

GAHC010138492023



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

Case No. : WP(C)/3760/2023

LAL BHANU
D/O LATE ABDUL JABBAR, W/O ABDUL RASHID, R/O VILL-LANGLA, P.S.-
KALGACHIA, DIST-BARPETA, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, SHASTRI BHAWAN, NEW DELHI-110001

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI-110001

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S. ROAD
BHANGAGARH
GUWAHATI
ASSAM
PIN-781005

5:THE DEPUTY COMMISSIONER
BARPETA
P.O.-BARPETA
DIST-BARPETA
ASSAM
PIN-781301

6:THE SUPERINTENDENT OF POLICE (BORDER)
BARPETA
P.O.-BARPETA
DIST-BARPETA
ASSAM
PIN-781301

7:THE OFFICER-IN-CHARGE OF KALGACHIA POLICE STATION
P.O.-KALGACHAI
DIST-BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MS. D GHOSH

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 25.08.2023
(A.M. Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 4, being the Union of India and the State Co-ordinator of NRC respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 6 and 7, being the authorities in the Home Department; Mr. T. Pegu, learned counsel for the respondent No. 3, being the Election Commission of India and Mr. P. Sarma, learned counsel for the respondent No. 5, being the Deputy Commissioner, Barpeta.

2. The petitioner Lal Bhanu was referred to the Foreigners' Tribunal No. 11, Barpeta for rendering an opinion as to whether she is a foreigner under the Foreigners Act, 1946 and accordingly Case No. (Bpt/11th)F.T.622/2016 was registered. The Tribunal had rendered its opinion dated 27.03.2023 by arriving at its conclusion that the petitioner is a foreigner under the Foreigners Act, 1946. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village 372 Golapara Pt. I, PS Abhayapuri in the Goalpara district which contains the name of Abdul Jabbar son of Rajar Ali at Sl. No. 166. It is claimed that Abdul Jabbar is the father of the petitioner. To substantiate the same, reliance is placed upon a Jamabandi of a plot of land at village Golapara Pt. III which contains the information that the name of Lal Bhanu, amongst others, had been mutated in place of A. Jabbar. But the reference to the order of the Circle Officer by which the mutation had been incorporated is not provided in the copy of the jamabandi which has been relied upon.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 11, Barpeta to examine the complete and continuous voters' lists from 1966 to up-to-date of village Golapara as well as the jamabandi that has been relied upon. The petitioner to produce the complete and continuous voters' lists from 1966 to up-to-date of village Golapara for examination of the Tribunal. The petitioner to also produce the order of the Circle Officer by which the mutation had been incorporated and the Tribunal may examine the original records of the Circle Officer upon which the mutation had been done. The petitioner may produce any further relevant material, if so advised. The State respondents in the Home Department may make their own verification, if so advised and thereafter submit a report before the Tribunal.

5. Upon doing the needful, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 27.03.2023 in Case No. (Bpt/11th)F.T.622/2016 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 22.09.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant