

GAHC010133232018



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

Case No. : WP(C)/4112/2018

SIRAJ UDDIN KHAN @ SIRAJ UDDIN ALI KHAN
S/O- LT RAHMAT ALI KHAN @ RAHMAT ALI, R/O- VILL- GULAMPATTI
GAON, PO, PS AND DIST- GOLAGHAT (ASSAM)

VERSUS

UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, NEW DELHI-1

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
GOLAGHAT
PO AND DIST- GOLAGHAT (ASSAM)

4:THE SUPERINTENDENT OF POLICE (B)
GOLAGHAT
PO AND DIST- GOLAGHAT (ASSAM)

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI

6:THE STATE COORDINATOR
NATIONAL REGISTRAR OF CITIZENS (NRC)
ASSA

Advocate for the Petitioner : MR. J LASKAR

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

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

ORDER

25.05.2023

(AM Bujor Barua, J)

Heard Mr. J Laskar, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, as well as the Superintendent of Police (B) Golaghat and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Golaghat.

2. The petitioner, namely, Siraj Uddin Khan @ Siraj Uddin Ali Khan was referred to the Foreigners Tribunal Jorhat for rendering an opinion as to whether he is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of Case No.FTG(D)79/2011 wherein an opinion dated 08.05.2018 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding, petitioner relies upon the voters list of 1965 of village Apin Grant Govt. Requisition Area under Katlicherra Police Station in the Cachar district which contains the name of Rahmat Ali son of Isub Khan at Sl.No.5 and that of Solema Khatun son of Rahmat Ali at Sl.No.6 and both are shown to be residing in the same House No.74. The petitioner thereafter relies upon the voters list of 1975 of village Apin Grant Govt. Requisition Area under Katlicherra Police Station which contains the name of Rahmat Ali son of Isub Ali at Sl.No.8 and that of Siraj Uddin Kha, son of Rahmat Ali Kha at Sl.No.10 and both are shown to be residing in the same House No.61. It is claimed that Siraj Uddin Kha, son of Rahmat Ali Kha of the 1975 voters list of village Apin Grant Govt. Requisition Area under Katlicherra Police Station is the petitioner himself. If the petitioner proceedee Siraj Uddin Khan @ Siraj Uddin Ali Khan and the Siraj Uddin Kha of the 1975 voters list of village Apin Grant Govt. Requisition Area are one and the same person, the petitioner may have discharged the burden under Section 9 of the Foreigners Act 1946. But a determination would be required as to whether the two are the same person.

5. For the purpose, the matter stands remanded back to the Tribunal to examine the voters list of 1965 and 1975 of village Apin Grant Govt. Requisition Area and allow the petitioner to produce any material to prove that the petitioner proceedee Siraj Uddin Khan @ Siraj Uddin Ali Khan and the Siraj Uddin Kha of the 1975 voters list are one and the same person.

6. The respondents in the Home Department may also make their own verification as to whether the writ petitioner/proceedee Siraj Uddin Khan @ Siraj

Uddin Ali Khan and the Siraj Uddin Kha of the 1975 voters list of village Apin Grant Govt. Requisition Area are one and the same person and submit a report before the Tribunal, if so advised.

7. Accordingly, the petitioner shall appear before the Tribunal on 27.06.2023.
8. The Tribunal upon doing the needful and after examining the evidences and materials shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 08.05.2018 of the Foreigners Tribunal Jorhat in Case No.FTG(D)79/2011 and if it is against the petitioner, consequential action under the law shall follow.
9. Till the reasoned order is passed, no coercive action be taken against the petitioner.
10. Writ petition stands disposed of in the above terms.
11. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant