

Gauhati High Court**Musstt Ulufa Khatoon @ Ulupa Khatun vs The Union Of India
And 5 Ors on 3 September, 2025****Author: Kalyan Rai Surana****Bench: Kalyan Rai Surana**

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GAHC010113632024

THE GAUHATI HIGH COURT (HIGH COURT OF ASSAM, NAGALAND,
MIZORAM AND ARUNACHAL PRADESH) Case No. : WP(C)/3214/2024
MUSSTT ULUFA KHATOON @ ULUPA KHATUN W/O- MD. SAYED ALI,
D/O- LATE BADSHA ALI, R/O- VILL- KHARMUZA, P.S-
GOALPARA, DIST- GOALPARA, ASSAM VERSUS THE UNION OF INDIA AND
5 ORS REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, SASTRI BHAWAN, NEW DELHI- 110001. 2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT DISPUR GUWAHATI-6 3:THE
DEPUTY COMMISSIONER P.O- BALADMARI DIST- GOALPARA
ASSAM PIN-783121 4:THE SUPERINTENDENT OF POLICE (B)
P.O- BALADMARI DIST- GOALPARA ASSAM PIN-
783121 5:THE ELECTION COMMISSION OF INDIA NEW DELHI-110001

Page

No.# 2/8 6:THE STATE COORDINATOR NATIONAL REGISTER OF
CITIZENS ASSAM HOUSEFED COMPLEX 2ND FLOOR
BANPHOOL NAGAR DISPUR GUWAHATI-06
DIST- KAMRUP (M Advocate for the Petitioner : MR. A R SIKDAR, MR A
N IQBAL,MR. S I TALUKDAR Advocate for the Respondent : DY.S.G.I., SC, F.T,SC,
ECI,GA, ASSAM

BEFORE HONOURABLE MR. JUSTICE KALYAN RAI SURANA HONOURABLE MR. JUSTICE RAJESH MAZUMDAR JUDGMENT & ORDER (CAV) Date : 03-09-2025 (R. Mazumdar, J) Heard Mr. A.R Sikdar, learned counsel for the petitioner. Also heard Mr. P.S Lahkar, learned CGC, Mr. J. Payeng, learned Standing counsel for the FT matters, Mr. M. Islam, learned counsel appearing on behalf of Mr. A.I. Ali, learned Standing counsel for the ECI and Mr. H.K. Hazarika, learned Junior Govt. Advocate.

2. By preferring this writ petition under Article 226 of the Constitution of India, the opinion rendered on 14/07/2023 by the learned Member, Foreigner's Tribunal No. 1, Goalpara in F.T Case No. 8190/G/16, declaring the petitioner herein namely Musstt. Ulufa Khatoon @ Ulupa Khatun as illegal immigrant/foreigner who had entered India after 25/03/1971, has been assailed.

3. The brief facts leading to the institution of the present case are that the FT Case No. 8190/G/16 was registered on a reference made by the Superintendent of Police, Goalpara to the Member FT No. 1, Goalpara to give an opinion as to whether the Page No.# 3/8 petitioner herein/petitioner therein was a foreigner within the meaning of section 2(a) of The Foreigners Act, 1946. The notice were issued to the petitioner on 01/08/2022 and the petitioner file her written statement on 28/11/2022. The Evidence in-Chief in the affidavit for two DW's was filed on 20/02/2023 and the said DW's were examined on 17/03/2023. While the DW-3 was examined on 26/04/2023 and the D.W-4 was examined on 25/05/2023. The following documents were exhibited during the proceedings;

"Ext. A: Certified copy of the Voters List of 1966 incorporating the names of Taramjan Ali, Hajarat Ali, Sukur Ali, Sonaban Nessa and Diljan Nessa.

Ext. B: Certified copy of the Voters List of 1970 incorporating the names of Taramjan Ali, Hajarat Ali, Sukur Ali, and Diljan Nessa.,.

Ext. C: Certified copy of the Voters List of 1979 incorporating the names of Badshah S/O Romjan, Tarabanu W/O Romjan and Jorina Khatun W/O Badshah.

Ext. D: Certified copy of the Voters List of 1985 incorporating the names of Badshah Sk S/O Tarajan and Jorina Khatun W/O Badshah Sk.

Ext. E: Certified copy of the Voters List of 1989 incorporating the names of Badshah Sk S/O Ramjan and Jorina Khatun W/O Badshah.

Ext. F: Certified copy of the Voters List of 1997 incorporating the names of Badshah Ali S/O Haji Ramjan and Jorina Khatun W/O Badshah.

Ext. G: Certified copy of the Voters List of 2005 incorporating the names of Jorina Bewa W/O Badshah Ali, Surat Zaman S/O Badsha Ali and Shoidul Islam S/O Badsha Ali.

Ext. H: Certified copy of the Voters List of 2010 incorporating the names of Jorina Bewa W/O Badshah Ali, Surat Zaman S/O Badsha Ali, Shoidul Islam S/O Badsha Ali, Mazida Khatun W/O A: Samad, Mamtaj Begum W/O Surat Zaman, Anna Khatun W/O Shoidul Islam and Monowar Ali S/O Jorina Bewa.

Ext. I: Certified copy of the Voters List of 2015 incorporating the names of Jorina Bewa W/O Badshah Ali, Surat Zaman S/O Badsha Ali, Shoidul Islam S/O Badsha Ali, Mazida Khatun W/O A: Samad, Mamtaj Begum W/O Surat Zaman, Anna Khatun W/O Shoidul Islam, Monowar Ali S/O Jorina Bewa, Anarul Islam S/O BadshaSk, Abdur Rakib S/O Majida Bewa and Abdur Rouf S/O Mazida Bewa.

Page No.# 4/8 Ext. J: Kabin Nama of issued on 5.2.2002.

Ext. K: Panchayat Certificate issued on 26.6.2015. Ext. L: Certified copy of the Voters List of 2005 incorporating the names of Sayed Ali S/O Foyjal Hoque, Sahid Ali S/O Foyjal Hoque, Majeda Khatun W/O Ramjan Ali and Ulupa Khatun W/O Sayed Ali.

Ext. M: Certified copy of the Voters List of 2011 incorporating the names of Sayed Ali S/O Foyjal Hoque, Sahid Ali S/O Foyjal Hoque, Majeda Khatun W/O Ramjan Ali and Ulupa Khatun W/O Sayed Ali.

Ext. N: Certified copy of the Voters List of 2015 incorporating the names of Sayed Ali S/O Foyjal Hoque, Sahid Ali S/O Foyjal Hoque, Majeda Khatun W/O Ramjan Ali and Ulupa Khatun W/O Sayed Ali.

Ext. O: Elector's Photo Identity card in the name of Ulupa Khatun W/O Sayed Ali, R/O Kharmuza."

4. The learned Tribunal gave an opinion that though the petitioner had succeed to establish her relationship with her projected father Badshah Ali but she had failed to establish his presence in India prior to 1979 and further held that she failed to establish her relationship with any person prior to 1979. The learned Tribunal held that the petitioner had failed to discharge her burden under section 9 of the Foreigners Act, 1946 to prove that she is not a foreigner and therefore, rendered the impugned opinion that the petitioner is a foreigner who entered India after 25/03/1971. This opinion is assailed in the present writ petition.

5. Notice in this case was issued on 20/06/2024 and the LCR was called for. By the order dated 09/06/2025, this Court had granted bail to the petitioner under certain conditions enumerated in

the order dated 09/06/2025. On the receipt of the Trial Court record, the matter was taken up for disposal.

6. Mr. A. R. Sikdar, learned counsel for the petitioner has submitted that the learned Tribunal had failed to consider the case put up by the petitioner that she is an Indian citizen and by resorting to surmises and by ignoring vital evidence, the impugned opinion was rendered to the detriment of the petitioner. The learned counsel for the petitioner has argued that the minor discrepancies in the name of the Page No.# 5/8 grandfather appearing in the different exhibits including the relevant voter lists were given much emphasis by the learned Tribunal to disbelieve the version of the petitioner leading it to hold that Taramjan Ali, Anjan Ali and Ramjan Ali was not one of the same person and therefore, she could not be considered the granddaughter of Ramjan Ali @ Taramjan Ali. The learned counsel for the petitioner has further submitted that the learned Tribunal committed serious error when vital evidence in the form of voters' list was ignored and presumption and surmises were resorted to by the learned Tribunal while rendering the impugned opinion.

7. The learned counsel, FT matters, has, on the other hand, submitted that there is no error in the opinion rendered by the learned Tribunal and all relevant and admissible evidence have been taken into account. The very fact that the learned Tribunal had accepted evidence to reach an opinion that the petitioner had been able to prove her relationship with her projected father demonstrates the meticulous manner in which the learned Tribunal had applied its mind. The learned counsel, FT matters has submitted that it remains a fact that the petitioner could not establish her assertion that the projected father of the petitioner was the son of Ramjan Ali, who at times was quoted as Taramjan Ali, whom she had projected as her paternal grandfather. The learned Counsel has thus prayed for dismissal of the writ petition.

8. We have heard the learned counsel appearing for the petitioner and the respondents and we have perused the record received on requisition from the learned Tribunal.

9. The records reveal that the petitioner had exhibited certified copies of the voters' list of the year 1966, containing the name of amongst others, one Taramjan Ali, son of Late Haji Ali, aged about 45 years and another Hajarat Ali, son of Aanjaan Ali, aged about 28 years, both resident of House No. 26, village Kharmuja, of 45 no. Goalpara East LAC. In her Written statement and her evidence, she has explained that the name of her paternal grandfather was wrongly written as "Toramjan Ali" and "Anjan Page No.# 6/8 Ali" instead of the correct name, viz "Ramjan Ali". He was recorded to be the son of Late Jonab Haji.

She has further explained that in the electoral roll of 1970, the name of her grandfather was quoted as "Toramjan Ali, son of Late Jonab Haji Ali" instead of Ramjan Ali in House No. 26 of the same locality and that his age was wrongly recorded as 59 years whereas it ought to have been 49 years.

She has also referred in her written statement that her grandfather had married thrice, the second wife being her natural grandmother. She stated that her 1 st Grandmother was Tamizan Nessa, her own grandmother name was Sonaban Nessa and Tarabhanu was the third wife of her paternal grandfather.

She has also stated that in the Electoral roll of 1979, her father's name appeared as Badshah son of Ramjan, her mother as Jorina Khatun and her 3 rd Grandmother as Tarabanu, wife of Romjan in House No.24 of the same locality.

The petitioner explained that her paternal family shifted to village Haripur Karaikhowa for better livelihood and in the electoral roll of 1985, the name of her father appeared as "Bascha Sheikh son of Taranjan" and mother's name appeared as "Jorina Khatun" under House No. 17 of village Haripur Karaikhowa, P.O Kharmuza. The variation in names of the father and grandfather were explained as minor errors in recording by the officials concerned.

For the Electoral roll of the year 1989, the petitioner exhibited certified copy of the roll in connection with voters listed under House No. 17, where her projected father and mother appear as voters. However, she also annexed a photocopy of the larger portion of the electoral roll of 1989 to project that, due to family separation, the names of her grandfather and other family members

appeared under House No 18. A perusal of the photocopy reveals that the voters under House No 18 are "Taranjan Ali"

and Tarabanu Nessa", whom the petitioner had been projecting as her grandparents.

Page No.# 7/8 With regard to the electoral roll of 1997, the petitioner exhibited certified copy of the voters of House No. 7, containing the name of her projected father and mother. By referring to the photocopy of the larger portion of the electoral roll, the petitioner explained that the names of her grandfather and other family members appeared under House No. 8 of the same village and locality.

The petitioner explained that after the death of her grandfather and father, the certified copy of the electoral roll for the year 1997 reflected the names of her mother and other family members under House No. 7 and the names of her 3rd grandmother and other family members appeared under house No. 8 in the photocopy of the uncertified copy of the same electoral roll.

10. The learned Tribunal had concluded that the petitioner had been able to establish that she was the daughter of her projected father, namely Badsha Ali @ Sheikh but she was unable to establish her relationship with any person prior to 1979 and that she failed to establish that Taramjan of 1966 and Ramjan of 1979, whom she projected as her grandfather, as one and the same person.

11. In our considered opinion, the petitioner had explained the shifting of her grandfather and his family to Haripur Karaikhowa prior to 1985. The learned Tribunal did not find any doubt that she had established her relationship of father-daughter with Badshah Ali, who was recorded as son of Ramjan in the 1979 voter list and who was recorded as son of Torajan of the voter list of 1985. The name "Toramjan" appearing in the voter list of 1966 and 1970 varies only in a minor aspect of a missing "m" with the name "Torajan" appearing in the voter list of 1985. We are of the view that the Tribunal had omitted to evaluate the projection of the petitioner regarding the shifting of place of residence of her grandparents and parents and her projection that the name of the grandfather appeared with minor variation in the voters list of 1966, 1979 and 1985.

12. In such view of the matter, the present writ petition is disposed by setting aside Page No.# 8/8 the opinion rendered on 14/07/2023 by the learned Member, Foreigner's Tribunal No. 1, Goalpara in F.T Case No. 8190/G/16 declaring the petitioner herein namely Musstt. Ulufa Khatoon @ Ulupa Khatun as illegal immigrant/foreigner who had entered India after 25/03/1971. The matter is remanded back to the learned Tribunal to render a fresh opinion in accordance with law and by taking into account the relevant pleadings and exhibits already available on record.

13. The petitioner shall appear before the learned Tribunal along with the certified copy of this order within 20(twenty) days from today without requirement of any further notice.

14. We expect the learned Tribunal to expeditiously render its opinion on the basis of materials available on record preferably within a period of 2(two) months from the date of receipt of the records or date of appearance of the petitioner, whichever is earlier. Registry is directed to send back the records to the learned Tribunal immediately along with a copy of this order.

15. Since the matter has been remanded back, we have refrained from considering the merits of the other arguments made by the learned counsel for the parties.

16. There will be no order as to cost.

17. The writ petition is allowed to the extent as indicated above.

Assistant	JUDGE	JUDGE Comparing
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