

GAHC010101402018



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

Case No. : WP(C)/3201/2018

ABDUL JALIL
S/O- LT KUDRAT ALI, VILL-UJANMARI, P.O. SIMULIGURI, P.S. KACHUA,,
DIST- NAGAON (ASSAM), PIN-782426

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE DY. COMMISSIONER
NAGAON
DIST- NAGAON
ASSAM
PIN-782001

4:THE SUPERINTENDENT OF POLICE (B)
NAGAON
ASSAM
PIN-782001

5:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI-110001

6:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
BHANGAGARH-78103

Advocate for the Petitioner : MR H R A CHOUDHURY

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

30.03.2023

(A.M. Bujor Barua, J)

Heard Mr. JM Sulaiman, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Mr. G Sarma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. T. Pegu, learned counsel for the Election Commission of India and Mr. NK Das Das, learned counsel for the Deputy Commissioner, Nagaon.

2. The petitioner Abdul Jalil had been referred to the Foreigners Tribunal No. 2, Nagaon 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 FT Case No. 1785/2011, wherein an opinion dated 02.05.2018 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies on the voters list of 1970 of village Amlakhi, police station Dhing Mauza-Batadrava in the Nagaon district, which contains the name of Kudrat Ali son of Yasin at serial No. 1158 and that of Ramisa Khatun wife of Kudrat at serial No. 1155 and both of them residing in the same house No. 109. The petitioner also relies upon the voters list of 1997 of village Amlakhi, which contains the name of Kudrat Ali son of Yeasin Sheikh at serial No. 991 and that of Ramija Khatun wife of Kudrat Ali at serial No. 992

and A. Jalil son of Kudrat Ali at serial No. 993 and all were shown to be residing in the same house No. 276.

4. If the information is correct, prima facie, the same may lead to a conclusion that the petitioner is a citizen of India.

5. In view of the materials being available on record, the matter is remanded back to the Tribunal to examine the authenticity and correctness of the voters list of 1970 and 1997 of village Amlakhi which contains the name of Kudrat Ali and Abdul Jalil by showing him to be son of Kudrat Ali in the same voters list and pass a reasoned order thereon. The State respondents shall also verify as to whether Abdul Jalil son of Kudrat Ali of the voters list of 1997 and Abdul Jalil, who is the writ petitioner are one and the same person, if necessary by visiting the house of Kudrat Ali.

6. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 02.05.2018. If the reasoned order goes against the petitioner, consequence as per law shall follow.

7. The petitioner shall appear before the Foreigners Tribunal No. 2, Nagaon on 08.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant