

GAHC010129722017



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

Case No. : WP(C)/3035/2017

ANOWAR HUSSAIN
S/O. LT. AKIL ALI, VILL. DIGHALJAR, P.O. DIGHALJAR, P.S. MURAJHAR,
DIST. HOJAI, ASSAM, PIN-782446.

VERSUS

THE UNION OF INDIA and 4 ORS.
REP0. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI, PIN-110001.

2:THE STATE OF ASSAM
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY.-781006.

3:THE DY. COMMISSIONER

HOJAI
ASSAM
PIN-782435.

4:THE SUPDT. OF POLICE

HOJAI
ASSAM
PIN-782435.

5:THE MEMBER

FOREIGNER TRIBUNAL
NAGAON COURT NO.7 AT LANKA
NAGAON

ASSAM
PIN-782446

Advocate for the Petitioner : MR.A H ALAMGIR

Advocate for the Respondent : GA, ASSAM

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

ORDER

22.05.2023

[A.M.Bujor Barua, J.]

Heard Mr. A.H. Alamgir, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent no. 1; Mr. G. Sarma, learned counsel for the respondent nos. 2, 4 and 5; and Ms. U. Das, learned counsel for the respondent no. 3.

2. The petitioner Anowar Hussain had been referred to the Foreigners' Tribunal, No. 7, Nagaon at Lanka 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 resulting in registration of FT/L/Case No. 1361/2016, wherein an opinion dated 28.04.2017 had been rendered 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 1966 of village Dighal Jarani, P.S. Murajhar in the Nagaon district, which contains the name of Akil Ali, son of Akbar Ali at serial no. 311 and that of Karbul Nessa, wife of Akil Ali at serial no. 312. The petitioner also relies upon the Voters' List of 1970 of village Dighal Jarani, P.S. Murajhar in the Nagaon district, which contains the name of Akil Ali, son of Akbar at serial no. 311 and

that of Karbul Nessa, wife of Akil Ali at serial no. 312 and that of Jalal Uddin, son of Akil Ali at serial no. 313. The petitioner also relies upon the Voters' List of 1993 of village Dighal Jarani, P.S. Murajhar in the Nagaon district, which contains the name of Jalal Uddin, son of Akil at serial no. 375 and that of Anowar Hussain, son of Akil at serial no. 377 and that of Sarbun Nessa, wife of Akil at serial no. 379. The petitioner also relies upon the Voters' List of 1997 of village Dighal Jarani, P.S. Murajhar in the Nagaon district, which contains the name of Karbul Nessa, wife of Akil at serial no. 223 and that of Jalal Uddin, son of Akil at serial no. 224 and that of Anowar Hussain, son of Akil at serial no. 225 and that of Monir Uddin son of Akil at serial no. 226. The petitioner also relies upon the Voters' List of 2010 of village Dighal Jarani, P.S. Murajhar in the Nagaon district, which contains the name of Jalal Uddin, son of Akil at serial no. 283 and that of Anowar Hussain, son of Akil at serial no. 284 and that of Monir Uddin, son of Akil at serial no. 285 with consistent information also in the Voters' List of 2016 of village Dighal Jarani. By referring to the aforesaid Voters' Lists the petitioner claims to be discharge the burden under section 9 of the Foreigners' Act 1946. If the information contains in the Voters' List of 1966, 1970, 1985, 1993, 1997 and 2005 are consistent, the information contained that Anowar Hussain is the son Akil Ali of the Voters' List of 1966 and 1971 of village Dighal Jarani may discharge the burden that the petitioner is the citizen of India.

4. In the circumstance, the matter is remanded back to the Foreigners' Tribunal, No. 7, Nagaon to examine the aforesaid Voters' Lists. The petitioner may produce the complete Voters' List of all the aforesaid years in respect of village Dighal Jarani. The Home Department Government of Assam to make their own verification on the correctness and authenticity of the information

contained in the Voters' List and also whether Anowar Ali, the writ proceedee and the Anowar Hussain of the Voters' List of village Dighal Jarani indicated above are one and the same person and further to whether the name of Karbul Nessa, Farmun Nessa and Sarbun Nessa as found in some of the Voters' Lists are one and the same person and to submit a report before the Tribunal.

5. Upon undertaking the exercise, the Tribunal may pass a reasoned order and if the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 28.04.2017 passed in FT/L/Case No. 1361/2016, and if against, consequence under the law is applicable to the petitioner.

6. The petitioner to appear before the Tribunal on 06.07.2023.

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

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant