

GAHC010024582020



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

Case No. : WP(C)/843/2020

LIAKAT ALI
S/O LATE NABAB ALI @ NOWAR ALI, VILL-KHANDAPUKHURI JANPAR
(THENGSAI), P.S.-MIKIRBHETA, DIST-MORIGAON, ASSAM, PIN-782413

VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI-110001

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE DPEUTY COMMISSIONER
MORIGAON
DIST-MORIGAON
ASSAM
PIN-782127

4:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
ASSAM
PIN-782127

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI-110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)

BHANGAGARH
GUWHATI-78103

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 NELSON SAILO

ORDER

08.06.2023

(AM Bujor Barua, J)

Heard Mr. AM Ahmed, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, and Mr. G Sarma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Morigaon and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Morigaon.

2. The petitioner, namely, Liakat Ali was referred to the Foreigners Tribunal No.3rd Morigaon 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 Case No.F.T.(C)207/2015 arising out of Reference IMD(T) Case No.756/2003 dated 08.09.2003 wherein an opinion dated 27.09.2019 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. In the writ proceeding, the petitioner relies upon the voters list of 1965 of village Thengshali P.S. Mikirveta in the Morigaon district which contains the name of Nowar Ali son of Abdul Adut at Sl.No.497. The voters list of 1975 of village Thengshali also contains the name of Nabab Ali son of Abdul Adut at Sl.No.637 and it is sought to be explained that Nowar Ali of the 1965 voters list is infact Nabab Ali of the 1975 voters list of the same Thengshali village and therefore, the corrected name would actually be Nabab Ali and not Nowar Ali. The petitioner also relies upon a jamabandi of a plot of land at village Thengsali which contains the information that the name of Nowar Ali has been substituted in place of A Adut. The voters list of 1977 of village Thengshali contains the name of Nabab Ali son of Abdul Adhut at Sl.No.916 and Lekat Ali son of Nabab at Sl.No.925. As the name of Nabab Ali and Lekat Ali appear in the same voters list of the year 1977 of village Thengshali where both of them are shown to be residing in the same House No.209 and that the name of Nowar Ali son of Abdul Adut appears in the voters list of 1965 and further that Nabab Ali inherited the land of A Adut, therefore the petitioner claims that the burden under Section 9 of the Foreigners Act 1946 has been discharged to prove that he is a citizen of India.

5. In view of the above, the matter stands remanded back to the Tribunal to enable the Tribunal to examine the voters list of 1965, 1975, and 1977 of village

Thengshali as well as the jamabandi of the plot of land of village Thengshali relied upon by the petitioner.

6. The respondents in the Home Department may also make their own verification on the aforesaid aspect as well as to make further enquiry as to whether Lekat Ali son of Nabab of the 1977 voters list of village Thengshali and the petitioner-proceedee Liakat Ali are one and the same person and submit a report before the Tribunal, if so advised.

7. The petitioner may be allowed to bring in any further materials, if so advised.

8. Accordingly, the petitioner shall appear before the Tribunal on 13.07.2023.

9. The Tribunal upon doing the needful and 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 opinion dated 27.09.2019 of the Foreigners Tribunal No.3rd Morigaon in Case No.F.T. (C)207/2015 arising out of Reference IMD(T) Case No.756/2003 dated 08.09.2003 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.

12. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant