

GAHC010011732017



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

Case No. : WP(C)/594/2017

JAHER ALI
S/O. ABUL HUSEN @ ABUL HUSSAIN, VILL. KACHARIPETTY, PART-III, P.S.
ABHAYAPURI, DIST. BONGAIGAON, ASSAM, PIN-783384.

VERSUS

THE UNION OF INDIA and 3 ORS.
REP. BY THE SECY. 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 SUPDT. OF POLICE B
BONGAIGAON
DIST. BONGAIGAON
ASSAM. PIN-783380.

4:THE DY. COMMISSIONER
BONGAIGAON
DIST. BONGAIGAON
ASSAM
PIN-783380

Advocate for the Petitioner : MS.A KHATUN
Advocate for the Respondent :

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

12.04.2023

(A.M. Bujor Barua, J)

Heard Mr. S Ahmed, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Mr. J Payeng, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. T Pegu, learned counsel for the Election Commission of India and Mr. PK Medhi, learned counsel for the Deputy Commissioner, Bongaigaon.

2. The petitioner Jaher Ali had been referred to the Foreigners Tribunal No. 2, Bongaigaon at Abhyapuri 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 BNGN/FT/Case No. 2582/2009, wherein an opinion dated 01.09.2016 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies on the voters list of 1970 of village Kaseripety Part-III, police station Abhyapuri in the Bongaigaon district, which contains the name of Moser Ali son of Babar Ali at serial No. 257 and that of Abul Hussain son of Moser Ali at serial No. 259 and both of them are shown to be residing in the same house No. 74. The petitioner also relies on the voters list of 1997 of village Kasaripety Part-III, which contains the name of Abul Hosen son fo Naser Ali at serial No. 520 and Jaher Ali son of Abul Husen at serial No. 523 and both of them are shown to be residing in the same house No. 170. The petitioner accordingly claims that he had discharged the burden of

proving that he is a citizen of India.

4. In view of the above, the matter is remanded back to the Tribunal to examine the voters list of 1970 of village Kasaripety Part-III, which contains the name of Moser Ali son of Babar Ali and Abul Husen son of Moser Ali, where both of them are residing in the same House No. 74 and also the voters list of 1997 of village Kasaripety Part.III, which contains the name of Abul Hosen son of Naser Ali at serial No. 520 and Jaher Ali son of Abul Husen at serial No. 523, where both of them are shown to be residing in the same House No. 170, where Jaher Ali was shown to be the son of Abul Husen and thereafter pass a reasoned order thereon. The respondents in the Home Department may verify the authenticity of the two voters list as well as whether Jeher Ali of the voters list of 1997 of village Kacharipeti Part-III and the petitioner proceedee Jaher Ali are one and the same person. The petitioner to produce the complete voters lists from the years 1966 to 1997 of village Kacharipety Part-III before the Tribunal.

5. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 01.09.2016 and if it goes against the petitioner, consequence as per law shall follow.

6. The petitioner shall appear before the Foreigners Tribunal No. 2, Bongaigaon at Abhyapuri on 26.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

7. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant