

GAHC010159622018



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

Case No. : WP(C)/4874/2018

SAHID ALI @ MD. SAHID ALI
S/O. KURPAN ALI @ KURPAN ALI MIYA @ MD. KURBAN ALI @ MD.
KURBAN ALI MIYA, VILL. BORKALIA GOLADIGI, P.S. FAKIRGANJ, DIST.
DHUBRI (AT PRESENT SOUTH SALMARA MANKACHAR).

VERSUS

THE UNION OF INDIA AND 5 ORS.
TO BE REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
DEPTT. OF (HOME AFFAIRS), NEW DELHI, INDIA. PIN 110001

2:THE STATE OF ASSAM
TO BE REP. BY THE SECRETARY
TO THE GOVT. OF ASSAM
DEPTT. OF HOME
DISPUR
GUWAHATI-6.

3:THE SUPERINTENDENT OF POLICE (B)

KAMRUP(M)
GUWAHATI
ASSAM.

4:THE DEPUTY COMMISSIONER OF POLICE (B) (D.C.P. FOR SHORT)

KAMRUP(M)
GUWAHATI-6.

5:THE ELECTION COMMISSION OF INDIA
TO BE REP. BY THE CHIEF ELECTION COMMISSION OF INDIA
NIRVACHAN ASHOKA ROAD

NEW DELHI
INDIA. 110001

6:THE NATIONAL REGISTER OF CITIZEN
TO BE REP. BY THE STATE CO-ORDINATOR
ASYUT PLAZA
BHANGAGARH
KAMRUP(M)
ASSAM. PIN 78100

Advocate for the Petitioner : MR. L R MAZUMDER

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

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

ORDER

16.05.2023

(AM Bujor Barua, J)

Heard Mr. AZ Ahmed, 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. AI Ali, learned counsel for the authorities under the Election Commission of India and Mr. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, the Deputy Commissioner of Police (B) Kamrup (M) as well as the Superintendent of Police (B) Kamrup (M).

2. The petitioner, namely, Sahid Ali @ Md. Sahid Ali was referred to the Foreigners Tribunal 4th Kamrup(M) Assam 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 F.T. Case No.FT(G-4)371/16 wherein an opinion dated 29.06.2018 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. The petitioner relies upon the voters list of 1966 of village Barkalia Goladigi which contains the name of Kurban Ali Miah son of Mohammad Munshi at Sl.No.342. Reliance is also placed on the voters list of 1989 of village Barkalia Goladigi which contains the name of Kurban Ali son of Mohammad at Sl.No.250 and that of Aymona Khatun wife of Kurban at Sl.No.251 along with Sahid Ali son of Kurban at Sl.No.252 and all the three are shown to be residing in the same House No.281. It is claimed that Sahid Ali, son of Kurban of the 1989 voters list of village Barkalia Goladigi is the writ petitioner/proceedee himself. If Sahid Ali, son of Kurban of 1989 voters list of village Barkalia Goladigi and the writ petitioner/proceedee Sahid Ali @ Md. Sahid Ali are one and the same person, the petitioner may have discharged the burden under Section 9 of the Foreigners Act 1946 to prove that he is a citizen of India.

5. Accordingly, the matter stands remanded back to the Tribunal to examine as to whether Sahid Ali, son of Kurban of 1989 voters list of village Barkalia Goladigi and the writ petitioner/proceedee Sahid Ali @ Md. Sahid Ali are one and the same person.

6. The respondents in the Home Department may also make their own verification on the aforesaid question as to whether Sahid Ali, son of Kurban of 1989 voters list of village Barkalia Goladigi and the writ petitioner/proceedee Sahid Ali @ Md. Sahid Ali are one and the same person and submit a report before the Tribunal, if so advised.

7. Accordingly, the petitioner shall appear before the Tribunal on 30.06.2023.

8. The petitioner may also produce the complete voters list of the years 1966 to 1989 of village Barkalia Goladigi to establish his case.

9. 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 29.06.2018 of the Foreigners Tribunal 4th Kamrup(M) Assam in F.T. Case No.FT(G-4)371/16 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