

GAHC010031122017



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

Case No. : WP(C)/4248/2017

1. MD. SURATH ALI @ CHURAT ALI
S/O. LT. BABUR ALI SHEIKH @ BABUR ALI @ BABUR, VILL. JHASKAL
PART-III, P.S. AGOMONI, DIST. DHUBRI ASSAM.

VERSUS

1. THE UNION OF INDIA and 3 ORS.
REP. BY ITS SECRETARY TO THE MINISTRY OF HOME AFFAIRS, UNION OF
INDIA, NEW DELHI.

2:THE STATE OF ASSAM
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-6.

3:THE DY. COMMISSIONER OF DHUBRI DIST.
AT DHUBRI
P.O.
P.S. and DIST. DHUBRI
ASSAM.

4:THE SUPERINTENDENT OF POLICE B
DHUBRI
P.O.
P.S. and DIST. DHUBRI
ASSAM

Advocate for the Petitioner : MR.A T SARKAR

Advocate for the Respondent : GA, ASSAM

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

JUDGMENT

Date : 04-04-2023

(AM Bujor Barua, J)

Heard Mr. A.T. Sarkar, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 being the Union of India, Ms. A. Verma, learned Counsel appearing for the Home Department of Government Assam for the respondent No.2 & 4 and Ms. U. Das, learned Advocate for the respondent No.3 being the Deputy Commissioner, Dhubri.

2. The petitioner, namely, Md. Surath Ali @ Churat Ali has been referred to the Foreigners' Tribunal, 10th Dhubri for rendering an opinion as to whether he is a person who had entered the State of Assam from the specified territory on or after 25.03.1971, resulting in registration of F.T. Case No.FT(10)/AGM/392/2017. The Tribunal rendered an opinion dated 06.06.2017 declaring the petitioner to be an illegal migrant. Being aggrieved this Writ Petition is instituted.

3. In the Writ Petition, the petitioner relies upon the Voters List of 1970 of Village Jhaskal Part-II, Police Station Golakganj in Dhubri District, which contains the name of Babur Ali Sheikh son of Gadlu at Sl. No.137; the Voters List of 1977 of Village Jhaskal Part-II, Police Station Golakganj containing the name of Babur Ali son of Gadlu at Sl. No.150 and Surbhan Bibi wife of Babur Ali at Sl. No.151 and both are shown to be residing in the same House No.54. The petitioner also relies upon the Voters List of 1985 of Village Jhaskal Part-II, Police Station Golakganj, containing the name of Suro Bewa wife of Babur Ali at Sl. No.844. It is clarified by the petitioner that Babur Ali in the meantime died and therefore the name of his wife Surbhan Bibi is now reflected as Suro Bewa.

4. The petitioner again refers to the Voters List of 1997 of Village Jhaskal Part-II, wherein the name of Survan Bewa wife of Babur Ali is at Sl. No.577 and that of petitioner Surath Ali

son of Babur at Sl. No.578 and both of them are shown to be residing in the same House No.217.

5. Petitioner claims that Surath Ali son of Babur Ali of the Voters List of 1997 is the petitioner himself whose name appears along with Survan Bewa wife of Babur Ali and therefore he has established that he is a citizen of India through his father Babur Ali whose name appeared in the Voters Lists of 1970 and 1977.

6. Accordingly the matter is remanded back to the Tribunal to examine the aforesaid aspect in the Voters List of 1970, 1977, 1985 and 1997 of Village Jhaskal Part-II, Police Station Golakganj as to whether it shows that the petitioner is a citizen of India. The petitioner to produce the complete Voters Lists of Village Jhaskal Part-II, Police Station Golakganj before the Tribunal from the year 1970, 1977, 1985 and 1997.

7. The respondent Home Department may cause a verification as to whether Surath Ali of the 1997 Voters List of Village Jhaskal Part-II, Police Station Golakganj and petitioner Surath Ali @ Churat Ali are one and the same person.

8. The petitioner to appear before the Tribunal on 12.05.2023. In the event, the reasoned order is in favour of the petitioner, the same would prevail over the order dated 06.06.2017, passed in F.T. Case No.FT(10)/AGM/392/2017 and if it is against him, the consequence under the law may follow.

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

10. The petition stands allowed as indicated above. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant