

GAHC010056962019



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

**Case No. : WP(C)/1822/2019**

AYAR ALI @ AYEB ALI @ AYUB ALI  
S/O- LT OHED ALI @ AHED ALI, R/O- VILL- TAPAJULI PATHAR, P.O.  
BALIKURI, P.S. KALGACHIA, DIST- BARPETA, ASSAM, PIN- 781319

VERSUS

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

2:THE STATE OF ASSAM  
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM  
HOME DEPTT.  
DISPUR  
GHY-6

3:THE DY. COMMISSIONER  
BARPETA  
P.O. BARPETA  
DIST- BARPETA  
ASSAM  
PIN- 781301

4:THE SUPERINTENDENT OF POLICE (B)  
BARPETA  
P.O. BARPETA  
DIST- BARPETA  
ASSAM  
PIN- 781301

5:THE ELECTION COMMISSIONER OF INDIA  
NEW DELHI-1

6:THE ASSAM STATE CO-ORDINATOR OF NRC  
BHANGAGARH  
GHY-

**Advocate for the Petitioner** : MR. A R SIKDAR

**Advocate for the Respondent** : ASSTT.S.G.I. (R1)

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

**ORDER**

**22.03.2023**

*(AM Bujor Barua, J)*

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Mr. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, as well as the Superintendent of Police (B) Barpeta, and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Barpeta.

2. The petitioner, Ayar Ali @ Ayeb Ali @ Ayub Ali, was referred to the Foreigners Tribunal No.5<sup>th</sup>, Barpeta for rendering an opinion as to whether he is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T. Case No.278/17 wherein an opinion dated 31.12.2018 was rendered declaring the petitioner to be a person who had entered the State

of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. The petitioner claims before the Court that he is the son of Ohed Ali@ Ahed Ali of village Tapajuli Pathar Mouza Jania in the Barpeta district. The petitioner states that his father Ohed Ali@ Ahed Ali died some time in the year 1962, when the petitioner was about 5/6 years old. The petitioner refers to a certified copy of the Jamabandi of the year 1958-1965 of new Kheraj Mayadi Patta No.21 of village Tapajuli Pathar under Jania Mouza which contains the name of pattadars, their fathers' name and addresses. The pattadar No.1 is shown as Ohed Ali and the pattadar No.3 is shown as Ayeb Ali. The petitioner claims that he himself is Ayeb Ali.

5. In view of such material being produced by the petitioner, the matter stands remanded back to the Tribunal for an examination of the Jamabandi produced by the petitioner of the year 1958-1965 of new Kheraj Mayadi Patta No.21 of village Tapajuli Pathar under Jania Mouza and arrive at a reasoned order as to whether the same material indicates that the petitioner is a citizen of India.

6. Accordingly, the petitioner shall appear before the Tribunal on 28.04.2023.

7. The respondent Superintendent of Police (B) Barpeta may make its own verification, if so advised, as to whether Ayeb Ali whose name appears in the

Jamabandi of the year 1958-1965 of new Kheraj Mayadi Patta No.21 of village Tapajuli Pathar under Jania Mouza and the Ayeb Ali being the present proceedee are one and the same person.

8. Upon the matter being remanded back, the Tribunal after examining the evidences and materials shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 31.12.2018 of the Foreigners Tribunal No.5<sup>th</sup>, Barpeta in F.T. Case No.278/17 and if it is against the petitioner, consequential action under the law shall follow.

9. Till the reasoned order is passed, no coercive action be taken against the petitioner.

10. Writ petition stands disposed of in the above terms.

**JUDGE**

**JUDGE**

**Comparing Assistant**