

GAHC010007532019



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

Case No. : WP(C)/262/2019

AKKEL ALI
S/O. LT. HAZARAT ALI, VILL. BARDALANI, P.S. BAGHBAR, DIST. BARPETA,
ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY, GOVT. OF INDIA, DEPTT. OF HOME AFFAIRS,
NEW DELHI, INDIA.

2:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF HOME
DISPUR
GHY.-06.

3:THE SUPDT. OF POLICE (B)

BARPETA
P.O. AND DIST. BARPETA
ASSAM-781301.

4:THE DY. COMMISSIONER

BARPETA
P.O. AND DIST. BARPETA
ASSAM-781301.

5:THE ELECTION COMMISSIONER OF INDIA

NEW DELHI-01.

6:THE NRC COORDINATOR

NATIONAL REGISTER OF CITIZEN (NRC)
ASSAM
BHANGAGARH
GUWAHATI-06

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 NELSON SAILO

ORDER

Date : 05.06.2023
(AM Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 6 being the authorities under the Union of India and NRC respectively, Ms. A Verma, learned counsel for the respondents no. 2 and 3 being the authorities under the Home Department of the Government of Assam, Ms. U Das, learned counsel for the respondent no. 4 being the Deputy Commissioner, Barpeta and Mr. AI Ali, learned counsel for the respondents no. 5 being the authorities under the Election Commission of India.

2. The petitioner Akkel Ali had been referred to the Foreigner's Tribunal No. 4, Barpeta 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 F.T. Case No. 460/2016. The Tribunal rendered an opinion dated 13.09.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.
4. In the writ proceeding the petitioner relies upon the voters' list of 1966 of village Lehi Police Station Tarabari in the present Barpeta district which contains the name of Hazrat Ali, S/O Jonab at Sl. No. 256 and that of Aymona Nessa, W/O Hazrat at Sl. No. 257 and both are shown to be residing in the same house no. 78. Reliance is also placed upon the voters' list of 1985 of village Lehi which contains the names of Hazarat Ali, S/O Jonab at Sl. No. 209, Aymona Khatun, W/O Hazarat at Sl. No. 210 and that of Akkel Ali, S/O Hazarat at Sl. No. 211 and all three are shown to be residing in the same house no. 100. It is claimed that Hazarat Ali is the father of the petitioner and Akkel Ali is the petitioner himself. The information contained in the voters' lists of 1966 and 1985 of village Lehi appears to be consistent and as per the voters' list of 1985 of village Lehi the name of Hazarat Sli and Akkel Ali appears in the same voters' list and both are them are shown to be residing in the same house no. 100.
5. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' lists of 1966 and 1985 of village Lehi and thereafter, pass a reasoned order. The respondents in the Home Department may also make their own enquiry and verification as to whether the petitioner proceedee Akkel Ali and Akkel Ali of the 1985 voters' list of village Lehi are one and same person and thereafter, submit a report. The petitioner to also produce the complete and continuous voters' lists of village Lehi from the year 1966 upto the year 1985 for examination by the Tribunal. Upon doing the needful, the Tribunal to pass a reasoned order.
6. The petitioner to appear before the Tribunal on 11.07.2023.
7. If the reasoned order is in favour of the petitioner, the same shall prevail

over the opinion dated 13.09.2018 passed in F.T. Case No. 460/2016 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant