

GAHC010026062021



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

Case No. : WP(C)/1011/2021

LUBAN MIAH
S/O- LT. BIRBAL SEIKH, R/O- VILL- DEKARGRAM, P.S. MANKACHAR,
DIST.- SOUTH SALMARA, ASSAM

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPTT.
GOVT. OF ASSAM
ASSAM SECRETARIAT
DISPUR
GHY
ASSAM
PIN- 781006

3:THE DY. COMMISSIONER OF POLICE (B)
DIST.- KAMRUP (M)
ASSAM

4:THE STATE COORDINATOR OF NRC
OFFICE OF THE STATE COORDINATOR
NRC ASSAM
1ST FLOOR
ACHYUT PLAZA
GS ROAD
BHANGAGARH
GHY

ASSAM
PIN- 781005

5:THE MEMBER
FOREIGNERS TRIBUNAL NO.4
KAMRUP (M)
ASSAM
PIN- 781003

6:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
SANSAD MARG AREA
NEW DELHI
PIN- 110001

7:THE DY. COMMISSIONER
DIST.- SOUTH SALMARA
ASSA

Advocate for the Petitioner : MS. D GHOSH

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 Ms. D Ghosh, 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 Deputy Commissioner of Police (B) City Guwahati Kamrup(M), and Ms. U Das, learned Government Advocate for the Deputy Commissioner, South Salmara.

2. The petitioner, Luban Miah, was referred to the Foreigners Tribunal No.4, Kamrup(M), 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.FT(K(M)-4)1216/17 wherein an opinion dated 25.02.2020 and 23.06.2020 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 1960 of village Kakripara, PS Mankachar in the Dhubri district which contains the name of Birbal Sheikh son of Deuyan at Sl.No.405 and the voters list of 1977 of village 72 Kakripara Part II in the Dhubri district which contains the name of Birbal Sheikh son of Deyanu. The petitioner claims Birbal Sheikh of 1960 and 1977 voters list of village Kakripara, PS Mankachar in the Dhubri district as his father.

5. The petitioner further relies upon the voters list of 2006 of village 72 Kakripara Part II which contains the name of Luban Miya, son of Birbal Sheikh at Sl.No.530. Accordingly the petitioner claims that he is a citizen of India as he is the son of Birbal Sheikh, whose name appears in the voters list of 1960 and 1977 voters list of village Kakripara, PS Mankachar in the Dhubri district.

6. Accordingly, the matter stands remanded back to the Tribunal to examine the voters list of 1960 and 1977 and 2006 relied upon by the petitioner in respect of village Kakripara, PS Mankachar in the Dhubri 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 1960 to 2006 in respect of village Kakripara, PS Mankachar in the Dhubri district for examination of the Tribunal. The State authorities through the Deputy Commissioner of Police (B) City Guwahati Kamrup(M) may do the necessary verification of the aforesaid materials as to whether Luban Miya of 2006 voters list of village Kakripara, PS Mankachar in the Dhubri 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 orders dated 25.02.2020 and 23.06.2020 of the Foreigners Tribunal No.4, Kamrup(M) in F.T. Case No.FT(K(M)-4)1216/17 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