

GAHC010030932018



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

Case No. : WP(C)/957/2018

MD. SADDAM HUSSAIN
S/O LT. KUDUS ALI
PERMANENT RESIDENT OF VILL- KOBALIKOTA
P.S. BATADRAVA
DIST. NAGAON, ASSAM
PIN - 782122.

VERSUS

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

2:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT

DISPUR
GUWAHATI- 781006.

3:THE ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN
ASHOKA ROAD

NEW DELHI- 110001.

4:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM

DEPARTMENT OF HOME AND COORDINATOR

NRC
ASSAM

DISPUR GUWAHATI- 781006.

5:THE NATIONAL REGISTRAR OF CITIZEN

REP. BY THE STATE COORDINATOR
ASCHYUT PLAZA
BHANGAGARH
GUWAHATI - 781005

DIST.KAMRUP (M)
ASSAM

6:THE CEPUTY COMMISSIONER

JORHAT
DIST. JORHAT
ASSAM
PIN - 785001

7:THE SUPUERINTENDENT OF POLICE (B)

JORHAT
P.O. AND P.S. JORHAT
DIST. JORHAT
ASSAM
PIN - 785001

Advocate for the Petitioner : MR J C BORAH

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

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

ORDER

26.04.2023

[A.M.Bujor Barua, J.]

Heard Mr. J.C. Borah, learned counsel for the petitioner. Also heard Ms. L. Devi,

learned counsel for the respondent nos. 1 and 5; Mr. A. Kalita, learned counsel for the respondent nos. 2, 4 and 7; Mr. A.I. Ali, learned counsel for the respondent no. 3; and Ms. U. Das, learned counsel for the respondent no. 6.

2. The petitioner Md. Saddam Hussain had been referred to the Foreigners' Tribunal Jorhat, for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of FT/SVR/524/11, wherein an opinion dated 29.11.2017 had been rendered declaring the petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies on the Voters' List of 1965 of village Kobaikota P.S. Dhing in the Nagaon district, which contains the name of Taher Ali Fakir, son of Khatu Fakir at serial no. 82 and a claim is made that Taher Ali Fakir is the grandfather of the petitioner. The petitioner also relies on the Voters' List of 1997 of village Kobaikota P.S. Batadrava in the Nagaon district which contains the name of Kuddus Ali, son of Taher at serial no. 311 and that of Romina Khatun wife of Kuddus at serial no. 312 and a claim is made that Kuddus Ali of the Voters' List of 1997 of village Kobaikota is the father of the petitioner. The petitioner further relies on the Voters' List of 2013 of village Kubaikota P.S. Dhing in the Nagaon district which contains the name of Romina Begum wife of Kuddus Ali at serial no. 494 and that of Saddam Hussain son of Romina Begum at serial no. 495, where both of them are shown to be residing in the same house no. 125.

4. By establishing his link through his mother, Romina Begum whose name also appears along with Saddam Hussain in the Voters' List of 1997 of village Kobaikota P.S. Batadrava in the Nagaon district, where further Kuddus Ali is shown to be son of Taher, where again the name of Taher Ali Fakir appears in the Voters' List of 1965 of village Kobaikota P.S. Dhing in the Nagaon district, the petitioner claims that the burden under section 9 of the Foreigners Act 1946 have been discharged.

5. In view of above, the matter is remanded back to the Foreigners' Tribunal,

Jorhat to examine as to whether Taher referred as the father of Kuddus Ali of the Voters' List of 1997 and Taher Ali Fakir of the Voters' List of 1965 of village Kobaikota are one and the same person.

6. The respondents in the Home Department may also make their own verification on the claims made by the petitioner through the aforesaid materials and submit a report before the Tribunal. After undertaking the exercise as indicated above, the Tribunal shall pass a reasoned order. If the reasoned order goes in favour of the petitioner, the same shall prevail over the earlier opinion dated 29.11.2017 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioner to appear before the Tribunal on 06.06.2023.

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

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant