

GAHC010087682022



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

Case No. : WP(C)/3110/2022

NAZRUL HOQUE LASKAR @ NAZRUL HOQUE
S/O- LATE MASMAN ALI LASKAR @ MD. MASMAN ALI LASKAR, @
MASMAN ALI
VILLAGE- DHOLOICHERRA,
P.S- LAKHIPUR
DIST- CACHAR, ASSAM

VERSUS

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

2:THE ELECTION COMMISSIONER OF INDIA
GOVT. OF INDIA
NEW DELHI-110001

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

4:THE ASSAM STATE COORDINATOR
OF NRC
BHANGAGARH
GUWAHATI-05

5:THE DEPUTY COMMISSIONER
CACHAR
ASSAM
PIN-788001

6:THE SUPERINTENDENT OF POLICE (B)
CACHAR
ASSAM
PIN-78800

Advocate for the Petitioner : MR. B U LASKAR

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 23.08.2023
(AM Bujor Barua, J)

Heard Mr. BU Laskar, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. T Pegu, learned counsel for the authorities under the Election Commission of India, Mr. G Sarma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Cachar and Mr. P Sarma, learned Government Advocate for the Deputy Commissioner, Cachar.

2. The petitioner, namely, Nazrul Hoque Laskar @ Nazrul Hoque was referred to the Foreigners Tribunal 5th Silchar at Ramnagar Cachar for rendering an opinion as to whether he is a foreigner within the meaning of Foreigner Act, 1946 resulting in the registration of F.T 5th (D) Case No.294/2016, arising out of (I/Case No.11,025/98 of Lakhipur P.S.) wherein an opinion dated 31.03.2022

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. In the writ proceeding, amongst others, the petitioner relies upon the voters list of 1966 of village Dholoicherra, P.S. Lakhipur in the Cachar district which contains the name of Masman Ali L, son of Arbesh Ali L at Sl.No.81 and that of Baburun Bibi wife of Masman Ali L at Sl.No.82 along with Moinul Hoque L, son of Masman Ali L at Sl.No.83. The voters list of 1970 relied upon by the petitioner contains the name of Masman Ali L, son of Arbesh Ali L at Sl.No.90, in a situation where in the 1966 voters list, the age of Mosman Ali is shown to be 50 years and in the 1970 voters list his age is shown to be 54 years. The petitioner further relies upon the voters list of 1985 of village Dholoicherra which contains the name of Nazrul Hoque L, son of Masman Ali L at Sl.No.544 and it is claimed that Nazrul Hoque L of the 1985 voters list is the writ petitioner himself. As the name of Nazrul Hoque L appears along with Masman Ali L and the name of Masman Ali L appears in the voters list of 1966 of village Dholoicherra, it is claimed that the burden under Section 9 of the Foreigners Act 1946 has been discharged by the petitioner to prove that he is a citizen of India.

5. In view of the above, the matter stands remanded back to the Tribunal to enable the Tribunal to examine the voters list of 1966, 1970 and 1985 of village Dholoicherra.

6. The petitioner to produce the complete voters list of the aforesaid years of village Dholoicherra before the Tribunal for its examination and the Tribunal shall examine as to whether the name of Nazrul Hoque L of the 1985 voters list of village Dholoicherra appears along with the other family members of Masman Ali L, whose name did appear in the earlier voters list of 1966, 1970 and 1985 of village Dholoicherra and, more particular, whether it appears along with Moinul Hoque L whose name appeared along with Masman Ali L in the 1966 voters list.

7. The respondents in the Home Department may also make their own verification on the aforesaid aspect, more particularly, as to whether Nazrul Hoque L of the 1985 voters list of village Dholoicherra and Nazrul Hoque Laskar @ Nazrul Hoque, the writ petitioner/proceedee are one and the same person and submit a report before the Tribunal, if so advised.

8. Accordingly, the petitioner shall appear before the Tribunal on 20.09.2023.

9. The Tribunal upon doing the needful and 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 opinion dated 31.03.2022 of the Foreigners Tribunal 5th Silchar at Ramnagar Cachar in F.T 5th (D) Case No.294/2016, arising out of (I/Case No.11,025/98 of Lakhipur P.S.) and if it is against the petitioner, consequential action under the law shall follow.

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

11. Writ petition stands disposed of in the above terms.
12. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant