

GAHC010034202021



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

Case No. : WP(C)/1393/2021

MD. AJMAL HAQUE @ AZMOL HAQUE
S/O. MD. ABDUL AZIZ, VILL. PUB KATHURI, P.O. TAKIMARI, P.S.
LAKHIPUR, DIST. GOALPARA, ASSAM, INDIA, PIN-783129.

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 COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY.-06.

3:THE DY. COMMISSIONER

KAMRUP (M)
DIST. KAMRUP (M)
ASSAM
PIN-781001.

4:THE ELECTION COMMISSION OF INDIA

NEW DELHI-110001.

5:THE STATE COORDINATOR

NATIONAL REGISTER OF CITIZENS
ASSAM

GUWAHATI-781005.

6:THE SUPDT. OF POLICE (B0

KAMRUP (M)
DIST. KAMRUP (M)
ASSAM
PIN-781006.

7:ABU BAKKAR SIDDIQUE

ADV.
FOREIGNERS TRIBUNAL NO.4
HEDAYETPUR
KAMRUP (M)
ASSAM
GHY.-03

Advocate for the Petitioner : MR H R A CHOUDHURY

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

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

ORDER

Date : 16.05.2023
(AM Bujor Barua, J)

Heard Mr. JM Sulaiman, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 5, being the authorities under the Union of India and NRC respectively, Mr. G Sarma, learned counsel for the respondents no. 2 and 6 being the authorities under the Home Department of the Government of Assam, Mr. TR Gogoi, learned counsel for the respondents no. 3 being the Deputy Commissioner, Kamrup(M) and Mr. AI Ali, learned counsel for the respondent no. 4 being the Election Commission of India.

2. The petitioner Ajmal Haque had been referred to the Foreigners' Tribunal No. 4, Kamrup(M) for rendering an opinion as to whether he is a person who entered the State of Assam on or after 25.03.1971, resulting in registration of F.T. Case No. FT(K(M)-4) 1395/17. The Tribunal rendered an opinion dated 30.11.2019 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding the petitioner relies on the voters' list of 1966 of village Kathuri PS Lakhipur in the Goalpara district which contains the name of Abdul Aziz, S/O Rahman Ali at Sl. No. 102. The petitioner also relies on the voters' list of 2011 of village Kathuri which contains the name of Abdul Aziz, S/O Rohom Ali Mollah at Sl. No. 1102 and that of Azmal Hoque, S/O Abdul Aziz at Sl. No. 1108 and both are shown to be residing in the same house no. 482. Accordingly, the petitioner claims that the burden under Section 9 of the Foreigners' Act, 1946 had been discharged to prove that he is a citizen inasmuch as the voters' list of 2011 shows that he is the son of Abdul Aziz and the name of Abdul Aziz appears in the voters' list of 1966 of the same village meaning thereby that he is a citizen.

5. In view of the above, the matter is remanded back to examine the veracity and acceptability of the voters' lists of 1966 and 2011 of village Kathuri and thereafter, pass a reasoned order. The petitioner to produce the complete voters' lists of the intervening years between the year 1966 and 2011 in respect of village Kahturi for examination of the Tribunal. The respondents in the Home Department may make their own verification and submit a report before the Tribunal.

6. The petitioner to appear before the Tribunal on 30.06.2023.

7. If the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 30.11.2019 passed in F.T. Case No. FT(K(M)-4) 1395/17 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant