

GAHC010162162018



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

**Case No. : WP(C)/5040/2018**

ABDUL KHALEQUE @ ABDUL KHALEK  
S/O LT. ALIMUDDIN  
VILL- BORTHAL DOLOI GAON  
P.S. MOIRABARI  
DIST. MORIGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS.  
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME  
AFFAIRS, NEW DELHI-110001.

2:THE STATE OF ASSAM

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
HOME DEPARTMENT

DISPUR  
GUWAHATI-6.

3:THE ELECTION COMMISSION OF INDIA

NEW DELHI.

4:THE STATE COORDINATOR

NRC ASSAM  
ACHYUT PLAZA  
BHANGAGARH  
GUWAHATI -5.

5:THE STANDING COUNSEL

SPECIAL F.T. AND BODER.

6:THE DEPUTY COMMISSIONER

MORIGAON  
ASSAM

782105.

7:THE SUPERINTENDENT OF POLICE (B)

MORIGAON  
ASSAM- 782105.

8:THE O/C  
MOIRABARI POLICE STATION

MORIGAON-782126

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

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

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

**ORDER**

**Date : 21.02.2023**  
**(A.M. Bujor Barua, J)**

Heard Ms. A. Hussain, learned counsel for the petitioner and Mr. K.K. Parashar, learned CGC for the respondents No. 1 and 4, being the Union of India and the State Co-ordinator of NRC. Also heard Mr. J. Payeng, learned counsel for the respondents No. 2, 5, 7 and 8, being the authorities in the Home Department; Mr. A.I. Ali, learned counsel for the respondent No. 3, being the Election Commission of India and Ms. M. Dutta, learned counsel for the respondent No. 6, being the Deputy Commissioner, Morigaon.

2. The petitioner Abdul Khaleque @ Abdul Khalek was referred to the Foreigners' Tribunal No. 5, Morigaon for an opinion as to whether he is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971 and accordingly Case No. F.T.(D) 906/2017 was registered. The petitioner refers to the voters' list of 1965 of village Borthol Doloi Gaon, P.S. Lahorighat, Dist. Nagaon wherein at Sl. No. 362 the name of A. Nobi son of Palu and at Sl. No. 365 the name of Alimuddin son of Pulu appear. The petitioner claims that Alimuddin son of Palu of the voters' list of 1965 of village Borthol Doloi Gaon is his father.

3. To substantiate the aforesaid claim, the petitioner refers to the jamabandi of village Borthol Doloi Gaon which refers to the order of the Circle Officer dated 30.05.2017 by which, amongst others, the name of Abdul Khaleque son of Alimuddin had been mutated in place of Alimuddin. As the petitioner had inherited the property of Alimuddin son of Palu of village Borthol Doloi Gaon whose name appears in the voters' list of 1965 of the same village, the petitioner prima facie may have established that he is not a person who entered the State of Assam subsequent to 25.03.1971.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 5, Morigaon to examine the implication of the voters' list of 1965 of village Borthol Doloi Gaon, P.S. Lahorighat, Dist. Nagaon which contains the name of Alimuddin son of Pulu at Sl. No. 365 and the jamabandi in respect of village Borthol Doloi Gaon wherein reference is made to the order of the Circle Officer dated 30.05.2017 by which the name of the petitioner Abdul Khaleque son of Alimuddin was mutated in place of Alimuddin. The petitioner to appear before the Tribunal on 31.03.2023. The petitioner to also produce a certified copy of the order of the Circle Officer dated 30.05.2017 regarding the mutation.

Upon examining the aforesaid materials, 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 30.06.2018 in Case No. F.T.(D) 906/2017 and if it is against the petitioner, consequences under law shall follow. 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**