

GAHC010154242022



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

Case No. : WP(C)/7189/2022

MD. IDRISH ALI @ IDDMAMUD
S/O- LT. ASAR @ ASAR UDDIN, R/O- VILL- LOWGAON, P.O. SALMARI, P.S.
SADAR, DIST.- NAGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWAN, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-06

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

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S.ROAD
BHANGAGARH
GHY
ASSAM
PIN- 781005

5:THE FOREIGNERS TRIBUNAL 1ST
NAGAON
DIST.- NAGAON
ASSAM
PIN- 782001

6:THE DY. COMMISSIONER
NAGAON
DIST.- NAGAON
ASSAM
PIN- 782001

7:THE SUPERINTENDENT OF POLICE (B)
NAGAON
DIST.- NAGAON
ASSAM
PIN- 782001

8:THE OFFICER-IN-CHARGE
OF SADAR P.S.
P.O. NAGAON
DIST.- NAGAON
ASSAM
PIN- 78200

Advocate for the Petitioner : MS. D GHOSH

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

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

12.05.2023

(AM Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. A.I. Ali, learned counsel for the authorities under the Election Commission of India and Mr. G. Sarma, learned Special Standing

Counsel, Foreigners Tribunal for the Home Department, Government of Assam and the Superintendent of Police (Border), Nagaon as well as the Officer-in-charge of Sadar Police Station, Nagaon and Ms. U. Das, learned Government Advocate, Assam for Deputy Commissioner, Nagaon.

2. The petitioner, Md. Idris Ali had been referred to the Foreigners Tribunal, 1st, Nagaon 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 registration of F.T. Case No.1277/12. The learned Tribunal rendered an opinion dated 11.01.2022 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding, the petitioner relies on the voters list of 1966 of village Haibargaon, Police Station Lahorighat, Mouza Bokuni in Nagaon District which contains the name of Achar Uddin, son of Umed Ali at Serial No.303 and Samed Ali, son of Achar Uddin at Serial No.305 and both of them are shown to be residing in the same House No.66. The voters list of 1997 is also relied upon which contains the information that Adul Ali is the son of Achar at Serial No.180. The petitioner relies on the entry made in the Jamabandi of a plot of land at village Haibargaon which contains reference to an order of the Circle Officer dated 25.06.1991 by which the land in the name of Achar Uddin had been mutated, amongst others, in the name of Md. Samed Ali, son of Achar Uddin as well as Idrish Ali, son of Achar Uddin. Referring to the said order of the Circle Officer, it is claimed that as the land of Achar Uddin had been mutated in favour of Samed Ali as well as Idris Ali, amongst others, and the name of Samed Ali appears along with Achar Uddin in the voters list of 1966 of village Haibargaon, the petitioner had discharged the burden under Section 9 of the Foreigners Act,

1946 that he is a citizen.

5. In view of above, the matter is remanded back to the Tribunal to examine the voters list of 1966 of village Haibargaon containing the names of Achar Uddin and Samed Ali together as well as the order of the Circle Officer 25.06.1991 by which land in village Haibargaon had been mutated in favour of Samed Ali son of Achar Uddin and Idrish Ali, son of Achar Uddin, amongst others. If land of AcharUddin had been mutated in favour of Samed Ali and Idris Ali by a common mutation order and the name of Samed Ali appears along with Achar Uddin in the voters list of 1966 of village Haibargaon, the same may be an indication that the petitioner is also the son of Achar Uddin of voters list of 1966 of village Haibargaon.

6. In that view of the matter, the Tribunal to examine the aforesaid aspect and pass a reasoned order.

7. Respondents in the Home Department, Government of Assam may also make their own verification on the authenticity of the aforesaid information as well as whether Idris Ali of the order of the Circle Officer, dated 25.06.1991 and the petitioner-proceedee are one and the same person.

8. Petitioner to produce a copy of the order of the Circle Officer dated 25.06.1991 before the Tribunal for doing the needful.

9. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 11.01.2022 rendered in F.T. Case No.1277/12 and if it goes against the petitioner, consequence as per law shall follow.

10. The petitioner shall appear before the Foreigners Tribunal, 1st, Nagaon on 27.06.2023.

11. Till the reasoned order is passed, no coercive action be taken against the petitioner.
12. The writ petition is disposed of as indicated above.
13. Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant