

BEFORE THE FOREIGNERS' TRIBUNAL, NO. 1 BONGAIGAON, ASSAMBNGN/FT CASE NO/641/2010.(REF IM(D)T/ CASE NO. 761/2002)P R E S E N TSHRI DULAL SAHA, MEMBERFOREIGNERS' TRIBUNAL BONGAIGAON NO.1STATE OF ASSAMPETITIONER-VRS-BANASHA BIBI.D/O- LT. BATALU SARDAR.W/O- RAFIJAL ALI.VILL BARBAKHARA.P.S.- MANIKPUR.DIST. BONGAIGAON, ASSAM.APPEARANCEADVOCATE FOR THE STATE- MR.DEBABRATA DAS (A.G.P.).ADVOCATE FOR THE O.P.- D.A. RAHIM AND S. ROHMAN.DATE OF EVIDENCE- 27-07-23, 06-03-24 & 08-10-24.DATE OF ARGUMENT-16-06-25.DATE OF ORDER -25-06-25.O R D E R

This is a reference made Under Rule 2(1) of the Foreigners' (Tribunal) Order 1964, for rendering opinion as to whether Banasha Bibi, D/O- Lt. Batalu Sardar, W/O- Md. Rafijal Ali of village Barbachhara is a foreigner from specified territory, who entered in the state of Assam after 25th March 1971 or not?

In compliance with the notice, O/P appeared and contested the case by filing written statements, evidence-in-chief in the form of an Affidavit and relying upon certain documents.

The gist of the written statement is that, O/P was born from the wedlock of Batalu Sarkar @ Batasu Sardar and Ajufa Khatun @ Ajufa Bibi in the year 1968, at village Barbachhara, P.S. then Bijni presently Manikpur, district- Bongaigaon and brought up in the same village. O/P's father expired in the year 1983, and mother expired in the year 1984. Ambiya Khatun @ Ambiya Bibi was the step mother of the O/P. O/P's grandfather's name was Kala Sardar @ Kala and grandmothers name is/was Milikjan Bewa. O/P's father were three brothers, namely Jakdar Sarkar, Batalu Sardar and Naymuddin Sheikh. O/P were eight brothers and sisters, namely Banacha Bibi @ Banecha Bibi, Milatan Bibi, Malahar, Rajab Ali, Kasar Ali, Misiran, Ajijul Hoque and Ajad Ali. O/P got married in the year 1980 with one Rafijal Ali son of Lt. Abu Sheikh at village Barbachhara under Manikpur P.S. After marriage the O/P blessed with thirteen children viz, Baher Ali, Taher Ali, Saher Ali, Obiran Nessa, Nijan Ali, Mairan Bibi, Matleb Ali, Muslim Ali, Kuddus Ali, Mustaf Ali, Rusta Ali, Nur Islam and Iddrish Ali. The name of O/P's father along with other two brothers of his father's have been enrolled in the voter list of 1959, at village Barbachhara P.S. the then Bijni, district the then Goalpara. O/P's father's name also enrolled

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in the voter lists of 1966 and 1970 respectively, under 42 No. Abhayapuri SC LAC.O/P has also casted her votes in the years 1989, 1993, 1997, 2006, 2010, 2019 and 2022 respectively along with other family members. O/P has also obtained an Elector Photo Identity Card vide No. JGY3938543 and an Aadhaar Card vide No. 593415335373 a Panchayat Certificate, issued by Secretary Nowapara GP and a Link Certificate issued by Secretary Nowapara G.P. Hence, O/P claimed to be a Citizen of India & prayed to absolve her from the allegation leveled against her.

O/P submitted her evidence in chief in the form of affidavit dtd. 08-02-23 where she narrated more or less same version as she narrated in her W/S. O/P examined herself as D.W.1, one Mrinendra Sarma (G.P. Secretary of Nowapara G.P.) examined as D.W.2.,one Rajib Ali examined as D.W.3,one Sahalam Ali examined as D.W. 4 and one Rafijal Ali examined as D.W.5. All witnesses are cross examined by the state. The particular of documents may be noticed as under :-

Ext- A is the certified copy of voter list in the year 1959 at village Barbakhara,union No.11, Under Bijni P.S. in the district of Goalpara where Jakdar Sarkar son of Kala Sheikh, Batalu Sardar son of Lt. Kala and Naymuddin Sheikh son of Lt. Kala have been recorded as voters.

Ext-B is the certified copy of voter list in the year 1966 at village Barbakhara under 42 No. Abhayapuri (SC) L.A. where sole name Batasu Sardar son of Lt. Kala Sardar have been recorded as voters.

Ext- C is the certified copy of voter list in the year 1970 at village Barbakhara under 42 No. Abhayapuri (SC) L.A. where sole name Batasu Sardar son of Lt. Kalo Sardar have been recorded as voters.

Ext- D,E and F are the certified copies of voter lists in the years 1989,1993 and 1997 respectively at village 20 No. Barbakhara where Rafijal Ali son of Abu Sheikh and Banesha Bibi wife of Rafijal Ali have been recorded as voters.

Ext -G is the certified copy of voter list in the year 2006 at village 20 No. Barbakhara under 34 No. Abhayapuri North L.A.C. where Rafijal Ali son of Abu Sk, Banasa Bibi wife of Rafijal Ali, Md. Taher Ali son of Rafijal Ali, Md. Saher Ali son of Md. Rafijal Ali and Baher Ali son of Rafijal Ali have been recorded as voters.

Ext -H is the certified copy of voter list in the year 2010 at village 20 No. Barbakhara under 34 No. Abhayapuri North L.A.C. where Rafijal Ali son of Abu Sk, Banasa Bibi wife of Rafijal Ali, Md. Taher Ali son of Rafijal Ali, Md. Saher Ali son of Md. Rafijal Ali and Baher Ali son of Rafijal Ali, Ajida Bibi wife of Koher Ali and Motaleb Ali son of Rofizal Ali's names have been recorded as voters.

Ext- I is the certified copy of voter list in the year 2019 at village 20 No. Barbakhara under 34 No. Abhayapuri North L.A.C. where Rafijal Ali son of Abu Sk, Banasa Bibi wife of Rafijal Ali, Md. Baher Ali son of Rafijal Ali, Md. Taher Ali son of Md. Rafijal Ali and Saher Ali son of Rafijal Ali, Ajida Bibi wife of Koher Ali and two others names have been recorded as voters.

Ext- J is the certified copy of voter list in the year 2022 at village 20 No. Barbakhara under 34 No. Abhayapuri North L.A.C. where Rafijal Ali son of Abu Sk, Banasa Bibi wife of Rafijal Ali, Md. Baher Ali son of Rafijal Ali, Md. Taher Ali son of Md. Rafijal Ali and Saher Ali son of Rafijal Ali, Ajida Bibi wife of Koher Ali and five others names have been recorded as voters.

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Signature
Date: 23/02/23
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Ext-K is the Elector Photo Identity Card vide No. JGY3938543 in the name of Banacha Bibi wife of Rafijal Ali.

Ext-L is the Aadhaar Card vide No. 593415335373 in the name of Banacha Bibi C/O Rafijal Ali village Barbakhara, Fagunagaon No. 1, Chirang, Assam 783390.

Ext-M is the Gaon Panchayat Certificate which was issued by the Secretary of 4 No. Nowapara G.P vide dtd. 13/06/2022 which contains the information that Banacha wife of Rafijal Ali an inhabitant of village Barbakhara, P.O. Fagunagaon, P.S. Manikpur in the District of Bongaigaon(Assam), under 4 No. Nowapara Gaon Panchayat was known to him.

Ext- N is the another Gaon Panchayat Certificate, issued by the Secretary of Nowapara, Gaon Panchayat which certified that Smti. Banacha Bibi, D/O Batalu Chardar and Ajufa Bewa of Salmara village & Nowapara Gaon Panchayat under Bijni Revenue Circle of Bongaigaon got married to Rafijal Ali son of Abu Sheikh of Barbakhara under Bijni Revenue Circle of Bongaigaon was known to him.

Ext-O is the Ration Card in the name of Banesha Bibi, W/O Rofijul Ali of Barbakhara Village.

Ext-P is the PAN Card in the name of Banesha Bibi,D/O Batalu Sordar.

From the above what is discernible is that, O/P is the daughter of Batalu Sardar and Ajufa Khatun & who were bonafide Citizens of India. O/P being their daughter, also Citizens of India. Hence she has to prove the following two issues Viz-

(i) Whether Batalu Sardar is/was a Citizen of India whom the O/P claims to be her father? And

(ii) Whether O/P is the daughter of said Batalu Sardar of Barbakhara?

I take up the Issue No. (ii) first because unless this relationship is proved, it is not necessary to delve into the Citizenship status of Batalu Sardar, whom the O/P claims to be her father.

Issue No.(ii)- To prove this issue O/P submitted G.P. Certificate vide Ext-N,PAN Card vide Ext-P and evidence of D.W. 3 and D.W.4.

Ext-N Gaon Panchayat Certificate - This Certificate contains the information that Banacha Bibi is the daughter of Batalu Chardar and Ajufa Bewa of Salmara village. Banacha Bibi married to Rafijal Ali son of Abu Sheikh of Barbakhara under Bongaigaon. The information contains in this Certificate can be taken into consideration as O/P examined one Mrinendra Sarma as D.W.2, who in terms of his examination, submitted some original documents, on the basis of which, Ext.N was issued. Hence Ext.N is accepted.

Ext-P Pan Card establishes the relation of O/P with that of his father Batalu Sordar,Bijni, Barbakhra, Fagunagaon, Bongaigaon, Assam. This PAN Card is taken into consideration,

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because it has been dully authenticated by the Income Tax Department, Vide Letter No. F.No./B-43/ITO/W-1/BNGN/2024/25/323 dtd.17-12-24. Letter contains the information, that, O/P is shown as daughter of Batalu Sordar, Bijni, Barbakhra, Fagunagaon, Bongaigaon, Assam. Ext.P Pan Card establishes the fact that, O/P is the daughter of Batalu Sordar. Hence issue No. (ii) is decided in favour of the O/P.

D.W.3 (Rajab Ali)- This witness claimed himself as the brother of O/P. He stated that, Banasha is his sister. His father were three brother namely Jordar Chardar, Batalu Chardar and Moimuddin Sheikh. Banasha married to Rafijal Sheikh of Barbakhara village about 50/52 years back. They are 8(eight) brothers and sisters. The statements of D.W.3 can be treated as trustworthy & which fulfilled the necessary requirement of Section 50 of Evidence Act.

D.W.4 (Sahalam Ali) - This witness claimed himself as a neighbor of O/P. He stated that, O/P was born at village, Barbakhra. She is the daughter of Batalu Chardar. Banasha married to Rafijal Sheikh of Barbakhara village, about 40 years back. The statements of D.W.4, also can be treated as trustworthy & which fulfilled the necessary requirement of Section 50 of Evidence Act. Hence issue No.(ii) is decided in favour of the O/P.

From the above, what is discernible is that, O/P successfully proved that, she is the daughter of Batalu Sordar of Barbakhara village.

That apart, voter list of 1959 vide Ext-A, voter list of 1966 vide Ext-B and voter list of 1970 vide Ext-C establishes the existence of O/P's father on the Indian Soil since before 1959. These three voter lists contains the information that, the name of Batalu Sardar enlisted as voter along with others. Hence issue No.(i) is also decided in favour of the O/P.

Therefore, from the above discussion it has been established that, O/P established her relation with genuine Indian father & hence O/P discharged burden U/S 9 of the Foreigners' Act, 1946, the fact that she is a Citizen of India not a foreigner

Resultantly, O/P Banasha Bibi, D/O- Lt. Batalu Sardar, W/O- Rafijal Ali of village Barbakhara, P.S. Manikpur in the Dist. of Bongaigaon, Assam is hereby **declared not a foreigner.**

Inform S.P. (B), Bongaigaon and Deputy Commissioner, Bongaigaon for N/A.

A free copy of this order be furnished to the O.P.

Given under my hand and seal of the Tribunal on 25th day of June, 2025.

Transcribed at my dictation
and corrected by me.

Memo No.BFT/08/07-25/591 -A

Copy to:-

1. The District Commissioner, Bongaigaon.
2. The Superintendent of Police (B), Bongaigaon for N/A.

Member,
Foreigners' Tribunal, No. 1,
Bongaigaon.

Member,
Foreigners' Tribunal, No. 1,
Bongaigaon.