

GAHC010065412023



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

Case No. : WP(C)/1757/2023

ABDUL MOZID @ A MOZID
S/O- LATE SAFAR ALI,
R/O- VILLAGR NO 2, BORKUR PATHER,
P.S- BHURAGAON, DIST- MORIGAON, ASSAM

VERSUS

UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, SASTRI BHAWAN, NEW DELHI- 110001.

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

3:THE DEPUTY COMMISSIONER
MORIGAON
P.O AND DIST- MORIGAON
ASSAM
PIN-782105

4:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
P.O AND DIST- MORIGAON
ASSAM
PIN-782105

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI-110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M

Advocate for the Petitioner : MR. A R SIKDAR

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

29.03.2023

(A.M. Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Mr. G Sarma learned counsel for the State respondents in the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India and Mr. TR Gogoi, learned counsel for the Deputy Commissioner, Morigaon.

2. The petitioner Abdul Mozid @ A. Mozid had been referred to the Foreigners Tribunal No. 2, Morigaon 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 FT Case No. 1446/2012, wherein an opinion dated 12.01.2023 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner refers to the voters list of 1966 of

village No. 2 Borkur Pather, police station Lahorighat, Mouza Bhuragaon in the Nagaon district, which contains the name of Safar Ali son of Safar Molla at serial No. 213 and that of Khoiron Nessa wife of Safar Ali at serial No. 215 and both of them are shown to be residing in the same house No. 43. The petitioner also refers to the voters list of 1975 of village No. 2 Borkur Pather, which contains the name of Safar Ali son of Afar Mulla at serial No. 294 and that of A. Mozid son of Safar at serial No. 299 as well as Rejia Khatun wife of Mozid at serial No. 300 and all of them are shown to be residing in the same house No. 43.

4. It is noticed from the voters list of 1966 and 1975 that Safar Ali had been residing in the house No. 43 and as per the voters list of 1975, A. Mozid is also residing in house No. 43. The said information, if correct and acceptable in law, gives a prima-facie indication that the petitioner Abdul Mozid being son of Safar Ali whose name appears in the voters list of 1966 is a citizen of India or at least that he is not a person who entered the State of Assam from the specified territory on or after 25.03.1971.

5. In view of the materials being available on record, the matter is remanded back to the Tribunal to examine the voters list of 1966 and 1975 of village No. 2 Borkur Pather and pass a reasoned order upon examining the aforesaid materials and if the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 12.01.2023. If the reasoned order goes against the petitioner, consequence as per law shall follow.

6. If the State authorities feel they may make verification as to whether Abdul Mozid of the voters list of 1975 and the writ petitioner Abdul Mozid are one and the same person and provide the same to the Tribunal.

7. The petitioner shall appear before the Foreigners Tribunal No. 2, Morigaon

on 06.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

JUDGE

JUDGE

Comparing Assistant