

GAHC010036332018



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

Case No. : WP(C)/1128/2018

JAIN UDDIN
S/O ASOR ALI
R/O VILL- PASCHIM DABLONG, P.S. LANKA,
P.O. LANKA, DIST. HOJAI
ASSAM, PIN - 782446.

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, NEW DELHI-1.

2:THE ELECTION COMMISSION OF INDIA

REP. BY THE CHIEF ELECTORAL OFFICER
ASSAM
DISPUR
GUWAHATI -6.

3:THE REGISTRAR GENERAL OF INDIA

REP. BY THE STATE COORDINATOR
NRC
(NATIONAL REGISTER OF CITIZENS)
ASSAM
ULUBARI
GUWAHATI -5.

4:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY
HOME DEPARTMENT

DISPUR
GUWAHATI -6
ASSAM

5:THE DEPUTY COMMISSIONER

HOJAI
DIST. HOJAI
ASSAM
PIN - 782442.

6:THE FOREIGNERS' REGISTRATION OFFICER

IN THE DIST. OF OF HOJAI
DIST. HOJAI
ASSAM
PIN - 78442.

7:THE SUPERINTENDENT OF POLICE (BORDER)
IN THE DIST. OF HOJAI
DIST. HOJAI
ASSAM
PIN - 78442

8:THE OFFICER-IN-CHARGE

LANKA POLICE STATION
DIST. HOJAI
ASSAM
PIN - 782446

Advocate for the Petitioner : MD I UDDIN

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

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

ORDER

Date : 21.06.2023
(AM Bujor Barua, J)

Heard Mr. I Uddin, learned counsel for the petitioner. Also heard Ms. L

Devi, learned counsel for the respondents no. 1 and 3 being the authorities under the Union of India and NRC respectively, Mr. AI Ali, learned counsel for the respondent no. 2 being the authorities under the Election Commission of India, Ms. A Verma, learned counsel for the respondents no. 4, 6, 7 and 8 being the authorities under the Home Department of Government of Assam and Ms. K Phukan, learned counsel for the respondent no. 5 being the Deputy Commissioner, Hojai.

2. The petitioner Jain Uddin had been referred to the Foreigners' Tribunal No. 7, Nagaon at Lanka for rendering for rendering an opinion as to whether he is a foreigner within the meaning of Foreigners Act, 1946, resulting in registration of F.T./L/ Case No. 339/2016. The Tribunal rendered an opinion dated 10.11.2017 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 Paschim Dablong Police Station Lanka Mouza Lanka in the present Hojai district which contains the names of Asor Ali S/O Mofij Uddin at Sl. No. 99 and that of Korimon Nessa W/O Asor Ali at Sl. No. 101. It is claimed that Asor Ali is the father of the petitioner and Korimon Nessa is the mother. Reliance is also placed on the voters' list of 1970 of village Paschim Dablong containing the names of Asor Ali S/O Mofij Uddin at Sl. No. 99 and that of Korimon Nessa W/O Asor Ali at Sl. No. 101 where both of them are shown to be residing in the same house no. 25. Further reference is placed on the voters' list of 1997 of village Paschim Dablong which contains the names of Asor Ali S/O Mofij at Sl. No. 451, Korimon Nessa W/O Asor at Sl. No. 452 and that of Jain Uddin S/O Asor at Sl. No. 462 where all of them are shown to be residing in the same house no. 148.

5. It is claimed that Jain Uddin is the writ petitioner himself and as his name appears along with Asor Ali and Korimon Nessa, where the names of Asor Ali and Korimon Nessa also appear in the voters' list of 1966 and 1970 of village Paschim Dablong, the petitioner has discharged the burden under Section 9 of the Foreigners' Act, 1946.

6. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' lists of 1966, 1970 and 1997 of village Paschim Dablong. The respondents in the Home Department to also make their own enquiry as to whether Jain Uddin of the 1997 voters' list of village Paschim Dablong and the writ petitioner proceedee Jain Uddin are one and the same person and thereafter submit a report before the Tribunal. Upon doing the needful, a reasoned order be passed by the Tribunal.

7. The voters' lists provided by Mr. AI Ali, learned counsel for the Election Commission of India is retained on records.

8. The petitioner to appear before the Tribunal on 26.07.2023.

9. If the order of the Tribunal is in favour of the petitioner, the same shall prevail over the opinion dated 10.11.2017 passed in F.T./L/ Case No. 339/2016 and if against, consequence under the law is applicable to the petitioner.

10. 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