

GAHC010036762018



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

Case No. : WP(C)/1174/2018

ALTAB HUSSAIN @ ALTAB ALI
R/O VILLAGE LAWGAON, MOUZA- KACHMARI, PS AND DIST. NAGAON
(ASSAM), PRESENT ADDRESS- C/O MD. FIRUJ KHAN, R/O VILLAGE- B.G.
ROAD, W/NO 13, PS- SIVASAGAR, DIST SIVASAGAR (ASSAM), PIN-785640

VERSUS

THE UNION OF INDIA AND 6 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT OF INDIA, MINISTRY
OF HOME AFFAIRS, NEW DELHI

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER/DISTRICT MAGISTRATE
SIVASAGAR
DIST. JORHAT
ASSAM

4:THE CHIEF ELECTION OFFICER OF THE ELECTION COMMISSION OF
INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI
DELHI-110001

5:THE OFFICE OF THE STATE COORDINATOR OF
NATIONAL REGISTRATION (NRC) ASSAM
REPRESENTED BY ITS COORDINATOR
1ST FLOOR

ACHYUT PLAZA
BHANGAGARH
GUWAHATI
ASSAM-781005

6:THE SUPERINTENDENT OF POLICE (BORDER)
SIVASAGAR
DIST. SIVASAGAR (ASSAM)
PIN-785640

7:THE OFFICER IN CHARGE
SIVASAGAR POLICE STATION
DIST. SIVASAGAR
ASSAM
PIN-78212

Advocate for the Petitioner : G UDDIN

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

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

ORDER

Date : 31.03.2023
(AM Bujor Barua, J)

Heard Ms. P Adhikari, 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, Ms. A Verma, learned counsel for the respondents no. 2, 6 and 7 being the authorities under the Home Department of the Government of Assam, Ms. M Dutta, learned counsel for the respondent no. 3 being the Deputy Commissioner, Sivsagar and Mr. AI Ali, learned counsel for the respondent no. 4 being the Election Commission of India.

2. The petitioner Altab Hussain had been referred to the Foreigners' Tribunal, Jorhat, Assam for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of Case No. FT/SVR/71/15. An opinion dated 26.12.2017 had been rendered declaring the petitioner to be a foreigner.
3. Being aggrieved, this writ petition is instituted.
4. In the writ proceeding, the learned counsel for the petitioner refers to the voters' list of 1966 of village Lawgaon, Mouza Kachmari, in Nagaon district which contains the name of Mahiruddin, S/O Osman at Sl. No. 61. The petitioner also relies upon a jamabandi of a plot of land of village Lawgaon wherein the name of Mahiruddin, S/O Osman had been struck out and replaced by that of Altab Ali, S/O Late Mahiruddin.
5. In view of the above, the matter stands remanded back to the Tribunal for examining the voters' list of 1966 of village Lawgaon as well as the jamabandi of a plot of land of village Lawgaon where the name of Altab Ali had been mutated in place of Mahiruddin and upon such examination to pass a reasoned order. The respondents in the Home Department to also make a verification as to whether Altab Hussain the proceedee and the Altab Ali of the jamabandi referred above are one and the same person and submit a report to the Tribunal.
6. The petitioner to appear before the Tribunal on 10.05.2023.
7. If the reasoned order is in favour of the petitioner, the same may prevail over the opinion/order dated 26.12.2017 passed in Case No. FT/SVR/71/15 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