
3. This appeal impugns the order of the Gauhati High Court dated 31st May 2023 to the extent it declines to quash the proceedings of F.T. Case No.730 of 2018 pending before the Foreigners Tribunal No.3, Nalbari (for short the Tribunal).
4. Briefly put, the facts are that the appellant was earlier subjected to a proceeding, under the Foreigners Act, 1946, on the ground that she had entered the territory of Assam after 25th March 1971. Those proceedings were registered as Case No.39 of 2016 before Foreigners Tribunal No.3 Nalbari, Mukalmua. In those proceedings the Tribunal passed a final order on 31st

August 2016 specifically holding that the appellant is not a foreigner. The relevant portion of the order dated 31st August 2016 is extracted below:

"8. No witnesses have been examined for and on behalf of the Referral Authority/State.

9. I have heard the learned Counsel for the proceedee and learned Assistant Govt. Pleader. During the course of argument learned Counsel for the Proceedee submits that parents of the proceedee are citizen of India as their names recorded in the voter list of the year 1966 and 1970 under 54 No. Cheng LAC. Proceedee got married in the year 1979 with Chanu Seikh and since the year 1985 she has been casting vote from 60 No. Barkhetri LAC till the year 2016. Exhibit 13 as well as evidence of O.P.Ws shall prove the relationship of the proceedee with Jaharuddin as father and daughter. Learned counsel for the proceedee further submits that parents name of the proceedee recorded in the voter lists of the year 1966 and 1970, which shows that parents of the proceedee is a citizen of India as per Section 6-A(2) of Citizenship (Amendment) Act, 1985. Accordingly, proceedee acquired her right of citizenship under the provisions of Citizenship (Amendment) Act. Learned Counsel prays for declaring the proceedee as a citizen of India by birth.

On the other hand, learned Assistant Govt. pleader submits that there is some discrepancies in the name of the proceedee and her father. Learned Assistant Govt. pleader further submits that at the time of inquiry proceedee failed to produce any valid documents before the Inquiry Officer, in respect of her Indian Nationality, therefore, statements and documents submitted by the proceedee are not trustworthy. Proceedee failed to prove her claim to be a citizen of India in all-reasonable doubt. Therefore, learned Assistant Govt. pleader prays for affirmation of the Reference.

9. I have perused the Reference, Report of the Inquiry Officer and statements of the proceedee and other witnesses, recorded by the Inquiry Officer. I have also perused the written

statement, evidence of witnesses and documents exhibited/submitted by the proceedee in support of her claim to be a citizen of India by birth and report dated 6/6/16 submitted by the In-charge (Border), Daulasai Out Post forwarded by the Inspector of Police (B), Nalbari. In the Reference case name of the proceedee has been recorded as Tarabhanu Khatuoon daughter of Md. Jaharuddin Ali, wife of Md. Sono Ali of Village Khagrakati, P.S. Mukalnuam, Dist. Nalbari, Assam. Proceedee in her written statement and evidence inter alia stated that her name is Tarabhanu Khatun @ Tarabhanu Begum daughter of Jaharuddin Seikh and Kadbhanu Nessa, wife of Chanu Seikh @ Sonu Seikh. Report dated 6/6/16 reveals that Tarabhanu Begum and Tarabhanu Bibi is one and same person and Jahuruddin @ Jahruddin Ali @ Jaharuddin Seikh is one and same person, i.e. father of the proceedee. Name of Jaharuddin recorded son of Jayan recorded in the voter lists of the year 1966 and 1970 (Exhibit 1 and 2) under 54 No. Chenga Legislative Assembly Constituency. Name of Jahuruddin recorded in Periodic Khiraj Patta No. 84 issued by Authority concerned for the period of 1962 to 1992 (Exhibit 11). Exhibit 13 reveals the name of the proceedee daughter of Lt. Jahuruddin wife of Sonu Seikh. Evidence of O.P.W.1 and O.P.W.3 are corroborated in respect of the father's name of the proceedee. State has not rebutted these parts of evidence of O.P.W.1 and 3 during their cross examination. Exhibit 3, 4, 5, 6, 7, 8, 9, 10 and 13 proves the relationship of the proceedee with Sonu Seikh/ Chanu as husband and wife. Therefore, evidence of O.P.Ws and documents exhibited by her are trustworthy.

10. In view of the discussions made above, in my considered view, proceedee is able to discharge her burden of proof as envisaged under Section 9 of the Foreigners Act, 1946.

11. Accordingly, in my opinion, proceedee namely Musstt. Tarabhanu Khatoon @ Tarabhanu Bibi is not a foreigner"

5. After the aforesaid order was passed, a fresh notice was issued on 15th December 2018, thereby calling upon the petitioner to show cause that she is not a

foreigner/ illegal migrant. This notice, which was registered as F.T. Case No. 730 of 2018, was assailed by the appellant through Writ Petition (Civil) No. 1703/2019 before the High Court.

6. The High Court noticed that the appellant had suffered a proceeding earlier which resulted in a final order in her favour, yet disposed of the matter with an observation that the appellant may raise all pleas before the Tribunal in the subsequent proceeding.

7. Learned counsel for the appellant has sought quashing of the subsequent proceeding on the ground that once the first proceeding culminated in her favour, and the order passed in the first proceeding had attained finality, there was no justification to again subject the appellant to a fresh proceeding on the same ground. To buttress his submission reliance was placed on a decision of this Court in *Abdul Kuddus vs. Union of India* reported in (2019) 6 SCC 604, wherein this Court has observed in paragraph 24 as under:

"24.Both the opinion of the tribunal and order of the Registering Authority result in determination of rights/ status under the statute and by an authority after a contest on merits which would necessarily operate as a bar to subsequent proceedings before the same authority for redetermination of the same issue/ question. This Court in *Ujjam Bai v. State of U.P.* (AIR 1962 SC 1621) has held that the principles of res judicata equally apply to quasi-judicial bodies..."

8. Per contra, the learned counsel for the respondent submitted that the order passed by the Tribunal in the first proceeding is a cryptic order, without analyzing the materials/ evidence on record and, therefore, the conclusion drawn therein that the appellant is not a foreigner is not binding.

9. We have considered the submissions and perused the materials on record. Once it is not in dispute that on a previous reference the Tribunal after giving opportunity to both sides, on appraisal of evidence, found the appellant not a foreigner, the only course available for the respondent was either to challenge the order before the High Court or seek for its recall on grounds permissible for recall. As no provision for review exists, at least not shown to us, so long the earlier order stands, it is not open to initiate fresh proceedings as the same would be hit by principles of res judicata as held by this Court in *Abdul Kuddus (supra)*. In our view, therefore, the subsequent proceedings were nothing but an abuse of the process of law, and therefore, the High Court ought to have interdicted the same.

10. The appeal is, therefore, allowed. The order of the High Court dated 31st May 2023 to the extent it declines to quash the impugned proceedings is set aside. The writ petition of the appellant shall stand allowed. The further proceedings in FT Case No. 730 of 2018

before Foreigners Tribunal No.3, Nalbari shall stand quashed. There shall be no order as to costs.

11. Pending application(s), if any, shall stand disposed of.

.....J
[MANOJ MISRA]

.....J
[K.V. VISWANATHAN]

NEW DELHI;
APRIL 22, 2025.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 24703/2023

[Arising out of impugned final judgment and order dated 31-05-2023 in WPC No. 1703/2019 passed by the Gauhati High Court]

TARABANU BEGUM ALIAS TARABHANU KHATUN

PETITIONER(S)

VERSUS

THE UNION OF INDIA & ORS.

RESPONDENT(S)

(IA No. 217363/2023 - EXEMPTION FROM FILING O.T.)

Date : 22-04-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MANOJ MISRA

HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :

Mr. P V Surendranath, Sr. Adv.

Mr. Subhash Chandran Kr, Adv.

Mr. Biju P Raman, AOR

Mr. Sawan Shukla, Adv.

Mr. John Arackal, Adv.

Ms. Krishna L R, Adv.

For Respondent(s) :

Mr. Ankit Agarwal, AOR

Mr. Koustubh Desai, Adv.

Mr. Ashish Shukla, Adv.

Mr. Debojit Borkakati, AOR

UPON hearing the counsel, the Court made the following
O R D E R

1. Leave granted.

2. The appeal is allowed in terms of the signed order, which is placed on the file.

(POOJA SHARMA)
COURT MASTER (SH)

(PREETI SAXENA)
COURT MASTER (NSH)