

GAHC010149272019



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

Case No. : WP(C)/4827/2019

SURUJ MIAH
S/O- LATE SABED ALI, R/O- VILL- HATIJUJUWA, P.O- HATIJUJUWA, P.S-
JAJORI, DIST- NAGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE MIN OF HOME AFFAIRS, GOVT OF
INDIA, NEW DELHI, PIN- 110001

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

3:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GUWAHATI- 781006

4:THE DEPUTY COMMISSIONER
NAGAON
DIST- NAGAON
ASSAM
PIN- 782001

5:THE SUPERINTENDENT OF POLICE (B)
NAGAON
DIST- NAGAON
ASSAM

PIN- 782001

6:THE STATE COORDINATOR
NRC
ASSAM
P.O AND P.S- BHANGAGHAR
GUWAHATI- 781005
DIST- KAMRUP(M)
ASSA

Advocate for the Petitioner : MR. S ISLAM

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

28.06.2023

(AM Bujor Barua, J)

Heard Mr. S Islam, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for 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) Nagaon and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Nagaon.

2. The petitioner, namely, Suruj Miah was referred to the Foreigners' Tribunal 1st Nagaon for an opinion as to whether he is a foreigner within the meaning of Foreigner Act, 1946 resulting in the registration of F.T.Case No.1132/2011

wherein the Tribunal rendered an opinion dated 06.04.2019 declaring the petitioner to be a foreigner.

3. Being aggrieved this writ petition is instituted.

4. The petitioner relies upon the voters list of 1966 of village Hatijujuwa P.S. Nagaon in the Nagaon district which contains the name of Siraj Uddin son of Sabed Ali at Sl.No.379 and Jahera Banu wife of Sabed Ali at Sl.No.380, where both are shown to be residing in the same House No.84. It is claimed that Siraj Uddin is the elder brother of the petitioner and Jahera Banu is the mother of the petitioner. Similar information is also available in the voters list of 1970, 1977, 1985 of village Hatijujuwa, although the name of Siraj Uddin had been spelt in different manner in some of the voters list. But at the same time, the name of Jahera Khatun or Jahera Begum remains the same, but more importantly both are shown to be son and wife respectively of Sabed Ali. The voters list of 1997 of village Hatijujuwa contains the name of Suruj Miya son of Sabed at Sl.No.743 and that of Jahera Khatun wife of Sabed at Sl.No.745 and both are shown to be residing in the same House No.220. It is claimed that Suruj Miya of 1997 voters list of village Hatijujuwa is the petitioner himself.

5. In view of the above, the matter stands remanded back to the Tribunal to examine the voters lists of 1966, 1970, 1977, 1985 and 1997 of village Hatijujuwa.

6. The respondents in the Home Department may also make their own

verification on the aforesaid aspect and also as to whether Suruj Miya of the 1997 voters list of village Hatijujuwa and the writ petitioner proceedee Suruj Miah are one and the same person and thereafter to submit a report before the Tribunal.

7. Accordingly, the petitioner shall appear before the Tribunal on 07.08.2023.
8. The petitioner to produce the complete voters list of village Hatijujuwa for examination of the Tribunal.
9. The Tribunal upon doing the needful and after examining the voters lists as indicated above as well as the materials available 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 06.04.2019 of the Foreigners' Tribunal 1st Nagaon in F.T.Case No.1132/2011 and if it is against the petitioner, consequential action under the law shall follow.
10. Till the reasoned order is passed, no coercive action be taken against the petitioner.
11. Writ petition stands disposed of in the above terms.
12. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant