

GAHC010113192020



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

Case No. : WP(C)/3441/2020

1. MD. MATIBUR RAHMAN
S/O- LT. HABIBULLA MIR, VILL- JAMUGURI, P.S. JURIA, DIST.- NAGAON,
ASSAM, PIN- 782124

VERSUS

1. THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECY. TO THE GOVT. OF HOME AFFAIRS, NEW DELHI

2:ELECTION COMMISSION OF INDIA
NEW DELHI

3:COORDINATOR
NRC
ASSAM
GHY-05

4:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. HOME AND POLITICAL (B) DEPTT.

5:THE FOREIGNERS TRIBUNAL
4RTH JURIA NAGAON
ASSAM
PIN- 782124

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

7:THE DY. COMMISSIONER
NAGAON
ASSAM
PIN- 782001

8:THE OFFICER-ION-CHARGE
P.S. JURIA
DIST.- HOJAI ASSAM
PIN- 78212

Advocate for the Petitioner : MR. B C DAS

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

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

ORDER

01.06.2023.

(A.M. Bujor Barua, J)

Heard Mr. B.C. Das, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 & 3 being the Union of India, Mr. G. Sarma, learned Counsel appearing for the Home Department of Government Assam for the respondent No.4, 5, 6 & 8, Mr. T. Pegu, learned counsel for the respondent No.2 being the Election Commission of India and Ms. U. Das, learned Advocate for the respondent No.7 being the Deputy Commissioner, Nagaon.

2. The petitioner, namely, Matibur Rahman has been referred to the Foreigners' Tribunal No.4 at Juria in Nagaon District for rendering an opinion as to whether he is a person who had entered the State of Assam from the specified territory on or after 25.03.1971, resulting in registration of F.T.(D) Case No.128/2016. The Tribunal rendered an opinion dated 17.10.2019 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 1965 of Village Jamuguri, Police Station Rupahihat under Alitangani Mouza of Nagaon District, which contains the name of Habibulla Mir son of Asu Mir at Sl. No.7 and Asiran Nessa wife of Habibulla at Sl.

No.8. It is claimed that Habibulla Mir is the father of the petitioner and Asiran Nessa is the mother. To substantiate that Habibulla Mir is his father reliance is placed on a jamabandi in respect of a plot of land at village Jamuguri, which contains an order of the Circle Officer dated 03.01.1998, by which land in respect of a plot of land of village Jamuguri had been mutated, amongst others, in the name of Matibur Rahman son of Habibulla Mir in place of Habibulla Mir and in the Column-(Ka), names of the pattadars, the name of Habibulla Mir son of Asu Mir had been struck off and in his place the name of, Matibur Rahman son of Habibulla Mir, amongst others, had been included.

4. As the petitioner's name had been mutated in place of Habibulla Mir and the name of Habibulla Mir appears in the Voters' Lists of 1965 of Village Jamuguri, the petitioner claims that the burden under Section 9 of the Foreigners Act has been discharged.

5. Accordingly the matter is remanded back to the Tribunal to examine the Voters' Lists of 1965 and 1970 of village Jamuguri as well as the jamabandi in respect of a plot of land at village Jamuguri and thereafter pass a reasoned order.

6. The respondents in the Home Department may also verify the aforesaid claim and make their submission as well as to submit a report before the Tribunal.

7. The petitioner to appear before the Tribunal on 07.07.2023. In the event, the reasoned order is in favour of the petitioner, the same would prevail over the order dated 17.10.2019, passed in F.T.(D) Case No.128/2016 and if it is against him, the consequence under the law may follow.

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

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

JUDGE

JUDGE

Comparing Assistant