

GAHC010033692017



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

Case No. : WP(C)/4706/2017

MANIR ALI @ MANIR UDDIN
S/O- LATE ABDUR RAHMAN, VILL- PUB UDALI, P.O- LANKA, DIST- HOJAI,
ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.
REP. BY THE SECRETARY TO THE GOVT OF INDIA, DEPTT., OF HOME
AFFAIRS, NEW DELHI

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY
HOME AND POLITICALB DEPARTMENT
DISPUR

3:THE SUPERINTENDENT OF POLICE B
HOJAI
ASSAM

4:THE DEPUTY COMMISSIONER
HOJAI
ASSAM

5:THE OFFICER-IN-CHARGE
LANKA POLICE STATION
HOJAI
ASSA

Advocate for the Petitioner : MR.B C DAS

Advocate for the Respondent : GA, ASSAM

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

ORDER

Date : 27-03-2023

(A.M. Bujur Barua, J)

Heard Mr. BC Das, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 being the Union of India, Mr. G. Sarma, learned Counsel appearing for the Home Department of Government Assam for the respondent No.2, 3 & 5 and Ms. K. Phukan, learned Advocate for the respondent No.4 being the Deputy Commissioner, Hojai.

2. The petitioner, namely, Manir Ali @ Manir Uddin has been referred to the Foreigners' Tribunal No.7, Lanka in Hojai 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. (L) Case No.276/2015. The Tribunal rendered an opinion on 18.07.2017 declaring the petitioner to be a foreigner. Being aggrieved this Writ Petition being instituted.

3. The petitioner before the Writ Court relies on the Voters List of 1970 of Village Simlai Pathar, Police Station Lanka, Mouza Lanka of the erstwhile Nagaon District, which contains the name of Abdur Rahman, son of Ashrab Ali at Sl. No.153 and that of Jubeda Khatoon, wife of Abdur Rahman at Sl. No.154 and both are residents of House No.58. The petitioner also relies upon the Voters List of 1977 of Village Simlai Pathar which also contains the name of Abdur Rahman, son of Ashrab Ali and Jubeda Khatoon, wife of Abdur Rahman at Sl. No.55 and 56 respectively. The petitioner also relies upon the Voters List of 1997 of Village Simlai Pathar which also contains the name of Jubeda Khatoon, wife of Abdur Rahman at Sl. No.728 and that of Manir Ali, son of Abdur Rahman at Sl. No.729 and both are stated to be residing in the same House No.204.

4. As Jubeda Khatoon could establish that she is the wife of Abdur Rahman whose name appears in the Voters List of 1970 of Village Simlai Pathar and the name of Manir Ali, son of Abdur Rahman appears along with Jubeda Khatoon, wife of Abdur Rahman, in the Voters List

of 1997 of Village Simlai Pathar, a prima facie indication is available that the petitioner would be a citizen of India.

5. Accordingly the matter is remanded back to the Tribunal to examine the Voters List of 1970, 1977 and 1997 of Village Simlai Pathar, Police Station Lanka, which contains the name of Abdur Rahman and Jubeda Khatoon in the same Voters List, to be residing in the same house and that of Jubeda Khatoon, wife of Abdur Rahman and Manir Ali, son of Abdur Rahman also appears in the same Voters List of 1997 again residing in the same house and to pass a reasoned order thereon.

6. The petitioner to appear before the Tribunal on 04.05.2023. In the event, a reasoned order is passed in favour of the petitioner, the same would prevail over the order dated 18.07.2017, passed in F.T. (L) Case No.276/2015 and if it is against him, the implications under the law may follow.

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

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

JUDGE

JUDGE

Comparing Assistant