

GAHC010102962019



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

Case No. : WP(C)/3200/2019

1. ALMAJ UDDIN MAZUMDER
S/O ABDUL LATIF @ ABDUL LATIF MAZUMDER, VILL. SHIVPUR PART II,
P.O. HAZARIGRAM BAZAR, DIST. CACHAR, ASSAM

VERSUS

1. UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, NEW DELHI-1

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

3:THE DEPUTY COMMISSIONER
DIMA HASAO
HAFLONG
ASSAM

4:THE SUPERINTENDENT OF POLICE (BORDER)
DIMA HASAO
HAFLONG
ASSAM

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI

6:THE STATE COORDINATOR
NATIONAL REGISTRAR OF CITIZENS (NRC)
ASSA

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

Date : 20-07-2023

(A.M. Bujor Barua, J)

Heard Mr. J. Laskar, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 being the Union of India, Mr. J. Payeng, learned Counsel appearing for the Home Department of Government of Assam for the respondent No.2 & 4, Mr. T. Pegu, learned counsel for the respondent No.5 being the Election Commission of India and Ms. K. Phukan, learned Advocate for the respondent No.3 being the Deputy Commissioner, Dima Hasao District at Haflong.

2. The petitioner, namely, Almaj Uddin Mazumder has been referred to the Foreigners Tribunal, Dima Hasao District at Haflong for rendering an opinion as to whether he is a foreigner under the Foreigners Act, 1946, resulting in registration of F.T. Case No. 42/2017. The Tribunal rendered it's opinion dated 28.03.2019 declaring the petitioner to be a foreigner. Being aggrieved this Writ Petition is instituted.

3. In the writ proceeding, the petitioner relies upon the Voters' List of 1966 of Village Sibpur Part-II, Mouza Rupairbali Pargona under the Lakhipur Sub-Division of Cachar District, which contains the names of Abdul Latif son of Siddek Ali, at Sl. No.167, Altu Bibi wife of Siddik Ali, at Sl. No.168 and Ang Hanif son of Siddik at Sl. No.169. The Voters List of 1970 of Village Sibpur Part-II contains the names of Abdul Latif, Altu Bibi, Ang Hanif and Moyna Bibi, where Mayna Bibi is the wife of Abdul Latif. The Voters List of 1977 of Village Sibpur Part-II contains the names of Abdul Latif, Altu Bibi, Abdul Hamid, Mayna Bibi, Abdul Hannan and Abdul Karim, all being the brothers and wife of Abdul Latif. Similarly the Voters List of 1985 of Village Sibpur Part-II contains the names of Abdul Latif and Mayna Bibi. The Voters List of 2005 of Village Sibpur Part-II contains the names of Abdul Latif Mazumder, Moyna Begum

Mazumder, Mohim Uddin Mazumder, Jaiful Uddin Mazumder, Sapna Begum Mazumder and Almaj Uddin Mazumder.

4. Petitioner accordingly claims that the burden under Section 9 of the Foreigners Act has been discharged in as much as the name of the petitioner Almaj Uddin Mazumder appears along with Abdul Latif Mazumder and others, whose names also appeared in the earlier Voters' Lists of Village Sibpur Part-II from the year 1966.

5. Mr. J. Payeng, learned counsel for the Home Department, Government of Assam pointed out that earlier Voters' Lists did not contain the surname Mazumder, whereas the Voters' List of 2005, the surname Mazumder had been included which again raises a question as to whether the persons are one and the same.

6. In view of above, the matter is remanded back to the Tribunal to examine the Voters' Lists of Village Sibpur Part-II from the year 1966 to 2005 and pass a reasoned order thereon.

7. The respondents in the Home Department to carry out a verification as to whether Abdul Latif Mazumder of the 2005 Voters' List along with Almaj Uddin Mazumder and Abdul Latif of the earlier Voters' Lists of 1966 onwards of Village Sibpur Part-II are one and the same person.

8. The petitioner to appear before the Tribunal on 16.08.2023. In the event, the reasoned order is in favour of the petitioner, the same would prevail over the order dated 28.03.2019, passed in F.T. Case No. 42/2017 and if it is against him, the consequence under the law may follow.

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

10. The petition stands allowed as indicated above. Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant