

GAHC010029032019



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

**Case No. : WP(C)/1119/2019**

JAIN UDDIN  
S/O LATE LALCHAN MIA  
R/O VILL- NO. 3 MANDIA BORDOLONI,  
P.S. BAGHBAR  
DIST. BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS.  
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME  
AFFAIRS, SHASTRI BHAWAN,  
TRILOK MARG, NEW DELHI-1.

2:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
HOME DEPARTMENT  
DISPUR  
GUWAHATI-06.

3:THE SUPERINTENDENT OF POLICE (B)

BARPETA  
P.O.  
P.S. AND DIST. BARPETA  
ASSAM  
PIN - 781301.

4:THE DEPUTY COMMISSIONER

BARPETA  
P.O.

P.S. AND DIST. BARPETA  
ASSAM  
PIN -781301.

5:THE ELECTION COMMISSIONER OF INDIA

NEW DELHI-01.

6:THE ASSAM STATE CO-ORDINATOR OF NRC

BHANGAGARH  
GUWAHATI -5

**Advocate for the Petitioner** : MR. A R SIKDAR

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

**BEFORE**  
**HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**  
**HONOURABLE MR. JUSTICE NELSON SAILO**

**ORDER**

**06.06.2023**

*(AM Bujor Barua, J)*

Heard Mr. N 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. T Pegu, 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 Superintendent of Police (B) Barpeta and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Barpeta.

2. The petitioner, namely, Jain Uddin was referred to the Foreigners Tribunal

No.4<sup>th</sup> Barpeta 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.35/17, arising out of Ref. F.T.Case No.285/16 wherein an opinion dated 28.11.2018 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 1966 of village Mandia Gaon, P.S. Baghbar in the present Barpeta district which contains the name of Lalchan Mia son of Kasimuddin at Sl.No.136 and that of Kasiran Nessa wife of Lalchan at Sl.No.137. It is claimed that Lalchan Mia is the father of the petitioner and Kasiran Nessa is the mother of the petitioner. The petitioner further relies upon the voters list of 1970 of village Mandia Gaon which contains that name of Lalchan Mia son of Kasimuddin at Sl.No.126 along with Kasiran Nessa wife of Lalchan at Sl.No.127. Further reliance is also placed on the voters list of 1997 of village Mandia Bardalani containing the name of Md. Lalchan Mia son of Kasimuddin at Sl.No.706, Kasiran Nessa wife of Lalchan at Sl.No.707 along with Jain Uddin son of Lalchan at Sl.No.708, where all of them are shown to be residing in the same House No.196. As the name of Jain Uddin, the petitioner appears along with Lalchan Mia in the same voters list and both are residing in the same house and as the name of Lalchan Mia and Kaseran Nessa wife of Lalchan also appear in the voters list of 1966 and 1970 of village Mandia Gaon, it is claimed that the burden under Section 9 of the Foreigners Act 1946 has been discharged by the petitioner 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 1966, 1970 and 1997 of village Mandia Gaon/Mandia Bardalani.
6. The respondents in the Home Department may also make their own verification on the aforesaid aspect, more particularly, as to whether Jain Uddin son of Lalchan of the 1997 voters list and Jain Uddin, the writ petitioner/proceedee are one and the same person and submit a report before the Tribunal, if so advised.
7. Accordingly, the petitioner shall appear before the Tribunal on 12.07.2023.
8. 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 28.11.2018 of the Foreigners Tribunal No.4<sup>th</sup> Barpeta in F. T. Case No.35/17, arising out of Ref. F.T.Case No.285/16 and if it is against the petitioner, consequential action under the law shall follow.
9. Till the reasoned order is passed, no coercive action be taken against the petitioner.
10. Writ petition stands disposed of in the above terms.

11. Send back the LCR.

**JUDGE**

**JUDGE**

**Comparing Assistant**