GAHC010123192026

2026:GAU-AS:15551-DB

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3219/2026

SUKIA BEGAM ALIAS MISS SUFIA BEGUM
D/O- MD KHABIR UDDIN MONDAL ALIAS KHABIR UDDIN, W/O-BASHER ALIAS ABDUL BASHER, R/O- VILLAGE- ATIYA, P.S- TARABARI, DIST- BARPETA, ASSAM, PIN-781302

VERSUS

THE UNION OF INDIA AND OTHRS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS, NEW DELHI-01.

2:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE ASSAM CO ORDINATOR OF NRC
BHANGAGARH
ASSAM
GHY-5.

5:THE DISTRICT COMMISSIONER
BARPETA
DISTRICT- BARPETA
ASSAM.

6:THE SUPERINTENDENT OF POLICE (B)
BARPETA
DISTRICT- BARPETA
ASSAM.

7:THE OFFICER IN CHARGE
TARABARI POLICE STATION
DIST- BARPETA
ASSAM

Advocate for the Petitioner : MR S ISLAM, MR. P RAHMAN

Advocate for the Respondent : DY.S.G.I., GA, ASSAM,SC, ECI,SC, NRC,SC, F.T

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

JUDGMENT

For the petitioner : Mr. S. Islam, Advocate.
For the Union of India : Mr. N. Upadhay, CGC.
For FT, Border & NRC : Ms. A. Verma, standing counsel.
For the ECI : Ms. S. Katakey, standing counsel.
For the State respondent : Mr. P. Sarmah, Sr. Govt. Advocate.

Date on which judgment is reserved : 06.08.2026.

Date of pronouncement of judgment : 14.10.2026.

Whether the pronouncement is of the operative part of the judgment? : No

Whether the full judgment has been Pronounced? : Yes

JUDGMENT AND ORDER

(*CAV*)

(K.R. Surana, J)

Heard Mr. S. Islam, learned counsel for the petitioner. Also heard Mr. N. Upadhay, learned CGC; Ms. S. Katakey, learned standing counsel for the ECI; Ms. A. Verma, learned standing counsel for the Border and FT matters; and Mr. P. Sarmah, learned Additional Sr. Govt. Advocate for respondents.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has assailed the impugned *ex parte* opinion dated 10.07.2020, passed by the learned Member, Foreigners Tribunal 7th, Barpeta, Assam, in Case No. FT-958/17, arising out of R/Case No. 4047/98, thereby declaring the petitioner, namely, Sukia Begam @ Miss Sufia Begum to be a foreigner of post 25.03.1971 stream.

3. Upon perusal of the records of the learned Tribunal, it is seen from the order sheet that the process server's report was received on 29.10.2019. As per the said service report, the process server had visited the address of the petitioner and found her to be absent. On enquiry being made with the local villagers, the process server learned that the petitioner had left the village and gone elsewhere. Accordingly, the notice was pasted at the residence of the petitioner where she had last resided. The service report also contains the signature of Ikram Hussain, Gaonburah, who at that point of time had stated that the petitioner did not reside in the village now. Accordingly, by order dated 29.10.2019, the learned Tribunal had recorded its satisfaction that

notice was duly served in the manner as provided under paragraph 3(5)(f) of the Foreigners (Tribunals) Order, 1964. Thereafter, the matter was listed on 08.11.2019, 22.11.2019 and 11.12.2019 for written statement, documents and appearance, but as the petitioner remained absent, by an order dated 24.12.2019, the learned Tribunal had fixed the matter on 10.07.2020 for passing *ex parte* opinion. Accordingly, the *ex parte* opinion was passed on 10.07.2020.

4. In this writ petition, the petitioner has placed reliance on a certificate dated 13.06.2026, issued by Ikram Hussain, the *Gaon Pradhan* of Charge No. 13, certifying that the petitioner is a resident of village-Atiya. The said certificate contains a *nota bene* to the effect that the said person is marked as "D" voter. Accordingly, the learned counsel for the petitioner had stated that she was never informed by the *Gaon Pradhan* regarding the service of any process by police in the presence of the *Gaonburah* (also called *Gaon Pradhan*) by affixing the notice issued by the learned Tribunal at her place of residence.

5. The learned counsel for the petitioner has submitted that the petitioner is the wife of Basher @ Abdul Basher of village-Atiya and the petitioner has been all throughout residing in the same village where notice was shown to have been served.

6. The learned standing counsel for the Border and FT matters has submitted that as the notice to the petitioner was duly served, it was her burden to appear before the learned Tribunal to contest the proceedings. It is submitted that the original reference was made in the year 1998, which was duly forwarded by the Superintendent of Police (Border), Barpeta in view of the erstwhile Illegal Migrants (Determination) Tribunals Act, 1983.

7. It is surprising to note that the *Gaon Pradhan* of Charge No.13 was a witness to the service of notice on the petitioner by hanging/pasting the same on the wall of the petitioner's house. The same *Gaon Pradhan*, namely, Ikram Hussain has now issued a certificate dated 13.06.2026, certifying that the petitioner, namely, Sukia Begum wife of Abdul Baser is a resident of Atiya village.

8. Therefore, the Court is inclined to hold that the petitioner has been able to make out a case that she has been residing at village Atiya all throughout and as the Gaonburah/*Gaon Pradhan,* who was the purported witness to the service of notice by pasting/affixing it on the wall of the house where the petitioner was staying had issued a certificate dated 13.06.2026, thereby certifying that the petitioner was a resident of the same village, the lack of knowledge of the petitioner regarding service of notice by following Paragraph 3(5)(f) of the Foreigners (Tribunals) Order, 1964 can be presumed.

9. Accordingly, the objection made by the learned standing counsel for the Border and FT matters has to be rejected.

10. Consequently, the impugned *ex parte* opinion dated 10.07.2020, passed by the learned Member, Foreigners Tribunal 7th, Barpeta, Assam, in Case No. FT-958/17, arising out of R/Case No. 4047/98 is set aside.

11. The matter is remanded back to the said learned Tribunal for giving the opportunity to the petitioner to file her written statement and to adduce evidence and documents on which she intends to rely upon.

12. The petitioner is directed to appear before the learned Tribunal on or before 20.11.2026 and by producing a certified copy of the order, also file

her written statement of defence. Thereupon, the learned Tribunal shall give a reasonable opportunity to the petitioner to take steps to adduce her evidence. It is made clear that if the petitioner fails to appear before the said learned Tribunal within the time allowed, it would be permissible for the said learned Tribunal to treat the petitioner as absent on call and to pass a fresh opinion in accordance with law.

13. The learned Tribunal shall make an endeavour to dispose of the proceedings within the time permitted under Paragraph 3(14) of the Foreigners Tribunal Order, corresponding to Paragraph 17(14) of the Immigration and Foreigners Order, 2025.

14. This writ petition is allowed to the extent as indicated above.

15. The parties are left to bear their own cost.

16. The Registry shall expeditiously return back the Tribunal's record along with a copy of this order to be made a part of the records by the learned Tribunal for future reference.

JUDGE **JUDGE**

Digitally signed by Champak Rajbongshi
Date: 2026.10.14 11:12:33 +05'30'

Comparing Assistant **Private Secretary**