

GAHC010155552017



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

**Case No. : WP(C)/8128/2017**

RASIT ALI @ RASHID ALI SK @ RASHID ALI  
S/O. SEBAR ALI SK, VILL. PUB-RATIADAHA, P.S. GOLAKGANJ, DIST.  
DHUBRI, ASSAM.

VERSUS

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

2:THE STATE OF ASSAM  
THROUGH THE SECRETARY TO THE GOVT. OF ASSAM  
HOME DEPTT.  
DISPUR  
GHY.-781006.

3:THE DY. COMMISSIONER

DHUBRI  
P.O. and P.S. DHUBRI  
DIST. DHUBRI  
ASSAM  
PIN-783301.

4:THE SUPDT. OF POLICE B

DHUBRI  
P.O. and P.S. DHUBRI  
DIST. DHUBRI  
ASSAM  
PIN-783301.

5:THE OFFICER IN CHARGE

GOLAKGANJ POLICE STATION  
P.O. GOLAKGANJ  
DIST. DHUBRI  
ASSAM  
PIN-783334

**Advocate for the Petitioner** : MR.M AHMED

**Advocate for the Respondent** : GA, ASSAM

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

**ORDER**

**Date : 08.05.2023**

**(A.M. Bujor Barua, J)**

Heard Ms. D. Ghosh, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondent No. 1 being the Union of India. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 4 and 5, being the authorities in the Home Department and Ms. U. Das, learned counsel for the respondent No. 3, being the Deputy Commissioner, Dhubri.

2. The petitioner Rasit Ali @ Rashid Ali Sk @ Rashid Ali was referred to the Foreigners' Tribunal No. 8, Dhubri for rendering an opinion as to whether he is a person who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly F.T. Case No. 8/153/GKJ/2015 was registered which was earlier registered as F.T. Case No. 4030/GKJ/2011. The Tribunal rendered its opinion dated 29.09.2016 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

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

village Pub Ratiadaha in the Dhubri district which contains the name of Sebar Ali Sheikh son of Aher Sheikh at Sl. No. 114. The petitioner also relies upon the voters' list of 2009 of village Pub Ratiadaha in the Dhubri district which contains the name of Sebar Ali Sheikh son of Aher Ali at Sl. No. 164 and that of Rashit Ali Sheikh son of Sebar Ali Sheikh at Sl. No. 166 and both are shown to be residing in the same house No. 48. Accordingly, the petitioner claims that he has discharged the burden under Section 9 of the Foreigners Act, 1946 that he is an Indian citizen.

4. However, question would remain as to whether Sebar Ali Sheikh son of Aher Sheikh of the voters' list of 1970 of village Pub Ratiadaha and Sebar Ali Sheikh son of Aher Ali of the voters' list of 2009 of village Pub Ratiadaha are one and the same person. If the answer would be that they are one and the same person, the petitioner may have established that he is an Indian citizen inasmuch as, his name appears along with Saber Ali Sheikh son of Aher Ali in the voters' list of 2009 of village Pub Ratiadaha.

5. Accordingly to make an appropriate determination, we remand the matter back to the Foreigners' Tribunal No. 8, Dhubri to examine as to whether the voters' list of 1970 of village Pub Ratiadaha containing the name of Sebar Ali Sheikh son of Aher Sheikh and the voters' list of 2009 of village Pub Ratiadaha containing the names of Sebar Ali Sheikh son of Aher Ali and Rashit Ali Sheikh son of Sebar Ali Sheikh do establish that the petitioner is an Indian citizen. The State respondents in the Home Department of the Government of Assam through the Superintendent of Police(B), Dhubri may also make their own verification on the authenticity of the aforesaid information as well as to whether Rashit Ali Sheikh of the voters' list of 2009 of village Pub Ratiadaha and the petitioner Rasit Ali @ Rashid Ali Sk @ Rashid Ali are one and the same

person. Upon doing the needful, the Tribunal to pass a reasoned order. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 29.09.2016 in F.T. Case No. 8/153/GKJ/2015 which was earlier registered as F.T. Case No. 4030/GKJ/2011 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 14.06.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

**J U D G E**

**J U D G E**

**Comparing Assistant**