

GAHC010088572019



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

Case No. : WP(C)/2726/2019

AIN UDDIN
S/O LT. INNAS ALI, R/O VILL. BANGSHIBARI GAON, P.O.- KATAJHAR, P.S.-
GOBARDHANA, DIST.-BAKSA, ASSAM, PIN-781315

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT. DISPUR
GUWAHATI-781006

3:THE DEPUTY COMMISSIONER
BAKSA
DIST.-BAKSA
ASSAM
PIN-781343

4:THE ELECTION COMMISSION OF INDIA
NEW DELHI-110001

5:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
GUWAHATI-781005

6:THE SUPERINTENDENT OF POLICE (B)
BAKSA
ASSAM
PIN-78134

Advocate for the Petitioner : MR H R A CHOUDHURY

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

10.02.2023

(AM Bujor Barua, J)

Heard Mr. A Matin, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of the respondents in the Union of India as well as for the authorities under the NRC, Ms. U Das, learned Government Advocate for the Deputy Commissioner Baksa, Mr. A I Ali learned counsel for the Election Commission of India and Ms. A Verma, learned Special Counsel Foreigners Tribunal for the authorities under the Home Department, Government of Assam as well as the Superintendent of Police (B) Baksa.

2. The petitioner Ain Uddin was referred to the Foreigners Tribunal (10th) Barpeta for an opinion as to whether he is a person who had entered the State of Assam subsequent to 25.03.1971 which resulted in registration of FT Case No.222/17.

3. The Foreigners Tribunal (10th) Barpeta by its order dated 30.10.2018 in FT Case No.222/17 had opined that the petitioner could not establish that he is a

bona fide citizen of India and that he had not entered India after the cutoff date i.e. 25.03.1971.

4. Before the Tribunal, the petitioner exhibited the voters list of 1971 of Village Nimua, Mouza Gobardhana wherein Sl. No.654 contains the name of Ninnus Ali son of Kalu and Sl.No.655 shows the name of Aziran wife of Innus. It is stated that the name of Innus has wrongly been recorded as Ninnus Ali which cannot be wholly disagreed *inasmuch as* the name of Aziran at Sl.No.655 is shown to be the wife of Innus of voters list of 1971 and both of them resided in the same House No.134.

5. The petitioner exhibited the voters list of 1985 of village Nimuwa, Mouza Gobardhana wherein Sl.727 contains the name of Md. Innos Ali son of Lt. Kanu Seikh. The petitioner also exhibited the voters list of 1989 wherein Sl.No.800 contains the name of Innas Ali son of Kalu Sheikh, and Sl.No.801 contains the name of Aziran Nessa, wife of Innas and further Sl.No.802 contains the name of Kayem Uddin, son of Innas. The voters list of 1997 of village Nimua, Mouza Gobardhana shows the name of Innas Ali at Sl.No.301 as son of Katu Shekh, Sl.No.302 contains the name of Asiran Khatun as wife of Innas and Sl. No.305 contains the name of Aynuddin, son of Innas. The contents of the aforesaid voters list of 1985, 1989, 1997 of village Nimuwa, Mouza Gobardhana *prima facie* show a linkage of the petitioner with that of Innus Ali, although shown as Ninnus Ali, whose name appears in the voters list of 1971 of the same village.

6. Accordingly, the matter stands remanded back to the Tribunal to examine

as to whether the aforesaid indication in the voters lists do establish that the petitioner is a citizen of India by virtue of being the son of Innas Ali, son of Lt. Kanu Seikh/ Kalu Sheikh/ Katu Shekh. For the purpose, the petitioner be given another opportunity to provide any further material that the petitioner may desire to produce. Upon consideration of the materials as indicated above, the Tribunal to pass a reasoned order. If the reasoned order is in favour of the petitioner it would prevail over the earlier order dated order dated 30.10.2018 passed in F.T. Case No.222/2017 and if it is against the petitioner, the Tribunal may pass any appropriate order as may be advisable under the law.

7. The petitioner to appear before the Tribunal on 13.03.2023. Till the reasoned order is passed by the Tribunal, no coercive action be taken against the petitioner.

8. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant