

GAHC010106242019



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

Case No. : WP(C)/3329/2019

HAMED ALI AKAND @ HAMED ALI
S/O- LT HURMAT ALI AKANDA @ HURMAT AKANDA @ HURMAT @
DHARMAT @ MOHAMMAD DHARMAT ALI AKAND @ MD. DHARMATALI
BAKA, R/O- VILL- DOMONI, P.S. BARPETA ROAD, DIST- BARPETA, ASSAM

VERSUS

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

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

3:THE DY. COMMISSIONER
BARPETA
P.O. AND DIST- BARPETA
ASSAM
PIN- 781301

4:THE SUPERINTENDENT OF POLICE (B)
BARPETA
P.O. AND DIST- BARPETA
ASSAM
PIN- 781301

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI-1

6:THE STATE CO-ORDINATOR OF NATIONAL REGISTRATION OF CITIZEN
(NRC)
BHANGAGARH
GHY-

Advocate for the Petitioner : MR. A R SIKDAR

Advocate for the Respondent : ASSTT.S.G.I. (R1)

BEFORE

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

O R D E R

10.03.2023

(A.M. Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Mr. PS Bhattacharyya, learned CGC appearing on behalf of respondents in the Union of India, Mr. J Payeng, learned Government Advocate for the State respondents in the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India, Ms. L Devi, learned counsel for the authorities under the NRC and Ms. U Das, learned counsel for the Deputy Commissioner, Barpeta.

2. The petitioner Hamed Ali Akand @ Hamed Ali was referred to the Foreigners Tribunal No. 10, Barpeta for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory subsequent to 25.03.1971 resulting in registration of FT Case No. 162/2017. The Foreigners Tribunal by the opinion dated 05.01.2019 opined that the petitioner is a foreigner who entered the State of Assam subsequent to 25.03.1971. Being aggrieved, this writ petition is instituted.

3. The petitioner relies upon a voters list of 1971 of village Dumani, Mouza Gobardhana district Barpeta, which contains the name of Hurmat Ali Akand son of Kangalu at serial No. 16. The petitioner also relies upon the voters list of 1985 of village Dumani, Mouza Gobardhana district Barpeta which contains the name of Hurmat Akanda son of Kangalu at serial No. 450 and that of Hamed Ali Akanda son of Hurmat at serial No. 464. If the writ petitioner who is referred before the Tribunal is Hamed Ali Akand of the voters list of 1985 of village Dumani, the writ petitioner has prima-facie established that he is a citizen of India.

4. Considering the above, the matter is remanded back to the Tribunal to examine as to whether the writ petitioner who is referred and Hamed Ali Akand of the voters list of 1985 of village Dumani are one and the same person and pass a reasoned order thereon. In doing so, the Tribunal may also take note of the contents in the last paragraph of page 78 of the writ petition, which is a part of an earlier order dated 05.01.2019 of the Foreigners Tribunal No. 10, Barpeta in FT Case No. 162/2017.

5. If the reasoned order is in favour of the petitioner, the same would prevail over the earlier opinion rendered by the Foreigners Tribunal No. 10, Barpeta and if the reasoned order goes against the petitioner, consequence as per law shall follow.

6. The petitioner shall appear before the Foreigners Tribunal No. 10, Barpeta on 11.04.2023.

7. Till the reasoned order is passed by the Tribunal, no coercive action be taken against the petitioner.

8. The writ petition is allowed to the extent as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant