

GAHC010031342019



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

Case No. : WP(C)/1032/2019

TASER ALI
S/O- LT FAZAL HOQUE, R/O- VILL- TAKIMARI GRASSING RESERVE, P.O.
TAKIMARI, P.S. LAKHIPUR, DIST- GOALPARA, ASSAM, PIN- 783129

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI-01

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI-01

3:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPTT.
DISPUR
GHY-6

4:THE DY. COMMISSIONER OF POLICE (B)
GHY
KAMRUP (M)
ASSAM
GHY-01

5:THE DY. COMMISSIONER
GOALPARA
DIST- GOALPARA
ASSAM
PIN- 783331

6:THE SUPERINTENDENT OF POLICE (B)

GOALPARA
DIST- GOALPARA
ASSAM
PIN- 783331

7:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GHY-0

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : ASSTT.S.G.I. (R1)

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

ORDER

08.05.2023

(AM Bujor Barua, J)

Heard Mr. HR Ahmed, 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, Mr. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, the Deputy Commissioner of Police (B) Guwahati Kamrup (M) as well as the Superintendent of Police(B) Goalpara and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Goalpara.

2. The petitioner, Taser Ali, was referred to the Foreigners Tribunal

Kamrup(M) No.2, Guwahati, 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.72/2017 wherein an opinion dated 02.07.2018 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. The petitioner relies upon the voters list of 1966 of village Takimari Grazing Reserve Circle, P.S. Lakhipur in the Goalpara district which contains the name of Fazal Hoque, son of Baniz Ali at Sl.No.845. Reliance is also placed in the voters list of 1979 of village Takimari Grazing Reserve Circle, P.S. Lakhipur in the Goalpara district which contains the name of Fazal Hoque son of Lt. Baniz at Sl.No.1488 and that of Nosiran Nessa wife of Fazal at Sl.No.1489. The petitioner thereafter relies upon the voters list of 2010 of village Takimari Grazing Reserve which contains the name of Nosiran Bewa, wife of Fazal Hoque at Sl.No.161 and that of Toser Ali son of Fazal Hoque at Sl.No.162 and both are shown to be residing at the same House No.53. Accordingly, 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. It is further explained that Nosiran Nessa wife of Fazal of the 1979 voters list of village Takimari Grazing Reserve, PS Lakhipur, in the Goalpara district after the death of her husband writes her name as Nosiran Bewa which is reflected in the 2010 voters list of village Takimari Grazing Reserve.

6. It is also stated that the petitioner had filed a review petition before the Tribunal which has been rejected.

7. In the circumstance, the matter stands remanded back to the Tribunal to examine the voters list of 1966 of village Takimari Grazing Reserve Circle, P.S. Lakhipur in the Goalpara district which contains the name of Fazal Hoque, son of Baniz Ali at Sl.No.845 and that of the voters list of 1979 of village Takimari Grazing Reserve Circle, P.S. Lakhipur in the Goalpara district which contains the name of Fazal Hoque son of Lt. Baniz at Sl.No.1488 along with Nosiran Nessa wife of Fazal at Sl.No.1489, where both are shown to be residing in the same house and also of the voters list of 2010 of village Takimari Grazing Reserve which contains the name of Nosiran Bewa, wife of Fazal Hoque at Sl.No.161 along with Toser Ali son of Fazal Hoque at Sl.No.162 where both are shown to be residing at the same House No.53.

8. Accordingly, the petitioner shall appear before the Tribunal on 16.06.2023.

9. The respondents in the Home Department to make an enquiry on the authenticity of the information contained in the three voters list i.e. the voters list of 1966, 1979 and 2010 of village Takimari Grazing Reserve Circle to examine as to whether Taser Ali of village Takimari Grazing Reserve Circle, P.S. Lakhipur in the Goalpara district and the present writ petitioner/proceedee are one and the same person.

10. 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 02.07.2018 of the Foreigners Tribunal Kamrup(M) No.2, Guwahati, in F.T. Case No.72/2017 and if it is against the petitioner, consequential action under the law shall follow.

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

12. Writ petition stands disposed of in the above terms.

13. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant