

GAHC010034852019



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

Case No. : WP(C)/1159/2019

SIDDIK ALI @ SIDDIK @ ABDUL SIDDIK
S/O. LATE KALIMUDDIN, R/O.- VILLAGE BHANGNAMARI, P.O./ P.S.-
BHANGNAMARI, DIST.- NALBARI, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, TILOK MARG, NEW DELHI-1.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-6.

3:THE DEPUTY COMMISSIONER
NALBARI
P.O. AND DIST.- NALBARI
ASSAM
PIN- 781335.

4:THE SUPERINTENDENT OF POLICE (B)
NALBARI
P.O. AND DIST.- NALBARI
ASSAM
PIN- 781335.

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI-1.

6:THE N.R.C. CO-ORDINATOR

NATIONAL REGISTER OF CITIZEN (NRC)
ASSAM
BHANGAGARH
GUWAHATI-5

Advocate for the Petitioner : MR. A R SIKDAR

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 13.06.2023
(AM Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 6 being the authorities under the Union of India and NRC respectively, Ms. A Verma, learned counsel for the respondents no. 2 and 4 being the authorities under the Home Department of Government of Assam, Mr. NK Das, learned counsel for the respondent no. 3 being the Deputy Commissioner, Nalbari and Mr. T Pegu, learned counsel for the respondent no. 5 being the authorities under the Election Commission of India.

2. The petitioner Siddik Ali @ Siddik @ Abdul Siddik was referred to the Foreigners Tribunal No. 4, Nalbari at Ghograpar for rendering an opinion as to whether he is a foreigner within the meaning of Foreigners Act, 1946, resulting in registration of F.T. (Gh) Case No. 863/17 (IMDT Case No. 415/2004). The Tribunal rendered an opinion dated 01.11.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.
4. In the writ proceeding the petitioner relies upon the voters' list of 1966 of village Kandhmari Police Station Hajo in the Kamrup district which contain the names of Kalimuddin S/O Sadan at Sl. No. 215 and that of Natifun Bibi W/O Kalimuddin at Sl. No. 217 where both of them are shown to be residing in the same house no. 57. The voters' list of 1979 of village Kandhmari is also relied upon, which contain the names of Kalimuddin S/O Sadan at Sl. No. 329 and that of Siddik Ali S/O Kalimuddin at Sl. No. 335 and both of them are shown to be residing in the same house no. 54. As the petitioner claims that Siddik Ali of the 1979 voters' list of village Kandhmari is the petitioner himself and as his name appears along with Kalimuddin in the same voters list and the name of Kalimuddin appears in the voters' list of 1966 of the same village, the petitioner has discharged the burden under Section 9 of the Foreigners Act, 1946 that he is a citizen.
5. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' lists of 1966 and 1979 of village Kandhmari and pass a reasoned order thereon. The petitioner to produce the complete voters' lists of Kandhmari village of the years 1966, 1971 and 1979 for examination of the Tribunal. The respondents in the Home Department to also make their own enquiry and verification as to whether the petitioner Siddik Ali @ Siddik @ Abdul Siddik and Siddik Ali of the voters' list of 1979 of village Kandhmari are one and the same person. Upon doing the needful, the Tribunal to pass a reasoned order.
6. The petitioner to appear before the Tribunal on 17.07.2023.
7. If the order of the Tribunal is in favour of the petitioner, the same shall

prevail over the opinion dated 01.11.2018 passed in F.T. (Gh) Case No. 863/17 (IMDT Case No. 415/2004) 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