

GAHC010151232017



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

Case No. : WP(C)/7488/2017

ABUL BASSA
S/O LT. CHAND MIAH @ CHONI MIAH R/O VILL- RANGADARIA, BALIJAN
P.O. ROWMARI BEEL, P.S. MIKIRBHETA, PIN - 782123 DIST. MORIGAON,
ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI.

2:THE STATE OF ASSAM
REP. BY ITS SECRETARY
GOV.T OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI -6.

3:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GUWAHATI - 781007.

4:THE DEPUTY COMMISSIONER

MORIGAON
DIST. MORIGAON
ASSAM

5:THE SUPERINTENDENT OF POLICE BORDER
MORIGAON

DIST. MORIGAON
ASSA

Advocate for the Petitioner : MR.D BARMAN

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

05.06.2023

(AM Bujor Barua, J)

Heard Mr. AM Hasan, 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, Ms. A Verma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Morigaon and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Morigaon.

2. The petitioner, Abul Bassa, was referred to the Foreigners Tribunal No.3rd Morigaon, for rendering an opinion as to whether he is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of Case No.F.T.48/2015 arising out of Reference F.T.Case No.404/2007 dated 20.07.2017 wherein an opinion dated 31.08.2017 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding, the petitioner relies upon the voters list of 1965 of village Rangadaria Gaon P.S Mikinbheta in the Nagaon district which contains the name of Chan Miah son of Abdul Mazit at Sl.No.345. The petitioner also relies upon the voters list of 1989 of village Rangadaria which contains the name of Chand Miah son of Abdul Mazit at Sl.No.551 and that of Rabia Khatun wife of Chand Miah at Sl.No.552 as well as of Abul Kasem son of Chand Miah at Sl.No.553 where all of them are shown to be residing in the same House No.166. Further reliance is placed on the voters list of 1997 of village Rangadaria containing the name of Abdul Kasem son of Chand Miah at Sl.No.599, Rabia wife of Chand Miah at Sl.No.601 and that of Abul Bassa son of Chand Miya at Sl.No.602 and all of them are shown to be residing in the same House No.308. As the name of Abul Bassa appears along with Rabia Khatun and Abul Kasem in the 1997 voters list, whereas the names of Chand Miah, Rabia Khatun and that of Abul Kasem appears together in the voters list of 1989 and that of Chand Miah in the voters list of 1965, all of village Rangadaria Gaon, the petitioner claims that he has discharged the burden under Section 9 of the Foreigners Act 1946.

5. In the circumstance, the matter stands remanded back to the Tribunal to examine the veracity and correctness of the voters list of 1965, 1989 and 1997 of village Rangadaria which on a conjoint reading of the aforesaid voters list shows the name of Chand Miah, son of Abdul Mazit, Rabia Khatun wife of Chand Miah, Abul Kasem son of Chand Miah and Abul Bassa, son of Chand Miah.

6. Accordingly, the petitioner shall appear before the Tribunal on 11.07.2023.
7. The respondents in the Home Department may make their own verification on the authenticity of the aforesaid voters list and also as to whether Abul Bassa of the 1997 voters list of village Rangadaria and the petitioner-proceedee Abul Bassa are one and the same person.
8. The Tribunal upon doing the needful and after examining the evidences and materials 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 31.08.2017 of the Foreigners Tribunal No.3rd Morigaon in Case No.F.T.48/2015 arising out of Reference F.T.Case No.404/2007 dated 20.07.2017 and if it is against the petitioner, consequential action under the law shall follow.
9. Till the reasoned order is passed, no coercive action be taken against the petitioner.
10. Writ petition stands disposed of in the above terms.
11. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant