

GAHC010034542020



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

Case No. : WP(C)/2606/2020

MD. ABDUL MOTIN
S/O- MD. NUR ISLAM, VILL- NO.4 BHURBANDHA, P.O. SHAPMARI, P.S.
RUPOHIHAT, DIST.- NAGAON, ASSAM, INDIA, PIN- 782120

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. 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-6

3:THE DY. COMMISSIONER
NAGAON
DIST.- NAGAON
ASSAM
PIN- 782002

4:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 110001

5:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
GHY-05

6:THE SUPERINTENDENT OF POLICE (B)
NAGAON

DIST.-NAGAON
ASSAM
PIN- 78200

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 : 04.04.2023

(A.M. Bujor Barua, J)

Heard Mr. J.M. Sulaiman, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 5, being the Union of India and the State Co-ordinator of NRC, respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2 and 6, being the authorities in the Home Department; Ms. U. Das, learned counsel for the respondent No. 3, being the Deputy Commissioner, Nagaon and Mr. A. Ali, learned counsel for the respondent No. 4, being authorities in the Election Commission of India.

2. The petitioner Md. Abdul Motin was referred to the Foreigners' Tribunal No. 3, Nagaon 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 and accordingly F.T. Case No. (NFT. No. 3) 213/2016 was registered. The Tribunal rendered its opinion dated 03.05.2019 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1965 of village Bhurbandha Pt. II, Mouza Lawkhowa in the Nagaon district which

contains the names of Muksed Ali son of Mufizuddin at Sl. No. 7 and Ayesha Khatun wife of Muksed at Sl. No. 8 and both are residing in the same house No. 3. The petitioner also relies upon the voters' list of 1971 of village Bhurbandha Pt. II, Mouza Lawkhowa in the Nagaon district which contains the name of Nur Islam son of Muksed at Sl. No. 211 and that of Amena Khatun wife of Nur Islam at Sl. No. 212 and both are residing in the same house No. 3. The petitioner further relies upon the voters' list of 1997 of village Bhurbandha Pt. II, Mouza Lawkhowa in the Nagaon district which contains the names of Md. Muksed Ali son of Hafiz Uddin at Sl. No. 864, Md. Nur Islam son of Muksed Ali at Sl. No. 867, Md. Abdul Matin son of Nur Islam at Sl. No. 871 and that of Musstt. Hebjun Nehar wife of A. Motin at Sl. No. 872 and all of them are shown to be residing in the same house No. 867. Md. Muksed Ali is claimed to be the grandfather of the petitioner and Md. Nur Islam is claimed to be the father of the petitioner whereas Md. Abdul Matin of the voters' list of 1997 of village Bhurbhandha Pt. II is claimed to be the proceedee himself.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 3, Nagaon to examine the voters' lists of 1965, 1971 and 1997 of village Bhurbhandha Pt. II as indicated above and pass a reasoned order as to whether the same indicates that the petitioner is a citizen of India. The Tribunal to take note that Md. Muksed Ali, Md. Nur Islam and Md. Abdul Matin are all residing in the same house No. 867 as per the voters' list of 1997 whereas Muksed Ali in the voters' list of 1965 and Nur Islam in the voters' list of 1971 are also residing in the same house No. 3 and all the voters' lists pertain to the same village. The petitioner to produce the complete voters' lists of 1965 up to 1997 of village Bhurbhandha Pt. II. The respondents in the Home Department of the Government of Assam through the Superintendent of Police(B), Nagaon

may make their own verification as to whether the information contained in the aforesaid voters' lists are correct and also whether the writ petitioner Md. Abdul Motin and Md. Abdul Matin of the voters' list of 1997 of village Bhurbhandha Pt. II are one and the same person. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 03.05.2019 in F.T. Case No. (NFT. No. 3) 213/2016 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 22.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant