

GAHC010011492020



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

Case No. : WP(C)/376/2020

MATI ALI
S/O. LT. ABED ALI, VILL. PATHSALA, P.S. PATACHARKUCHI, DIST.
BARPETA, ASSAM, INDIA, PIN-781327.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI-110001.

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY.-06.

3:THE DY. COMMISSIONER

BARPETA
DIST. BARPETA
ASSAM
PIN-781301.

4:THE ELECTION COMMISSION OF INDIA

NEW DELHI-110001.

5:THE STATE COORDINATOR

NATIONAL REGISTER OF CITIZENS
ASSAM
GUWAHATI-781005.

6:THE SUPDT. OF POLICE (B)

BARPETA
DIST. BARPETA
ASSAM
PIN-781301

Advocate for the Petitioner : MR H R A CHOUDHURY

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

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

ORDER

04.04.2023

(AM Bujor Barua, J)

Heard Mr. JM Sulaiman, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, as well as the Superintendent of Police (B) Barpeta and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Barpeta.

2. The petitioner, Md. Mati Ali, was referred to the Foreigners Tribunal 10th Barpeta, for rendering an opinion as to whether he is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T. Case No.1473/2017 wherein an opinion dated 26.09.2019 was rendered

declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. The petitioner relies upon the voters list of 1965 of village Pathsala Mouza Sariha of the present Bajali district which contains the name of Sabu Ali son of Jaki Sekh at Sl.No.11 and that of Abed Ali son of Sabu Ali at Sl.No.15. The petitioner claims that Abed Ali son of Sabu Ali is his father.

5. The petitioner relies upon the voters list of 1997 of village Pathsala Gaon, Mouza Sariha of the present Bajali district which contains the name of Abed Ali son of Sabu Sekh at Sl.No.504 and Mati Ali son of Abed Ali at Sl.No.506. The petitioner claims that he is a citizen of India as he is the son of Abed Ali, whose name appears in the voters list of 1965 of village Pathsala Mouza Sariha of the present Bajali district.

6. Accordingly, the matter stands remanded back to the Tribunal to examine the voters list of 1965 and 1997 relied upon by the petitioner in respect of village Pathsala Gaon, Mouza Sariha of the present Bajali district to establish that the petitioner is a citizen of India.

7. The petitioner shall appear before the Tribunal on 12.05.2023.

8. To facilitate the process, the petitioner may produce all the intervening complete voters list between 1965 to 1997 in respect of village Pathsala Gaon, Mouza Sariha of the present Bajali district for examination of the Tribunal. The State authorities through the Superintendent of Police (B) Barpeta may do the necessary verification of the aforesaid materials as to whether Mati Ali of village Pathsala Gaon, Mouza Sariha of the present Bajali district and the present writ petitioner/proceedee are one and the same person.

9. The Tribunal after examining the evidences and materials shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 26.09.2019 of the Foreigners Tribunal 10th Barpeta in F.T. Case No.1473/2017 and if it is against the petitioner, consequential action under the law shall follow.

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

11. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant