
(2018) 11 GAU CK 0022
In the Gauhati High Court
Case No : Civil Writ Petition No.7189 Of 2016

Aymana Bibi

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 15-11-2018

Acts Referred:

Foreigners Act, 1946 — Section 9

Citation : (2018) 11 GAU CK 0022

Hon'ble Judges : Manojit Bhuyan, J;Prasanta Kumar Deka, J

Bench : Division Bench

Advocate : S Hussain

Judgement

Heard Mr. B. Islam, learned counsel for the petitioner as well as Ms. P. Baruah, learned counsel for respondent no.1 and Mr. A. Kalita, learned

counsel for respondent nos.2, 3, 4, & 5.

Petitioner assails the order dated 08.09.2016 passed by the Foreignersâ?? Tribunal 6th Dhubri at Bilasipara in F.T.(C) Case No. 6 th Dhubri-

229/2015, declaring the petitioner as a foreigner who entered illegally into India after 25.03.1971.

Petitioner claimed that her father is Late Kismot Ali, whose name was recorded in the NRC details of Vote Year 1971 (Exhibit-â??E2â??) and name

also in the voter list of 1970 (Exhibit-â??E1â??). In order to establish linkage to her projected father Late Kismot Ali, the petitioner produced and

exhibited the Certificate dated 26.06.2015, issued by one Dhrubajyoti Sen Deka, who is the Secretary of Masaneralga Gaon Panchayat, district-

Dhubri. In none other documents so exhibited any link is established with her projected father, save and except Exhibit-â??Aâ??.

To prove the contents of Exhibit-â??Aâ??. one Motior Rahman, identifying himself as the Secretary of Masaneralga Gaon Panchayat filed

evidence on affidavit as DW-2. The actual author of the Certificate dated 26.06.2015 was not called for examination. On this, we would hold that the

evidence tendered by Motior Rahman is unacceptable and cannot be relied upon, being a stranger to the Certificate at Exhibit-â??Aâ??. It cannot

be comprehended as to how said Motior Rahman could stand to prove the contents of the Certificate dated 26.06.2015 when the same was issued by

another Dhrubajyoti Sen

Deka in the capacity of the Secretary of Masaneralga Gaon Panchayat. From a bare perusal of the evidence on affidavit of Motior Rahman there can

be no second opinion but to say that the same lacks any probative and evidentiary value.

The petitioner Amina Khatun thus failed to establish her linkage to Late Kismot Ali and thereby failed to discharge the burden as not being a

foreigner/illegal migrant, as statutorily required of her to discharge under Section 9 of the Foreigners Act, 1946. We find no merit in the writ petition

and, accordingly, the same stands dismissed, however, without any order as to cost.

Registry to send back the case records to the Tribunal forthwith.