

GAHC010130702018



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

Case No. : WP(C)/3981/2018

ABUL KASEM
S/O RAHIM UDDIN
R/O VILL- TUKTUKI
P.S. DHING
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI -06.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR.

3:DEPUTY COMMISSIONER
NAGAON

4:DISTRICT ELECTION OFFICER
NAGAON

5:UNION OF INDIA
REP. BY THE SECRETARY
HOME DEPARTMENT
NEW DELHI-1.

6:CHIEF ELECTION COMMISSIONER
NEW DELHI.

7:THE STATE CO-ORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
BANGAGARH
GUWAHATI- 781003.

8:FOREIGNER TRIBUNAL
NO.
NAGAON

Advocate for the Petitioner : MR. D P CHALIHA

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 18-10-2023

Heard Mr. M. Rana, learned counsel for the petitioner; Mr. G. Bokolial, learned Junior Government Advocate, Assam for the respondent nos. 1, 2 & 3; and Mr. A.I. Ali, learned Standing Counsel, Election Commission of India for the respondent nos. 4 – 6.

2. The case projected by the petitioner, in this writ petition, briefly stated, is that he is a permanent resident of Village – Tuktuki, District – Nagaon. He was born in the year 1966 and his parents are one Rahim Uddin and one Mustt. Ahila Khatun, whose names appeared in the Voters List of 1965 at Serial no. 42 and Serial no. 44 respectively for Village – Tuktuki, Mouza – Batadraba under Dhing Legislative Assembly Constituency [LAC] as well as at Serial no. 40 and Serial no. 41 in the Voters List prepared in the year 1970 for the same LAC. The petitioner has stated that his name first appeared as a voter in the year 1989 in the newly constituted Batadraba Legislative Assembly Constituency [LAC] along with his parents, Rahim Uddin and Mustt. Ahila Khatun. The cause of grievance of the petitioner is that in the Voters List of the year 1997 published for the Batadraba Legislative Assembly Constituency [LAC], his name which appeared at Serial no. 184, was categorized as 'Doubtful' and as a result, the petitioner has been deprived from exercising his franchise since then. It has been further stated that despite representations submitted by the petitioner before the authorities for removal of the tag 'Doubtful', the necessary correction was made.

2.1. The petitioner has further mentioned that in the year 2016, the petitioner was received a notice from the Foreigners' Tribunal No. 5 Dhing, in connection with F.T. Case no. 694/2015

in respect of a proceedee namely Abul, son of Rahim, Village – Tuktuki, Dhing. On receipt of the said notice, the petitioner appeared along with his witnesses before the learned Foreigners' Tribunal and the learned Foreigners' Tribunal upon examination of the documents, had held, by an order dated 06.06.2016, that the petitioner was not the person against whom the case was instituted and the proceedee therein was a different person.

2.2. On 04.07.2017, the petitioner submitted an application along with all the necessary documents including the Voters List wherein his name appeared and that of his parents before the District Election Officer, Nagaon and the said application was received with due acknowledgment vide Receipt no. 127147 by the said office on 04.07.2017. It has been stated that when despite receipt of the application along with all the requisite documents substantiating his claim to remove the prefix 'Doubtful' from the Voters List, the authorities did not do the needful, the petitioner has preferred the present writ petition seeking *inter alia* a direction to the respondent authorities, to re-examine the case of the petitioner and to correct the Voters List by removing the prefix 'Doubtful' mentioned against his name.

3. It is the contention of Mr. Rana, learned counsel for the petitioner that the petitioner possesses all the necessary documents to establish his lineage from his parents and grandparents, who are Indian citizens.

4. Mr. Ali, learned Standing Counsel, Election Commission of India has submitted that the writ petition can be disposed of by similar kind of order, as has been passed in W.P[C] no. 4265/2019. A copy of the order dated 16.10.2023 is placed before the Court by Mr. Ali, learned counsel for the petitioner.

5. Mr. Rana, learned counsel for the petitioner has also agreed for disposal of the writ petition with similar kind of direction.

6. In view of the projections made on behalf of the petitioner in the afore-stated manner and having considered the contents of the order dated 16.10.2023, this petition, at this stage, as consented to by the learned counsel for the parties, is disposed of granting liberty to the

petitioner to approach the Superintendent of Police [Border], Nagaon by submission of an application along with all the necessary documents in support of his claim for removal of the prefix 'Doubtful' registered against his name and if such application is submitted, it is observed that the Superintendent of Police [Border], Nagaon, although not a party-respondent in this writ petition, shall consider the application and the documents submitted therewith and if after such consideration, finds it that the case of the petitioner is to be referred to the concerned Foreigners' Tribunal in order to examine the various documents submitted by the petitioner and to pass appropriate opinion in that regard, then shall take the necessary steps to make such reference. If after examination, it is found that the case of the petitioner has already been referred to the Foreigners' Tribunal, then the Superintendent of Police [Border], Nagaon is to furnish necessary information in that regard to the petitioner in writing. The entire exercise shall be completed within a period of 2 [two] months from the date of receipt of a certified copy of this order along with the application at the office of the Superintendent of Police [Border], Nagaon from the petitioner.

7. The petition is disposed of in the afore-stated manner.

JUDGE

Comparing Assistant