

GAHC010072382022



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

Case No. : WP(C)/2648/2022

JULMOT ALI
SON OF MUSLIM UDDIN @ MOSLEM UDDIN @ MUCHALEMUDDIN,
R/O VILL- BAGHMARA (TAPAR PATHER), P.S. CHHAYGAON, DIST.
KAMRUP, ASSAM, PIN-781124

VERSUS

THE UNION OF INDIA AND 7 ORS
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWAN, NEW DELHI-110001.

2:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE ELECTION COMMISSION OF INDIA

REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN

ASHOKA ROAD
NEW DELHI-110001.

4:THE STATE COORDINATOR

NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA

G.S. ROAD
BHANGAGARH
GUWAHATI
ASSAM
PI-781005.

5:THE DEPUTY COMMISSIONER

KAMRUP
AMINGAON
P.O. AMINGAON
P.S. AMINGAON
DIST. KAMRUP
ASSAM
PIN-781031

6:THE FOREIGNERS TRIBUNAL
KAMRUP (RURAL) NO. 1
DIST. KAMRUP (M)
GUWAHATI
ASSAM
PIN-781007

7:THE SUPERINTENDENT OF POLICE (BORDER)

KAMRUP
AMINGAON
P.O. AMINGAON
P.S. AMINGAON
DIST KAMRUP
ASSAM
PIN-781031.

8:THE OFFICER-IN-CHARGE OF CHHAYGAON POLICE STATION

P.O. CHAYGAON
DIST. KAMRUP
ASSAM
PIN-78112

Advocate for the Petitioner : MS. D GHOSH

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

BEFORE

HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

07.06.2023

(AM Bujor Barua, J)

Heard Ms. D Ghosh, learned counsel for the petitioner. Also heard Mr. G Sarma, learned counsel for the respondents in the Home Department of Government of Assam as well as the Foreigners' Tribunal Kamrup (Rural) No. 1, The Superintendant of Police (B) and also for the Officer-in-Charge, Dispur Police Station, Ms. L Devi, learned CGC appearing for the respondents in the Union of India. Ms. U Das learned counsel appearing for the Deputy Commissioner, Kamrup, and Mr. AI Ali, learned counsel for the respondents in the Election Commission of India.

2. The petitioner, namely, Julmot Ali had been referred to the Foreigner Tribunal Kamrup (Rural) No.1 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 the Registration of GFT(R) Case No. 675/2017, wherein the Tribunal rendered an opinion dated 05.03.2022 had been 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 1971 of village Tapar Pathar P.S Chhaygaon in the Kamrup district, which contains the name of Musolin Uddin son of Engine at Sl. No. 217. Reference is also made to the voters' list of 1975 of village Tapar Pathar, which again contains Moslem Uddin son of Engine at Sl. No. 18. Further reference is made to the voters' list of 1993 of village Tapar Pathar, Bhagmara, which contains the name of Moslem Ali

son of Engile Ali at Sl. No. 770 and that of Julmot Ali son of Moslem Ali at Sl. No. 772. In the circumstance, the question has arisen whether Julmot Ali son of Moslem Ali of the 1993 voters' list of Tapar Pathar and the writ petitioner Julmot Ali are one and the same person. By our earlier order dated 26.05.2023 we required Superintendent of Police, Kamrup to make an enquiry and submit a report before the Court. Accordingly, the Superintendent of Police, Kamrup had submitted a report dated 30.05.2023 which contains the information that Julmot Ali son of Moslem Ali of the voters' list of 1993 and Julmot, the writ petitioner are one and the same person. If it is shown that Julmot Ali son of Moslem Ali appears along with Muslem Ali son of Engile Ali in the voters' list of 1993 of village Tapar Pathar and the name of Musolim Uddin son of Engine appears in the voters' list of 1966 and 1971 of village Tapar Pathar, it can be safely concluded that Julmot Ali son of Moslem Ali of 1993 voters' list of village Tapar Pathar to be an Indian citizen. As the report had been submitted that the writ petitioner Julmot Ali and Julmot Ali son of Muslem Ali of the 1993 voters' list of village Tapar Pathar are one and the same person, we can safely declare that the petitioner Julmot Ali would be an Indian citizen.

4. We also take note of the opinion rendered by the Tribunal, Foreigners' Tribunal 2, Boko, Kamrup in Case No. BFT 292/2015, wherein Rouchan Ali son of Muslim Uddin of village Bhagmara had been declared to a Indian citizen. It is noticed that Rouchan Ali is another son of Muslem Ali of the voters' list of Tapar Pathar, Bhagmara. As Rouchan Ali had been declared to be Indian citizen, it would also be acceptable to declare Julmot Ali son of Muslem Ali to be also a citizen.

5. Considering both the reasons indicated above, the writ petitioner Julmot

Ali is declared to be a citizen of India. Consequently, all such legal rights and privileges that may accrue to the petitioner Julmot Ali upon such declaration that he is a citizen of India be made available to him.

6. Writ petition, accordingly, stands allowed.

7. LCR be sent back.

JUDGE

JUDGE

Comparing Assistant