

GAHC010149802017



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

Case No. : WP(C)/7259/2017

RAHIM UDDIN
S/O- LATE KASIM SHEIKH, R/O- VILL- KATHLIJAR, P.S- HOWLY, DIST-
BARPETA, ASSAM

VERSUS

THE UNION OF INDIA and 3 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, SHASTRI BHAWAN, TILOK MARG, NEW DELHI

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE SUPERINTENDENT OF POLICE B

P.O.
P.S. and DIST. BARPETA
ASSAM

4:THE DEPUTY COMMISSIONER

BARPETA
P.O. BARPETA
ASSAM

Advocate for the Petitioner : MR.A R SIKDAR

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

25.05.2023

(A.M. Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Ms. A Verma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India and Mr. NK Das, learned counsel for the Deputy Commissioner, Barpeta.

2. The petitioner Rahim Uddin had been referred to the Foreigners Tribunal No. 10, Barpeta for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of F.T. Case No. 102/2016, wherein an opinion dated 01.09.2017 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies on the voters list of 1966 of village Kandulia, police station Baghbar, which contains the name of Karim Sheikh son of Mabu sheikh at serial No. 89 and that of Saji Bibi wife of kasim at serial No. 91 and both of them are shown to be residing in the same house No. 30 and it is claimed that Karim Shekh is the father of the petitioner and Saji Bibi is the mother. Further reference is made to the voters list of 1985 also of village Kandulia, which contains the name of Kasim Shekh son of Mabu Akand at serial No. 112 and that of A Rahim son of Kasim at serial No. 116. It is claimed that A Rahim of the 1985 voters list is the petitioner himself.

4. But it is noticed that in the voters list of 1985, the name of A Rahim son of kasim appears whereas the present petitioner is Rahim Uddin. So a question would remain that whether A Rahim and Rahim Uddin are one and the same person.

5. But, however as a claim is made, we remand the matter back to the Tribunal to examine as to whether A Rahim son of Kasim of the voters list of 1985 and Rahim Uddin, the writ petitioner are one and the same person. The petitioner will have to prove through any other reliable material that A Rahim of the 1985 voters list and Rahim Uddin the writ petitioner proceedee are one and the same person. The petitioner to also produce the complete voters of village Kandulia from the years 1966 to 1985 for examination of the Tribunal. The respondents in the Home Department may also make verification as on the aforesaid aspect as well as on the authenticity of the voters list and submit a report before the Tribunal. Upon doing the needful, the Tribunal may pass its reasoned order.

6. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 01.09.2017 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioner shall appear before the concerned Foreigners Tribunal on 22.06.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

9. Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant