

GAHC010162632019



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

Case No. : WP(C)/4889/2019

ABDUL KAYUM
S/O. ABDUL MANNAN, VILL. JARANIGAON, P.S. AND P.O. LANKA, DIST.
HOJAI, ASSAM, PIN-782446.

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, NEW DELHI-01.

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTORAL OFFICER
ASSAM
DISPUR
GUWAHATI-06.

3:THE REGISTRAR GENERAL OF INDIA
REP. BY THE STATE COORDINATOR
NRC (NATIONAL REGISTER OF CITIZENS)
ASSAM
ULUBARI
GUWAHATI-05.

4:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY.
HOME DEPTT.
DISPUR
GUWAHATI-06
ASSAM.

5:THE DY. COMMISSIONER

HOJAI
DIST. HOJAI
ASSAM
PIN-782442.

6:THE FOREIGNERS REGISTRATION OFFICER

IN THE DISTRICT OF HOJAI
DIST. HOJAI
ASSAM
PIN-78442.

7:THE SUPDT. OF POLICE (B)
IN THE DIST. OF HOJAI
DIST. HOJAI
ASSAM
PIN-78442.

8:THE OFFICER IN CHARGE

LANKA POLICE STATION
DIST. HOJAI
ASSAM
PIN-782446

Advocate for the Petitioner : ALHAJJ INAM UDDIN

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

Linked Case : WP(C)/5057/2019

ABU BAKKAR @ ABUBAKKAR SIDDIQUE
S/O ABDUL MANNAN
R/O VILL-JARANIGAON
P.S. AND P.O.-LANKA
DIST-HOJAI
ASSAM
PIN-782446

VERSUS

THE UNION OF INDIA AND 7 ORS.

REPRESENTED BY THE SECRETARY
MINISTRY OF HOME AFFAIRS
NEW DELHI-1

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTORAL OFFICER
ASSAM
DISPUR
GUWAHATI-6

3:THE REGISTRAR GENERAL OF INDIA
REPRESENTED BY THE STATE COORDINATOR
NRC (NATIONAL REGISTER OF CITIZENS)
ASSAM
ULUBARI
GUWAHATI-5

4:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY
HOME DEPARTMENT
DISPUR
GUWAHATI-6
ASSAM

5:THE DEPUTY COMMISSIONER
HOJAI
DIST-HOJAI
ASSAM
PIN-782442

6:THE FOREIGNERS REGISTRATION OFFICER
HOJAI
DIST-HOJAI
ASSAM
PIN-78442

7:THE SUPERINTENDENT OF POLICE (BORDER)
HOJAI
DIST-HOJAI
ASSAM
PIN-78442

8:THE OFFICER-IN-CHARGE
LANKA POLICE STATION
DIST-HOJAI
ASSAM
PIN-782446

Advocate for : ALHAJJ INAM UDDIN
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 7 ORS.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 23.08.2023

(A.M. Bujor Barua, J)

Heard Mr. A.I. Uddin, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 3, being the Union of India and the State Co-ordinator of NRC, respectively. Also heard Mr. T. Pegu, learned counsel for the respondent No. 2, being the authorities in the Election Commission of India; Mr. G. Sarma, learned counsel for the respondents No. 4, 6, 7 and 8, being the authorities in the Home Department and Mr. P. Sarma, learned counsel for the respondent No. 5, being the Deputy Commissioner, Hojai.

2. The writ petitions WP(C) No. 4889/2019 and WP(C) No. 5057/2019 are instituted respectively by Abdul Kayum son of Abdul Mannan of village Jarani Gaon and Abubakkar Siddique son of Abdul Mannan of village Jarani Gaon being aggrieved by an opinion dated 13.02.2019 in F.T./L/Case No. 934/2016 in respect of Md. Abdul Kayum and in F.T./L/Case No. 933/2016 in respect of Md. Abubakkar Siddique passed by the Foreigners' Tribunal, Nagaon at Lanka, Hojai by which both of them were declared to be foreigners.

3. When two references are instituted against two different persons although there may be a perception that they are brothers and sons of the same father, it is always safe to pass separate opinions as because passing of a common opinion also preceded by a presumption that they are in fact sons of the same person which again requires a determination.

4. In view of the above, the opinion dated 13.02.2019 in F.T./L/Case No.

934/2016 and F.T./L/Case No. 933/2016 are set aside and the matter is remanded back to the Tribunal to pass individual opinions in respect of Md. Abdul Kayuam in F.T./L/Case No. 934/2016 and Md. Abubakkar Siddique in F.T./L/Case No. 933/2016. Both petitioners to appear before the Tribunal on 20.09.2023. The petitioners may produce any relevant material before the Tribunal, if so advised and the Tribunal to pass reasoned individual orders in respect of them. Till the reasoned orders are passed, no coercive action be taken against the petitioners.

5. We are however clarifying that we have not observed anything on merit on the claim of the petitioners and have merely remanded back the matter on a technical issue.

Writ petitions stand disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant