

GAHC010005172021



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

Case No. : WP(C)/376/2021

RAMJAN ALI
S/O LATE MOYEZ SHEIKH,
VILLAGE PASCHIM MOINBARI, PS KALGACHIA,
DIST BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF HOME
AFFAIRS, THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS, SHASTRI
BHAWAN, TILOK MARG, NEW DELHI 1

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE HOME
DEPARTMENT
DISPUR GUWAHATI 6

3:THE DEPUTY COMMISSIONER
BARPETA
ASSAM
781301

4:THE SUPERINTENDENT OF POLICE (B)
BARPETA
ASSAM
781301

5:THE ELECTION COMMISSIONER OF INDIA.
THROUGH ITS SECRETARY
NIRBACHAN BHAWAN
NEW DELHI 1

6:THE STATE CO ORDINATE OF NATIONAL REGISTRATION OF CITIZEN
(NRC)

ASSAM
BHANGAGARH
GUWAHATI

Advocate for the Petitioner : MR. A R SIKDAR

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

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

ORDER

Date : 01-08-2023

(A.M. Bujor Barua, J)

Heard Mr. A.R. Sikdar, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 & 6 being the Union of India, Mr. G. Sarma, learned Counsel appearing for the Home Department of Government of Assam for the respondent No.2 & 4, Mr. A.I. Ali, learned counsel for the respondent No.5 being the Election Commission of India and Mr. T.R. Gogoi, learned Advocate for the respondent No.3 being the Deputy Commissioner, Barpeta.

2. Petitioner Ramjan Ali was referred to the Foreigners' Tribunal 5th Barpeta for rendering an opinion as to whether he is a foreigner under the Foreigners Act, 1946, resulting in registration of case No.FT (5th) 340/2016. The Tribunal rendered an opinion dated 13.03.2020, declaring the petitioner to be a foreigner. Being aggrieved this Writ Petition is instituted.

3. In the Writ Petition, the petitioner relies upon the Voters List of 1966 of Village Pachim Moiyon under Police Station Baghbor in the present Barpeta District, which contains the name of Moyez Sekh son of Mamudali at Sl. No.641 and that of Mojiran Nessa wife of Moyez at Sl. No.642 and it is claimed that Moyez Sekh is the father and Mojiran Nessa is the mother. The name of Moyez Sekh is also appears in the Voters List of 1970 of Village Pachim Moinbari but in the Voters List of 1997 his name appears as Moyez Uddin son of Mamud. It is claimed that Moyez Sekh and Moyez Uddin are the same person and it is only a variance in the name

depicted in the Voters Lists.

4. The petitioner also relies upon the jamabandi of a plot of land of Village Pachim Moinbari which contains an order of the Circle Officer dated 20.08.2020, in Mutation Case No.BAR/KAL/2018-19/281/FMUT, by which amongst others, names have been mutated in favour of Ramjan Ali in place of Moyez Uddin and accordingly the jamabandi had also been corrected by incorporating the name of Ramjan Ali at Sl. No.7.

5. Upon a query it is clarified that Moyez Sekh, father of the petitioner died in some time in the year 2016 and accordingly, after his death, the mutation took place in the year 2018.

6. In view of above, the matter is remanded back to examine the Voters List of 1966, 1970 and 1997 as well as the information contained in the jamabandi in respect of a plot of land of Village Pachim Moinbari. The petitioner to produce the complete Voters Lists of Village Pachim Moinbari from 1966 upto 1997 for examination of the Tribunal. The Tribunal to also examine as to whether Moyez Sekh of the Voters Lists of 1966 and 1970 and Moyez Uddin of 1997 Voters List are one and the same person.

7. The respondents in the Home Department may also verify the aforesaid claim and make their submissions before the Tribunal.

8. The petitioner to appear before the Tribunal on 25.08.2023. In the event, the reasoned order is in favour of the petitioner, the same would prevail over the order dated 13.03.2020, passed in case No.FT (5th) 340/2016 and if it is against him, the consequence under the law may follow.

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

10. The petition stands allowed as indicated above. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant