

GAHC010170582020



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

Case No. : WP(C)/5041/2020

OMAR ALI @ OMAR UDDIN
S/O. LT. NAZIM UDDIN, VILL. BHUKUWAMARI PAM, P.S. BHURAGAON,
DIST. MORIGAON, ASSAM, PIN-782127.

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI-110001.

2:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-781006.

3:THE DY. COMMISSIONER

MORIGAON
DIST. MORIGAON
ASSAM
PIN-782105.

4:THE SUPDT. OF POLICE (B)

MORIGAON
ASSAM
PIN-782105.

5:THE ELECTION COMMISSION OF INDIA

NEW DELHI

110001.

6:THE STATE COORDINATOR

NATIONAL REGISTER OF CITIZENS (NRC)
BANGAGARH
GHY.-781032

Advocate for the Petitioner : MR H R A CHOUDHURY

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

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

ORDER

Date : 27.03.2023
(AM Bujor Barua, J)

Heard Mr. P Ghosh, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 6 being the authorities under the Union of India and NRC, respectively, Mr. G Sarma, learned counsel for the respondents no. 2 and 4 being the authorities under the Home Department of the Government of Assam, Ms. K Phukan, learned counsel for the respondent no. 3 being the Deputy Commissioner, Morigaon and Mr. T Pegu, learned counsel for the respondent no. 5 being the Election Commission of India.

2. The petitioner Omar Ali @ Omar Uddin had been referred to the Foreigners' Tribunal No. 2, Morigaon for rendering an opinion as to whether he is a person who entered the State of Assam on or after 25.03.1971 from the specified territory resulting in registration of Case No. F.T.(C) 679/12. An opinion dated 28.08.2020 was rendered 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 1971 of village Bhakuamari Pam PS Laharighat Mouza Burahgaon of Nagaon district which contains the name of Md. Najimuddin, S/O Nashiruddin at Sl. No. 421. The petitioner also relies upon the voters' list of 1989 of village Bhakuamari Pam PS Laharighat Mouza Bhuragaon of Nagaon district which contains the name of Najimuddin, S/O Najiruddin at Sl. No. 341 and that of Omar Ali, S/O Najimuddin at Sl. No. 343 and both are shown to be residing at the same house No. 73. Accordingly, the petitioner seeks to establish that he is a citizen of India.
5. A conjoint reading of the voters' lists of 1971 and 1989 both of village Bhakuamari Pam PS Laharighat Mouza Bhuragaon of Nagaon district makes it discernable that the name of Najimuddin, S/O Najiruddin appears in the voters' list of 1971 and the name of Najimuddin, S/O Najiruddin and that of Omar Ali, S/O Najimuddin appear in the voters' list of 1989 of the same village and both are shown to be residing in the same house.
6. The said material is itself a good indication that the petitioner is the son of Najimuddin whose name appears in the 1971 voters' list of village Bhakuamari Pam. Further a school certificate issued by the Headmaster of Phalihamari Pam MV School is also relied upon which contains the name of Omar Ali and that Omar Ali is the son of Nazim Uddin of village Bhakuamari. A copy of the citha of 1950 is also available on record which shows that Najumuddin is the son of Nasiruddin of village Bhakuwamari.
7. All the aforesaid materials are sufficient in view of the Court for declaring the petitioner to be a citizen of India and accordingly, the petitioner is declared to be a citizen and he shall be entitled to all the rights as a citizen as may be

admissible under the law

8. Send back the LCR.

Writ petition stands allowed in the above terms.

JUDGE

JUDGE

Comparing Assistant