

GAHC010076672019



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

Case No. : WP(C)/2380/2019

JALAL SEIKH
S/O. JALIL SEIKH, R/O. VILL- PATNERKUTI, P.S. GOLAKGANJ, DIST.
DHUBRI, ASSAM- 783332.

VERSUS

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

2:THE STATE OF ASSAM
THROUGH THE ADDITIONAL CHIEF SECRETARY
HOME AND POLITICAL DEPTT.
GOVT. OF ASSAM
ASSAM SECRETARIAT
GHY.
ASSAM- 781006.

3:THE DY. COMMISSIONER OF POLICE (BORDER)

GHY.
ASSAM.

4:THE OFFICER-IN-CHARGE
BHANGAGARH POLICE STATION
GAUHATI MEDICAL COLLEGE AND HOSPITAL
GUWAHATI
ASSAM- 781005.

5:THE LD. MEMBER

FOREIGNERS TRIBUNAL NO. 2

KAMRUP(M)
HEDAYATPUR
GHY.
ASSAM- 781001.

6:THE STATE COORDINATOR

O/P/ THE STATE COORDINATOR
NRC
ASSAM
1ST FLOOR
ACHYUT PLAZA
GS ROAD
BHANGAGARH
GHY.
ASSAM- 781005.

7:THE ELECTION COMMISSION OF INDIA
ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001.

8:THE CHAIRMAN
STATE POLICE ACCOUNTABILITY COMMISSION
AMITABH
HOUSE NO. 95
DR. B.K. KAKATI ROAD
ULUBARI
GHY.
ASSAM- 781007

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 ROBIN PHUKAN

ORDER

Date : 31.03.2023
(AM Bujor Barua, J)

Heard Mr. S Dey, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 6 being the authorities under the Union of India and NRC, respectively, Ms. A Verma, learned counsel for the respondents no. 2, 4, 5 and 8 being the authorities under the Home Department of the Government of Assam, Ms. M Dutta, learned counsel for the respondent no. 3 being the Deputy Commissioner, Kamrup (M) and Mr. AI Ali, learned counsel for the respondent no. 7 being the Election Commission of India.

2. The petitioner Jalal Seikh had been referred to the Foreigners' Tribunal No. 2, Kamrup (M), Assam 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 F.T. Case No. 58/2016 and FT Case No. 51/2016. The Tribunal rendered an opinion dated 01.12.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. The petitioner relies upon the voters' list of 1971 of village Patanerkuti which contains the name of Karim Sk, S/O Karap Ali at Sl. No. 21 and the voters' list of 1985 of village Patanerkuti which contains the name of Jalil Sk., S/O Karim and Anek, W/O Jalil at Sl. No. 691 and 692 respectively. The petitioner claims Jalil Sk. is his father and Anek is his mother. The petitioner thereupon relies upon the voters' list of 2005 of village Patanerkuti which contains the name of

Jalil Sheikh, S/O Karim Sheikh at Sl. No. 525 and Aneka Bibi, W/O A Jalil Sheikh at Sl. No. 596 and Jalal Sheikh, S/O A Jalil Sheikh at Sl. No. 527.

5. Accordingly, Jalal Sheikh by showing him to be son of Jalil Sheikh who in turn is the son of Karim Sk., a contention is raised that the petitioner Jalal Sheikh is the citizen of India.

6. In view of the above, the matter stands remanded back to the Tribunal to examine the veracity and correctness of the voters' list of village Patanerkuti from the year 1971 to 2005 and thereafter, pass a reasoned order. The petitioner to produce the complete voters' lists of all the years of village Patanerkuti before the Tribunal. The respondents through the Superintendent of Police (Border), Kamrup(M) also make a verification as to whether Jalal Sheikh whose name appears in the voters' list of village Patanerkuti of the year 2005 and the Jalal Sheikh the proceedee in the present writ proceeding are one and the same person.

7. The petitioner to appear before the Tribunal on 10.05.2023.

8. If the reasoned order is in favour of the petitioner, the same may prevail over the opinion/order dated 01.12.2018 passed in F.T. Case No. 58/2016 and F.T. Case No. 51/2016 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant