

GAHC010049272021



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

Case No. : WP(C)/1764/2021

NAZRUL HUSSAIN KHAN @ MD. NAZRUL HUSSAIN
S/O. NABIR HUSSAIN KHAN @ MD. NABIR HUSSAIN @ NOBI HUSSEN,
VILL. KAHIBARI PAM, P.S. BAGHBAR, DIST. BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, MINISTRY OF HOME AFFAIRS, SHASTRI BHAWAN, TILOK MARG,
NEW DELHI-01.

2:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
DEPTT. OF HOME
DISPUR
GUWAHATI-06.

3:THE SUPDT. OF POLICE (BORDER)

KAMRUP (METRO)
P.O. PANBAZAR
DIST. KAMRUP (M)
ASSAM
PIN-781001.

4:THE DY. COMMISSIONER

KAMRUP (M)
P.O. PANBAZAR
DIST. KAMRUP (M)
ASSAM

PIN-781001.

5:THE ELECTION COMMISSION OF INDIA

REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NIRVACHAN ASHOKA ROAD
NEW DELHI-110001.

6:THE NATIONAL REGISTER OF CITIZEN

REP. BY THE STATE COORDINATOR
ACHYUT PLAZA
BHANGAGARH
GUWAHATI-781005

Advocate for the Petitioner : MR N AHMED

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

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

ORDER

23.06.2023

[A.M.Bujor Barua, J.]

Heard Mr. N. Ahmed, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent nos. 1 and 6; Mr. G. Sarma, learned counsel for the respondent nos. 2, and 3; Ms. U. Das, learned counsel for the respondent No. 4; and Mr. T. Pegu, learned counsel for the respondent no. 5.

2. The petitioner Nazrul Hussain Khan @ Md. Nazrul Hussain had been referred to the Foreigners' Tribunal, No. 2, at Kamrup [Metro] for rendering an opinion as to whether she is a foreigner under the Foreigners' Act, 1946 resulting in registration of F.T. Case No. 354/2018, wherein an opinion dated 10.10.2019 had been rendered declaring the petitioner to be a foreigner. Being

aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the Voters' List of 1966 of village Kahibari Pam Police Station Baghbar in the Barpeta district, which contains the name of Muzammel Hussain, son of Mahammad Hussain at serial no. 165 and that of Dud Mehar Bibi, wife of Muzammel Hussain at serial no. 166 and both the are shown to be residing in the same house no. 55. It is claimed that Muzammel Hussain is the grandfather and Dud Mehar Bibi is the grandmother of the petitioner. Similar information is available in the Voters' List of 1970. The Voters' List of 1975 of village Kahibari Pam contains the name of Muzamel Hussen, son of Mahammad at serial no. 234 and that of Nobi Hussen, son of Mozammol at serial no. 236. It is claimed that Nobi Hussen is the father of the petitioner and as his name appears along with Muzamel Hussen in the Voters' List of 1975, it has been established that Nobi Hussen is a citizen. Reliance is also placed on the Voters' List of 2017 of village Kahibari Pam which contains the name of Nabir Hussain Khan, son of Muzammel at serial no. 352 and that of Najrul Hussain Khan, son of Nabir Hussain Khan at serial no. 356. Najrul Hussain Khan is shown to be twenty-five years. It is claimed that Najrul Hussain Khan is the petitioner himself.

4. It is noticed that in the earlier Voters' List up to 1975 the father is shown as Nobi Hussain, son of Mozammol whereas in the Voters' List of 2017 it is shown as Nabir Hussain Khan, son of Muzammel. A question would remain as to whether Nabir Hussain Khan and Nobi Hussain are one and the same person. Further another question would arise as to whether Najrul Hussain Khan of the Voters' List of 2017 and the petitioner Najrul Hussain Khan are one and the same person.

5. In the circumstance, the matter is remanded back to the Foreigners'

Tribunal, No. 2 at Kamrup [Metro] to examine the Voters' List of 1970, 1975 and all the Voters' Lists up to 2017 of village Kahibari Pam which the petitioner to produce before the Tribunal. The respondents in Home Department to make their own verification as to whether Nabir Hussain Khan of Voters' List of 2017 and Nobi Hussain of Voters' List 1975 are one and the same person as well as Najrul Hussain Khan of the Voters' List of 2017 and the petitioner Najrul Hussain Khan are one and the same person and submit the report before the Tribunal. Upon doing the needful the Tribunal may pass a reasoned order.

6. The petitioner to appear before the Tribunal on 28.07.2023.
7. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant