

GAHC010147142018



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

Case No. : WP(C)/4540/2018

MOKRAM ALI @ MAKRAM ALI
S/O- LATE ABDUL JALIL @ JALIL ALI, VILL- MAMUDPUR (SANTIPUR
NIGAM), P.S- MATIA, DIST- GOALPARA, ASSAM, PIN- 783101

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, SHASTRI BHAWAN, TILOK MARG, NEW DELHI- 01

2:ELECTION COMMISSION OF INDIA
NEW DELHI- 01

3:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
MIN OF HOME DEPTT
DISPUR
GUWAHATI- 6

4:THE STATE COORDINATOR
NRC
ASSAM
BHANGAGARH
GUWAHATI- 05

5:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM

6:THE SUPERINTENDENT OF POLICE(B)
GOALPARA
ASSAM

PIN- 78310

Advocate for the Petitioner : MR. A R SIKDAR

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

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

ORDER

Date : 18.07.2023
(AM Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondent no. 1 and 4 being the authorities under the Union of India and NRC respectively, Mr. AI Ali, learned counsel for the respondent no. 2 being the authorities under the Election Commission of India, Ms. A Verma, learned counsel for the respondents no. 3 and 6 being the authorities under the Home Department of Government of Assam and Ms. U Das, learned counsel for the respondent no. 5 being the Deputy Commissioner, Goalpara.

2. The petitioner Mokram Ali @ Makram Ali had been referred to the Foreigners' Tribunal No. 5, Goalpara for rendering an opinion as to whether he is a foreigner under the Foreigners Act, 1946, resulting in registration of F.T. Case No. F.T/5/106/MA/2016. The Tribunal rendered an opinion dated 23.07.2017 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding the petitioner relies upon the voters' list of 1970 of

village Kadamtola Nonke Police Station Baghbar in the present Barpeta district which contains the name of Mokram Ali S/O Jalil at Sl. No. 230. The petitioner claims that he himself is Mokram Ali of the 1970 voters' list of village Kadamtola Nonke. The name of Mokram Ali also appears in the subsequent voters' lists of village Kadamtola Nonke. It is stated that the petitioner had migrated to another village Maudpur in the Goalpara district which in fact is the village of his father-in-law and the notice was accordingly served at his present address at village Mamudpur (Santipur Nigam).

5. Although certain other evidences were rendered by the petitioner before the Tribunal and the Tribunal found that the evidences of DW2 and DW3 are not coupled with the said documents rendered by the petitioner but the core question as to whether the petitioner Mokram Ali and Mokram Ali of the 1970 voters' list of village Kadamtola Nonke are one and the same person had not been decided by the Tribunal.

6. For the aforesaid reasons, the matter stands remanded back to the Tribunal to give appropriate finding on the said question as to whether the petitioner Mokram Ali and Mokram Ali of the 1970 voters' list of village Kadamtola Nonke are one and the same person. The respondents in the Home Department may make their own enquiry and verification as to whether petitioner Mokram Ali and Mokram Ali of the 1970 voters' list of village Kadamtola Nonke are one and the same person and thereafter, submit a report before the Tribunal. Upon doing the needful, a reasoned order be passed by the Tribunal.

7. The petitioner to appear before the Tribunal on 11.08.2023.

8. If the order of the Tribunal is in favour of the petitioner, the same shall

prevail over the opinion dated 23.07.2017 passed in F.T. Case No. F.T/5/106/MA/2016 and if against, consequence under the law is applicable to the petitioner.

9. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant