

GAHC010140192023



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

Case No. : WP(C)/4097/2023

OSMAN GONI
S/O NASIR UDDIN @ NASER ALI, R/O VILL-KHUTAMARI, P.O.-BARBHITA,
P.S.-GOALPARA, DIST-GOALPARA, ASSAM, PIN-783101

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY- THE MINISTRY OF POLITICAL AND
HOME AFFAIRS, SHASTRI BHAWAN, TILAK MARG, NEW DELHI

2:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN ASHOKA ROAD
NEW DELHI-110001

3:THE STATE OF ASSAM
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT
OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-781006

4:THE CHIEF ELECTION OFFICER
ASSAM
HOUSEFED COMPLEX
BELTOLA ROAD
GUWAHATI-781006

5:THE ELECTORAL REGISTRATION OFFICER
GOALPARA
DIST-GOALPARA
ASSAM

6:THE DEPUTY COMMISSIONER
GOALPARA
DIST-GOALPARA
ASSAM

7:THE ELECTION OFFICER
GOALPARA
DIST-GOALPARA
ASSAM

8:THE SUPERINTENDENT OF POLICE (BORDER)
GOALPARA
DIST- GOALPARA
ASSA

Advocate for the Petitioner : MR. F A HASSAN

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

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 02-08-2023

Heard Mr. F.A. Hasan, learned counsel for the writ petitioner. Also heard Mr. A.I. Ali, learned standing counsel, ECI appearing for the respondent Nos. 2, 4, 5 and 7 as well as Mr. C.K.S. Baruah, learned Govt. Advocate, Assam appearing on behalf of respondent Nos. 3, 6 and 8. None has appeared for the respondent No. 1.

The case of the petitioner, in short, is that his name was included in the Voters List of 1996 but in the list prepared in the year 1997, the petitioner's name was shown in the 'D' voter category. It is the case of the petitioner that he had made several enquiries with the authorities including the respondent No. 8, i.e. the Superintendent of Police (Border), Goalpara to ascertain the reason as to why his name was included in the 'D' voter's

category but to no avail. The petitioner has, therefore, approached this Court by filing this writ petition seeking a direction upon the respondents to delete his name from the 'D' voters category.

Mr. Hasan, learned counsel for the writ petitioner has invited the attention of this Court to the letter dated 06-10-2018 issued by the respondent No. 8 to submit that there is no reference case pending against the petitioner before the Foreigners Tribunal.

Mr. A.I. Ali, learned standing counsel, ECI, on the other hand, has produced copy of the judgment and order dated 17-05-2016 passed by the Division Bench of this Court in W.P.(C) No. 155/2016 disposing of similar matters by submitting that since there is no reference case pending against the petitioner, his case may also be considered by the authorities in the light of the order dated 17-05-2016 passed by the Division Bench.

I have considered the submissions made at the bar and have also gone through the materials available on record. The order dated 17-05-2016 was passed by the Division Bench in a similar matter where the petitioner had also complained that after including his name in the 'D' voter category in the Electoral Roll in 2011, no consequential action was taken in the matter, as a result of which, he had suffered enormous prejudice. Taking note of the submission of the petitioner's counsel, the Division Bench had disposed of the writ petition with the following directions:-

“In the light of the above, we direct respondent Nos. 4 & 5 i.e., Chief Election Officer, Assam and Deputy Commissioner-cum-District Election Officer-cum-Electoral Registration Officer, Karimganj to take necessary consequential decision in respect of the petitioner after making necessary investigation, including giving an opportunity to the petitioner with intimation to the petitioner within a period of 8 (eight) weeks from the date of receipt of a certified copy of this order.

Compliance report be submitted to the office of the Registrar General, Gauhati High Court within 4 weeks thereafter."

Since the facts and circumstances of this case is similar to that involved in W.P.(C) No. 155/2016 and taking note of the submissions of learned counsel appearing for both the sides, I dispose of the writ petition with a direction upon the respondent Nos. 4 and 7, viz. the Chief Election Officer and the Deputy Commissioner, Goalpara, to make proper enquiry and thereafter, take appropriate action in the matter. In doing so, the petitioner shall be given an opportunity to present necessary documents which he proposes to rely upon in support of his claim. Appropriate action, as may be permissible under the law, be taken within a period of 12 (twelve) weeks from the date of receipt of a certified copy of this order so as to redress the grievance of the writ petitioner in accordance with law.

With the above observation, the writ petition stands disposed of.

JUDGE

GS

Comparing Assistant