

GAHC010122302019



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

Case No. : WP(C)/3752/2019

ABDUL KADER @ ABDUL KADER SARKAR
S/O. ABDUL SATTAR, R/O. VILLAGE- DIGHALTARI PART-I, P.S. DHUBRI,
P.O.- PATAWARI IN THE DISTRICT OF DHUBRI, ASSAM.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REPRESENTED BY ITS SECRETARY, GOVERNMENT OF INDIA, MINISTRY
OF HOME AFFAIRS, NEW DELHI-110001.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTORAL OFFICER
ASSAM
DISPUR
GHY. 06.

3:THE REGISTRAR GENERAL OF INDIA
REPRESENTED BY THE STATE CO-ORDINATOR
NRC (NATIONAL REGISTER OF CITIZENS)
ASSAM
ULUBARI
GHY. 05.

4:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME DEPARTMENT
DISPUR
GHY.6.

5:THE DIRECTOR GENERAL OF POLICE (ADMINISTRATION)
ASSAM

ULUBARI
GUWAHATI-07.

6:THE DEPUTY COMMISSIONER
KAMRUP(M)
ASSAM
GHY.01.

7:THE DY. COMMISSIONER OF POLICE (B)
KAMRUP(M)
ASSAM
GHY.01

Advocate for the Petitioner : MR. N ALAM R K

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

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

ORDER

Date : 27.01.2023
(A.M. Bujor Barua, J)

Heard Mr. A Rahman, learned counsel for the petitioner. None appears for the respondent no. 1 Union of India.

2. Also heard Mr. A Ali, learned counsel for the respondent no. 2 being the Election Commission of India, Ms. L Devi, learned counsel for the respondent no. 3 being the NRC, Mr. G Sarma, learned counsel for the respondents no. 4, 5 and 7 being the authorities under the Home Department of the Government of Assam and Ms. U Das, learned counsel for the respondent no. 6 being the Deputy Commissioner, Kamrup(M).

3. The petitioner Abdul Kader @ Abdul Kader Sarkar was referred to the Foreigners Tribunal No. 2, Kamrup(M) for an adjudication as to whether he is a person who entered the State of Assam subsequent to 25.03.1971 which resulted in the registration of FT Case No. 14/2017. Before the Tribunal the petitioner exhibited the voters' list of 1966 of village 200 Dighaltari Pt I of Mouza Dhubri in the Dhubri district which shows the name of Sepatullah

Sarkar, son of Penat Sk. at Sl. No. 474 and Rabeya Khatun, wife of Sepatullah Sarkar at Sl. No. 475. The petitioner also exhibited the voters' list of 1985 of village 54 Dighaltari Pt I of Mouza Dhubri in the Dhubri district which shows that at Sl. No. 174 the name of Sepatullah Sarkar, son of Penat and that of A. Sattar, son of Sepatulla appear.

4. The petitioner refers to an electoral photo identity card issued by the Election Commission of India which shows the petitioner Abdul Kader Sarkar to be the son of Abdul Sattar of village Dighaltari Pt I.

5. When the electoral photo identity card has been issued by the Election Commission showing the petitioner to be the son of Abdul Sattar of village Dighaltari Pt I, we understand that there would also be a voters' list at the same time when the identity card was issued showing the name of the petitioner Abdul Kader Sarkar and the name of his father to be Abdul Sattar. As all the materials pertain to Dighaltari Pt I of Mouza Dhubri in the Dhubri district, a prima facie indication is available that the petitioner has established his linkage with Sepatulla Sarkar of the same village of the 1966 voters' list with that of his father Abdul Sattar, son of Sepatulla and again his own linkage with Abdul Sattar through electoral photo identity card.

6. In the above circumstances, we remand the matter back to the Foreigners Tribunal No. 2, Kamrup(M) to consider the afore-indicated materials and arrive at a reasoned conclusion as to whether the petitioner can be declared to be a citizen of India. The petitioner may also produce any further relevant voters' list if available to facilitate the process. The petitioner to appear before the Foreigners Tribunal No. 2, Kamrup(M) on 03.03.2023.

7. Send back the LCR forthwith.

8. Any reasoned order that may be passed by the Tribunal shall prevail over the order dated 26.12.2018 in the FT case No. 14/2017. Till such reasoned order is passed by the Tribunal, no coercive action be taken against the petitioner.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant