

GAHC010122032017



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

**Case No. : WP(C)/795/2017**

ABDUL KUDDUS  
D/O LT. NOBI HUSSAIN R/O VILL- KURUATI, P.O. BAKARAPATTA P.S.  
SOOTEA MOUZA- SOOTEA DIST. SONITPUR ASSAM.

VERSUS

THE UNION OF INDIA and 4 ORS.  
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME  
AFFAIRS, NEW DELHI.

2:THE COMMISSIONER AND SECRETARY  
TO THE GOVT. OF ASSAM  
HOME DEPARTMENT  
DISPUR  
GUWAHATI -6.

3:THE DEPUTY COMMISSIONER  
SONITPUR  
P.O. and DIST. SONITPUR  
ASSAM.

4:THE SUPERINTENDENT OF POLICE  
BORDER  
SONITPUR  
DIST. SONITPUR  
ASSAM.

5:THE OFFICER-IN-CHARGE  
SOOTEA POLICE STATION  
DIST. SONITPUR  
ASSAM

**Advocate for the Petitioner : MR.A S TAPADER**  
**Advocate for the Respondent :**

**BEFORE**  
**HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR**  
**HON'BLE MR. JUSTICE BUDI HABUNG**

**:: O R D E R ::**

**12-09-2023**

*(L.S. Jamir, J)*

Heard Mr. A.S. Tapadar, learned counsel for the petitioner. Also heard Ms. L. Devi, learned Central Government Counsel, for the respondent No. 1; Mr. G. Sarma, learned standing counsel, Foreigners' Tribunal, appearing on behalf of respondent Nos. 2, 4 and 5 as well as Mr. P. Sarma, learned Additional Senior Government Advocate appearing for respondent No. 3.

2. On reference being made by the Superintendent of Police (Border), Sonitpur, Tezpur, dated 11-06-2004, in connection with IM(D)T Case No. 439/2002 with regard to nationality of the petitioner/proceedee, the Case No. FTC (6) 267/2015 was registered in the Foreigners' Tribunal-6, Tezpur, Assam. The petitioner appeared before the learned Tribunal and contested the case by filing written statement and exhibited as many as 10 documents in support of his case that he is an Indian national and not a foreigner.

3. The learned Tribunal, thereafter, passed the order dated 26-12-2016, whereby the petitioner/proceedee was declared to be a foreigner/illegal migrant of post 25-03-1971 stream. Being aggrieved, the instant writ petition is filed.

4. The learned counsel for the petitioner, at this stage, submits that except for the Voters' Lists of 1965 and 1970, the petitioner could not furnish the certified to be true copy of the other exhibits. He, therefore, submits that opportunity may be granted to the petitioner to enable him to furnish the certified copies of those exhibits, which the

petitioner could not produce and, thereafter, the learned Tribunal may be directed to give a fresh finding.

**5.** We have perused the records of the Case No. FTC (6) 267/2015 and on perusal of the same, we find that except for the Voters' List of 1965 and 1970, rest of the other documents were not certified true copies before the learned Tribunal. Therefore, without entering into the merit, this writ petition is disposed of remanding the matter to the Foreigners' Tribunal-6, Tezpur, Assam, permitting the petitioner to furnish the certified to be true copies of the Exhibits Nos. 3, 4, 5, 6, 7, 8, 9 and 10. Thereafter, the Tribunal after hearing the parties shall give a fresh finding with regard to the nationality of the petitioner.

**6.** Accordingly, the order dated 26-12-2016 passed by the learned Foreigners' Tribunal-6, Tezpur, Assam, in Case No. FTC (6) 267/2015 is set aside and quashed.

**7.** The petitioner is directed to appear before the learned Foreigners' Tribunal-6, Tezpur, Assam, on 29-09-2023.

**8.** Send down the LCRs forthwith.

**9.** The writ petition is disposed of accordingly.

**10.** It is made clear that this order shall not be a precedent for other cases.

**JUDGE**

**JUDGE**

**Comparing Assistant**