

GAHC010128782017



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

Case No. : WP(C)/2738/2017

NURUL ISLAM KHA
S/O- LATE GOLAM ALI KHA, VILL- GUTIPARA PT-V, P.S- BILASIPARA, DIST-
DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.
REPRESENTED BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS,
GOVT OF INDIA, NEW DELHI-1

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

3:THE DEPUTY COMMISSIONER
DHUBRI
DIST- DHUBRI
ASSAM

4:THE SUPERINTENDENT OF POLICE
DHUBRI
DIST- DHUBRI
ASSAM

5:THE OFFICER-IN-CHARGE
BILASHIPARA POLICE STATION
DIST- DHUBRI
ASSA

Advocate for the Petitioner : MS.P AHMED

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

20.03.2023

[Achintya Malla Bujor Barua, J.]

Heard Mr. M.I. Hussain, learned counsel for the petitioner. Also heard Ms. P. Swargiary, learned CGC, appearing for respondent No.1; Mr. G. Sarma, learned special counsel, FT, appearing for respondent Nos.2, 4 and 5 and Ms. K. Phukan, learned Junior Government Advocate, Assam, appearing for respondent No.3.

2. The petitioner Nurul Islam Kha had been referred to the Foreigners' Tribunal 7th, Dhubri at Bilasipara, for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971, which resulted in registration of F.T. 7th Dhubri Case No.139/BBR/2016. The Tribunal rendered an opinion on 12.04.2017 whereby the petitioner was declared to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding before the Court, the petitioner relies upon the voters list of 1966 of village 198 No. Gutipara Pt-5, PO-Bagribari of Dhubri district, which contain the names of Golam Sheikh, S/O Hazi Jobbar Ali at Sl. No.131 and that of Robiron Bibi, W/O Golam Ali at Sl. No.132. The petitioner also relies upon the voters list of 1997 of village 192 No. Gutipara Pt-5 of Dhubri district, which contain the names of Hazi Golam Ali, S/O Hazi Jobbar at Sl. No.686 and that of Nur Islam Sheikh, S/O Hazi Golam at Sl. No.690. It is noticed that Hazi Golam Ali and Nur Islam Sheikh are residing in the same house No.225. Accordingly, the petitioner claims that he being the son of Hazi Golam Ali and had discharged the burden that he is a citizen of India. If the information contained in the voters list of 1966 and 1997 of

village 192 No. Gutipara Pt-5 is correct, the petitioner may have established that he is a citizen of India.

4. In that circumstance, we remand the matter back to the Foreigners' Tribunal 7th, Dhubri at Bilasipara, to examine the implication of the contents of the voters list of 1966 and 1997 of village 192 No. Gutipara Pt-5 and pass a reasoned order thereof. The petitioner to provide the complete voters list from 1966 to 1997 of village Gutipara for examination by the Tribunal. In the event, the reasoned order is passed in favour of the petitioner, the same shall prevail over the earlier opinion dated 12.04.2017 and if it is against the petitioner, consequential action shall follow.

5. The petitioner shall accordingly appear before the Tribunal on 02.05.2023. Till the reasoned order is passed, no coercive action shall be taken against the petitioner.

6. Send back the LCR immediately.

7. Writ petition stands disposed of in the above terms.

Sd/- Robin Phukan
JUDGE

Sd/- Achintya Malla Bujor Barua
JUDGE

Comparing Assistant