

GAHC010015782018



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

Case No. : WP(C)/487/2018

ALA UDDIN
S/O. LT. MAKHAL MIYA, VILL. BALIRAM GAON, WARD NO.3, P.S.
JAMUNAMUKH, DIST. HOJAI/NAGAON, ASSAM

VERSUS

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

2:THE COMM. AND SECY.
TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY.

3:THE DY. COMMISSIONER

HOJAI
DIST. HOJAI
ASSAM

4:THE CHIEF ELECTION OFFICER

THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI
DELHI

5:THE OFFICE OF THE STATE COORDINATOR OF NATIONAL
REGISTRATION (NRC) ASSAM

REP. BY IT'S COORDINATOR
1ST FLOOR ACHYUT PLAZA
BHANGAGARH
GHY.
ASSAM

6:THE SUPDT. OF POLICE (B)
HOJAI
DIST. HOJAI
ASSAM

7:THE OFFICER IN CHARGE
JAMUNAMUKH POLICE STATION
DIST. HOJAI
ASSA

Advocate for the Petitioner : G UDDIN

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

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

ORDER

Date : 15-02-2023

(Achintya Malla Bujor Barua, J)

Heard Mr. G Uddin, learned counsel for the petitioner.

2. Also heard Ms. L Devi, learned counsel appearing on behalf of respondent Nos.1 and 5, Ms. G Sarma, learned standing counsel appearing for respondent Nos.2, 6 and 7, Ms. U Das, learned counsel appearing for the respondent No.3 and Mr. A. I. Ali, learned counsel appearing for respondent No.4.

3. The petitioner was referred to the Foreigner's Tribunal No.10, Nagaon for an opinion as to whether he is a person who entered the State of Assam through the specified territory subsequent to 25.03.1971. Although the petitioner could not produce the appropriate documents before the Tribunal but before this Court by means of additional affidavit the voters list of 1970 of village Nam Doboka Gaon, PS

Hojai, District – Nagaon has been produced wherein, the name of Mekai Miya S/o of Mosab appears at serial No.400.

4. The petitioner has also produced the voters list of 1989 of village Nam Doboka Gaon, P.S Hojai, wherein at serial No.884 in respect of House No.149, the name of Mekai Miya Mazumder, S/o Mosab appears and at serial No.886 the name of Alauddin, S/o Mekai appears, both in respect of House No.149.

5. If the voters list of 1970 and 1989 of village Nam Doboka Village is accepted, the petitioner prima facie establishes that he is the son of Mekai Miya of 1970 voters list and therefore, he has to be considered as a citizen of India.

6. Accordingly the matter stands remanded back to the Tribunal, wherein the petitioner would be allowed to exhibit the two aforesaid voters list of 1979 and 1989 of village Nam Doboka Gaon as well as any further document as the petitioner may desire.

7. Accordingly, the petitioner shall appear before the Tribunal on 22.03.2023. Upon the aforesaid material being produced, the Tribunal shall pass a reasoned order upon the claim of the petitioner and if the reasoned order to be passed is in favour of the petitioner, the same would prevail over the opinion dated 30.10.2017 passed in F.T(D). Case No.867/2008 by the Foreigners Tribunal, Nagaon, Court No.10 at Sankardev Nagar, Hojai, Assam and if it is against, the implications under the law may follow.

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

9. The petition stands allowed as indicated above.

10. Send back the LCR.

J U D G E

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Comparing Assistant