

GAHC010130392019



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

Case No. : WP(C)/3975/2019

ABDUS SALAM KHAN @ SALAM KHAN @ A. SALAM
S/O- LT MOHOSIN ALI KHAN @ MAIHOSEN ALI, VILL- GERAMARI PART-
VI, P.O. SOUTH GERAMARI, P.S. GAURIPUR, DIST- DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE DY. COMMISSIONER
DHUBRI
DIST- DHUBRI
PIN- 781032

4:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 110001

5:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
GHY-5

6:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
DIST- DHUBRI
PIN- 78103

Advocate for the Petitioner : MR H R A CHOUDHURY

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

BEFORE

**HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN**

O R D E R

01.03.2023

(A.M. Bujor Barua, J)

Heard Mr. FU Barbhuiya, learned counsel for the petitioner, Ms. L Devi, learned counsel for the respondents in the Union of India as well as the authorities in the NRC, Ms. A Verma, learned counsel for the respondents in the Home Department of the Government of Assam, Mr. AI Ali, learned counsel for the respondents in the Election Commission of India and Ms. U Das, learned counsel for the Deputy Commissioner, Dhubri.

2. The petitioner Abdus Salam Khan @ Salam Khan @ A. Salam had been referred to the Foreigners Tribunal No. 5, Dhubri for rendering an opinion as to whether he is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971 resulting in registration of case No. FT-5/GPR/511/2017. By the order dated 27.11.2018, the Foreigners Tribunal gave an opinion that the petitioner is a foreign citizen who entered the State of Assam subsequent to 25.03.1971. Being aggrieved, this writ petition is instituted.

3. Before the Tribunal, the petitioner relies upon the voters list of 1966 of village 122 Baraibari Part-IV, Mauza Gauripur in the present Dhubri district, which contains the name of Mayhosen Kha, son of Moser Ali at serial No. 123. The petitioner also relies upon the voters list of 1993 of village 118 Bribari Part-IV also of Dhubri district wherein at serial No. 574 the name of Mahasin Ali Khan

son of Haji Moser Ali appears and at serial No. 579, the name of the petitioner Abdus Salam Khan son of Mahshin Ali appears and both are referred to be resident of the same house.

4. As prima-facie it can be established from the voters list of 1966 and 1970 of village 122 Baraibari Part-IV as well as the voters list of 1993 of village 118 Baribari Part-IV that the petitioner Abdus Salam Khan is the son of Mahshin Ali Khan who is also a citizen of India, we remand the matter back to the Tribunal for passing a reasoned order on the claim of the petitioner by confining to the implication of the voters list of 1966, 1970 of village 122 Baraibari Part-IV and the voters list of 1993 of village 118 Baribari Part-IV and pass a reasoned order thereon. Before the Tribunal, the petitioner may rely on any other documents or materials to establish his claim.

5. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion rendered by the Foreigners Tribunal No. 5, Dhubri dated 27.11.2018 in case No. FT-5/GPR/511/2017. If the reasoned order to be passed is against the petitioner, the consequence as per law shall follow.

6. The petitioner shall appear before the Foreigners Tribunal No. 5, Dhubri on 04.04.2023. Till such reasoned order is passed, no coercive action be taken against the petitioner.

The writ petition is allowed to the extent as indicated above.

Sent back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant