

GAHC010047172018



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

Case No. : WP(C)/1487/2018

JAFOR ALI
S/O. LT. SHIKIM ALI, VILL. SHAILDHARA, P.O. CHUNARI, P.S. CHUNARI,
DIST. GOALPARA, ASSAM

VERSUS

THE UNION OF INDIA AND 13 ORS.
REP. BY THE SECRETARY MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
NEW DELHI

2:THE CHIEF ELECTION COMMISSIONER OF INDIA

NEW DELHI

3:THE COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY.

4:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GHY.

5:THE DY. COMMISSIONER

DHUBRI
P.O.
P.S. AND DIST. DHUBRI
ASSAM

6:THE DY. COMMISSIONER

GOALPARA
P.O.
P.S. AND DIST. GOALPARA
ASSAM

7:THE STATE CO-ORDINATOR

NRC
ASSAM
BHANGAGARH
GHY.

8:THE SUPDT. OF POLICE

GOALPARA
DIST. GOALPARA
ASSAM

9:THE SUPDT. OF POLICE (B)

GOALPARA
DIST. GOALPARA
ASSAM

10:THE SUPDT. OF POLICE (B)

DHUBRI
DIST. DHUBRI
ASSAM

11:THE OFFICER IN CHARGE

SUNARI POLICE STATION
DIST. GOALPARA
ASSAM

12:THE OFFICER IN CHARGE

CHAPAR POLICE STATION
P.O. AND P.S. CHAPAR
DIST. DHUBRI
ASSAM

13:THE ELECTORAL REGISTRATION OFFICER

NO. 27 BILASIPARA EAST LAC
DIST. DHUBRI
ASSAM

14:THE ELECTORAL REGISTRATION OFFICER

NO. 39 JALESWAR LAC
DIST. GOALPARA
ASSA

Advocate for the Petitioner : MR. M U MONDAL

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

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

ORDER

Date : 03.05.2023
(A.M. Bujor Barua, J)

Heard Mr. M.U. Mondal, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 7, being the Union of India and the State Coordinator of NRC, respectively. Also heard Mr. A.I. Ali, learned counsel for the respondents No. 2, 13 and 14, being the authorities in the Election Commission of India; Mr. G. Sarma, learned counsel for the respondents No. 3, 4, 8, 9, 10, 11 and 12, being the authorities in the Home Department and Ms. M. Dutta, learned counsel for the respondents No. 5 and 6, being the Deputy Commissioner, Dhubri and the Deputy Commissioner, Goalpara respectively.

2. The petitioner Jafor Ali was referred to the Foreigners' Tribunal No. 6, Dhubri 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 Case No. F.T.6th/DBB/604/17 was registered. The Tribunal rendered

its opinion dated 08.02.2018 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 1966 of village Shaildhara, Circle Lakhipur in the Goalpara district which contains the name of Siki Muddin son of Abdul Sarkar at Sl. No. 17 and that of Shagrabi Nessa wife of Sikimuddin at Sl. No. 18 and both are shown to be residing in the same house No. 5. The petitioner also relies upon a land patta in respect of a plot of land at village Shaildhara wherein a new patta was issued in the name of, amongst others, Jafar Ali son of Sikim Ali. The petitioner claims that Jafar Ali son of Sikim Ali of the land patta referred above is the petitioner himself and Sikim Ali who is shown to be the father of Jafar Ali and Siki Muddin of the voters' list of 1966 of village Shaildhara are one and the same person.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 6, Dhubri to examine as to whether the land patta referred above in respect of a plot of land at village Shaildhara do indicate that the petitioner is a son of Sikim Ali and consequently, whether Sikim Ali of the land patta and Siki Muddin of the voters' list of 1966 of village Shaildhara are one and the same person. The State respondents in the Home Department through the Superintendent of Police(B), Dhubri may also make their own verification on the authenticity and correctness of the aforesaid information as well as the implication thereof. Upon doing the needful, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 08.02.2018 in Case No. F.T.6th/DBB/604/17 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 14.06.2023. 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.

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Comparing Assistant