

GAHC010120982019



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

Case No. : WP(C)/3785/2019

ANSER ALI MONDAL @ ANSER ALI MANDAL
S/O- JAMIR UDDIN, R/O- KAJIAMATI, MOUZA- BIJNI, P.S- GOBARDHANA,
DIST- BAKSA, BTAD, PIN- 781315, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE HOME SECRETARY, GOVT OF INDIA

2:THE ELECTION COMMISSION OF INDIA
REP. BY CHIEF ELECTION COMMISSIONER
NEW DELHI- 110001

3:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GUWAHATI- 06

4:THE STATE COORDINATOR
NRC
ASSAM
BHANGAGARH
GUWAHATI- 781005

5:THE DEPUTY COMMISSIONER
BAKSA
DIST- BAKSA BTAD
PIN- 781343

6:THE SUPERINTENDENT OF POLICE (B)
DIST- BARPETA

PIN- 781301
ASSAM

7:THE OFFICER IN CHARGE
POLICE STATION GOBARDHANA
DIST- BAKSA BTAD
ASSA

Advocate for the Petitioner : MR. N SARKAR

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

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

ORDER

13.02.2023

(AM Bujor Barua, J)

Heard Mr. N Sarkar, 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, Mr. T Pegu 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) Barpeta.

2. The petitioner Anser Ali Mondal was referred to the Illegal Migrants (Determination) by Tribunal, Barpeta for an opinion as to whether he is a person who had entered the State of Assam subsequent to 25.03.1971 resulting in the registration of IM(D)T Case No.1544(A)/98. Subsequently the matter was placed

before the Foreigners Tribunal No.10, Barpeta and was renumbered as F.T. Case No.12/2017.

3. Before the Tribunal, the petitioner exhibited the voters list of 1971 of village Kajiamati, Mouza Kharija Bijni of Barpeta (Sadar) wherein Sl.No.287 shows the name of Jamir Uddin son of Rahim Uddin and at Sl.No.288, the name of Nurja Khatun wife of Jamir Uddin is shown. The petitioner also refers to the voters list of 1997 of village Kajiamati, Mouza Kharija Bijni of Barpeta wherein at Sl.No.603, the name of Anser Ali Mondal son of Jumur Ali is shown and Sl.No.604 contains the name of Nurju Bewa showing to be related to Jumur Ali, but her age is shown to be 22 years. If the age of Nurju Bewa of 1997 voters list is 22 years, definitely, she cannot be the wife of Jumur Ali, *inasmuch as*, her son Anser Ali Mondal is shown to be 55 years. But however, if the age depicted in the voters list is incorrect, it may lead to an indication that Nurju Bewa may be the wife of Jumur Ali. Nurjahan Bewa @ Nureja Bewa wife of Jumur Ali of village Kajiamati, Mouza Kharija Bijni had also made a deposition before the Tribunal as DW-II that the petitioner Anser Ali Mondal is her son.

4. Considering the aforesaid, we remand the matter back to the Tribunal for a fresh examination as to whether the petitioner is the son of Jamir Uddin whose name appears at Sl.No.287 of the 1971 voters list of village Kajiamati, Mouza Kharija Bijni of Barpeta (Sadar).

5. We are not expressing any view on the implication of the aforesaid material and what we require is that the Tribunal shall examine the aforesaid aspect i.e.,

whether such materials do indicate that the petitioner Anser Ali Mondal is the son of Jamir Uddin of village Kajiamati, Mouza Kharija Bijni of Barpeta (Sadar). The petitioner would be at liberty to also produce all intervening voters list after the year 1971 to indicate the continuity in the names and establish that he is the son of Jamir Uddin.

6. Accordingly, the petitioner shall appear before the Tribunal on 14.03.2023.
7. 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 opinion dated order dated 30.07.2018 passed in F.T. Case No.12/2017 and if it is against the petitioner, the Tribunal may pass any appropriate order as may be advisable under the law. Till such reasoned order is passed, no coercive action be taken against the petitioner.
8. Return back the LCR.
9. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant