

GAHC010077572023



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

Case No. : WP(C)/2185/2023

MD. ABDUSH SAMAD @ ABDUS SAMAD @ A. SAMAD
S/O- SOKER UDDIN,
VILL. LEWABARI FUTURI PARA,
P.S. MORNOL, P.O.-
DIST.- GOALPARA,
PIN- 783101.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
DEPARTMENT OF HOME,
NEW DELHI-1.

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF HOME

DISPUR
GUWAHATI-6.

3:THE DEPUTY COMMISSIONER
GOALPARA
PIN- 783101.

4:THE SUPERINTENDENT OF POLICE (BORDER)
GOALPARA
PIN- 783101.

5:THE ELECTION COMMISSION
GOVT. OF INDIA

NEW DELHI-1.

6:THE STATE CO-ORDINATOR OF NATIONAL REGISTRATION (NRC)
ASSAM
GUWAHATI-32.

7:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BARPETA
PIN- 781301

Advocate for the Petitioner : MR. A ROSHID

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

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

11-10-2023

(M.R.Pathak, J)

Heard Mr. A Roshid, learned counsel for the petitioner and Ms. L Devi, learned CGC as well as Standing counsel, NRC, Assam for the respondent Nos. 1 & 6. Also heard Mr. G Sharma, learned Standing counsel, Home Department, Assam for the respondent Nos. 2 & 4; Mr. P Sharma, learned Additional Senior Government Advocate, Assam for the respondent No. 3; Mr. H Kuli, learned counsel appearing on behalf of Mr. A I Ali, learned Standing counsel, Election Commission of India for the respondent No. 5 as well as Ms. S Konwar, learned Standing counsel, Department of School Education, Assam for the respondent No. 7.

2. On being referred by the Superintendent of Police (Border), Goalpara vide Ref. FT Case No. 142/10 dated 25.05.2010, the learned Member, Foreigners' Tribunal 4th, Goalpara, Assam in F.T. Case No. FT(G-4)M/367/18 after hearing the petitioner and other parties and considering the evidence adduced by the petitioner by the impugned opinion/order dated 30.11.2022 declared him to be a foreigner under the Foreigners Act, 1946, who had illegally entered into the territory of India (Assam) on or after 25.03.1971.

3. Being aggrieved with the impugned opinion/order dated 30.11.2022, noted above, the

petitioner has filed this writ petition on 19.04.2023.

4. During the deliberation of the matter, Mr. Roshid, learned counsel appearing on behalf of the petitioner has apprised the Court that the petitioner could obtain the 1985 Voters List of village-Dabandia, Mouza- Titapani, P/S-Baghor, Sub-Division and District-Barpeta pertaining to No. 44 Jania Legislative Assembly Constituency, wherein the names of his father Sakiruddin along with his grandfather and two grandmothers were reflected at Serial Nos. 228, 229, 230, 231 respectively.

5. Mr. Roshid, learned counsel for the petitioner also apprised the Court that the petitioner also obtained a certificate issued by the Village Headman of village-Dabandia, Mouza-Titapani, Charge No. 5 of district Barpeta on 20.03.2023 regarding the shifting of the petitioner and his family members from village-Dabandia to village-Uzir Char in the same district of Barpeta, wherein the petitioner is presently residing with his family members as well as a certificate issued by the Village Headman of village-Moukhuwa Uzir Char of district-Barpeta, certifying that the petitioner and his family members are the voters of 45 No. Baghor Legislative Assembly Constituency, whose names figured in the Voters' List of 1997.

6. Mr. Roshid, learned counsel has further submitted that as the petitioner could obtain the Voters' List of 1985 pertaining to 44 Jania Legislative Assembly Constituency reflecting the names of his father and grandparents and the two certificates issued by the Village Headman of village-Moukhuwa Uzir Char of district-Barpeta, he wants to approach the Foreigners' Tribunal 4th, Goalpara by preferring an application under Order 3A(2) of the Foreigners (Tribunal) Order, 1964, as those documents were not available with him while the proceeding was pending against him before the said Tribunal.

7. As such, on instruction of the petitioner, Mr. Roshid, learned counsel is not pressing this writ petition, stating that the petitioner shall file appropriate application before the said Foreigners' Tribunal 4th, Goalpara, Assam.

8. Accordingly, this writ petition, being not pressed, stands dismissed.

9. Interim order passed earlier on 26.04.2023 in the present proceeding hereby stands vacated.

JUDGE

JUDGE

Comparing Assistant