

GAHC010000492018



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

Case No. : WP(C)/105/2018

AYUB ALI @ MD. IYUB ALI@ MD AYUB ALI
S/O SURMAN ALI @ MD. SURMAN ALI @ SORMAN ALI
R/OVILL- BAGHMARA CHAR, P.O. BAGHMARA CHAR,
P.S. ALOPATI, DIST. BARPETA

VERSUS

THE UNION OF INDIA
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, SASTRI BHAWAN, NEW DELHI

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

3:THE SUPERINTENDENT OF POLICE (B)

BARPETA
P.O. AND P.S. BARPETA
DIST. BARPETA
ASSAM

4:THE DEPUTY COMMISSIONER

BARPETA DIST. BARPETA
ASSA

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 30.03.2023
(AM Bujor Barua, J)

Heard Mr. MA Sheikh, learned counsel for the petitioner. Also heard Mr. L Devi, learned counsel for the respondent no. 1 being the authorities under the Union of India, Mr. G Sarma, learned counsel for the respondents no. 2 and 3 being the authorities under the Home Department of Government of Assam and Mr. NK Das, learned counsel for the respondent no. 4 being the Deputy Commissioner, Barpeta.

2. The petitioner Ayub Ali @ Md. Aiyub Ali @ Md. Ayub Ali had been referred to the Foreigners' Tribunal, Jorhat for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of Case No. JFT.201/14. The Tribunal rendered an opinion dated 13.10.2017 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. The petitioner relies upon the voters' lists of 1970 of village Baghmara Char Nanke which contains the name of Surman Ali, S/O Damulla at Sl. No. 197. The petitioner also refers to the voters' list of 2016 of village Baghmara Char Nonke which contains the name of Sorman Ali, S/O Damullaya at Sl. No. 594 and that of Hafija Khatun, W/O Sorman at Sl. No. 595. The petitioner thereupon relies upon the registration card issued by the Board of Secondary Education, Assam containing the information that Ayub Ali is the son of Surman Ali and

Hafiza Khatun and the name of school is Baghmara Char High School. The petitioner also relies upon the certificate issued by the Baghmara Char High School which contains the information that Ayub Ali is the son of Surman Ali of village Baghmara Char.

5. In view of the above, the matter stands remanded back to the Tribunal to enable the petitioner to examine the Headmaster of Baghmara Char High School who may depose before the Tribunal along with the original admission register of the school that Ayub Ali is the son of Surman Ali of village Baghmara Char.

6. The petitioner to also produce the complete voters from 1970 to 2016 in respect of village Baghmara Char Nonke for the examination of the Tribunal. The respondents in the Home Department may make a verification as to whether the proceedee Ayub Ali @ Md. Aiyub Ali @ Md. Ayub Ali and Ayub Ali, S/O Surman Ali of village Baghmara Char with reference to the school certificate as well as the aforesaid voters' lists are one and the same person.

7. The petitioner to appear before the Tribunal on 08.05.2023.

8. If the reasoned order is in favour of the petitioner, the same may prevail over the opinion/judgment dated 13.10.2017 passed in JFT.201/14 and if against, consequence under the law is applicable to the petitioner.

9. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant