

GAHC010021782023



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

Case No. : WP(C)/617/2023

AFAZ UDDIN
LT. RAHIM ALI, R/O- VILL- SONAPUR BLOCK, P.S. BIHPURIYA, DIST.-
LAKHIMPUR, ASSAM, PIN- 787054

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI, PIN-
110001

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR GUWAHATI
PIN- 781006

3:THE ELECTION COMMISISON OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI
PIN- 110001

4:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZEN
ASSAM
ACHYUT PLAZA
G.S.ROAD
BHANGAGARH
GUWAHATI
KAMRUP (M)
ASSAM
PIN- 781005

5:THE DY. COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 787001

6:THE SUPERINTENDENT OF POLICE (BORDER)
LAKHIMPUR
NORTH LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 787001

7:THE FOREIGNERS REGISTRATION OFFICER
OFFICE OF THE SUPERINTENDENT OF POLICE
LAKHIMPUR
P.O. NORTH LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 78700

Advocate for the Petitioner : MR. S N TAMULI
Advocate for the Respondent : DY.S.G.I.

BEFORE

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

O R D E R

08.02.2023

(A.M. Bujor Barua, J)

Heard Mr. SN Tamuli, learned counsel for the petitioner, Ms. L Devi, learned counsel for the respondents No. 1 and 4 being the authorities in the Union of India and State NRC, respectively, Ms. A Verma, learned counsel for the respondents No. 2 and 6 being the authorities in the Home Department of the Government of Assam, Mr. AI Ali, learned counsel for the respondent No. 3 being the authorities in the Election Commission of India and Ms. U Das, learned counsel for the respondent No. 5 being the Deputy Commissioner, Lakhimpur.

The respondent No. 7 stands deleted from the array of respondents.

2. The petitioner was referred for an opinion as to whether he entered the State of Assam subsequent to 25.03.1971 which resulted in registration of FT Case No. 392/1990 before the Foreigners Tribunal, Lakhimpur at North Lakhimpur. Being aggrieved by an ex-parte order dated 01.06.1993 in FT Case No. 392/1990, this writ petition is instituted.

3. No explanation is available as to why the petitioner did not approach the Court between 1993 and the year 2023. All that is stated is that the occasion had arisen for the petitioner to approach the Court as of now as earlier the authorities were not after him.

4. The same cannot be a good and acceptable explanation in law. But, however, considering the interest of justice, the matter stands remanded back to the Foreigners Tribunal, Lakhimpur at North Lakhimpur for a fresh adjudication on the issue as to whether the petitioner is a person who entered the State of Assam subsequent to 25.03.1971 and because of the laches on the part of the petitioner, a cost of Rs. 7000/- be paid by the petitioner before the District Legal Service Authority of Lakhimpur district.

5. The petitioner will appear before the Tribunal on 09.03.2023 and considering the past conduct of the petitioner, he shall not unnecessarily seek adjournment before the Tribunal and the Tribunal shall decide the matter as expeditiously as possible without any delay.

6. In the writ petition, the petitioner refers to a voters list of 1965 of village Sonapur of Lakhimpur district to show that his name appears at Serial No. 209 of the said voters list. If it is so, the petitioner shall also establish that the Afaz Uddin son of Rahim at serial No. 209 of the voters list of 1965 and the petitioner

who is referred before the Tribunal are one and the same person.

The writ petition is allowed to the extent as indicated above.

JUDGE

JUDGE

Comparing Assistant