

GAHC010176032016



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

Case No. : WP(C)/7586/2016

TAJ UDDIN JAIGIRDAR
S/O. LT. ATAUR RAHMAN JAGIRDAR, VILL. SAIDKANI, P.O. MULLAGANJ
BAZAR, P.S. PATHARKANDI, DIST. KARIMGANJ, ASSAM.

VERSUS

THE UNION OF INDIA and 4 ORS
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, NEW DELHI-1.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

3:THE DEPUTY COMMISSIONER
KARIMGANJ

P.S. and DIST. KARIMGANJ.

4:THE SUPERINTENDENT OF POLICE B
KARIMGANJ

DIST. KARIMGANJ
ASSAM.

5:THE OFFICER-INCHARGE
PATHERKANDI POLICE STATION

DIST. KARIMGANJ
ASSAM

Advocate for the Petitioner : MR.H R CHOUDHURY

Advocate for the Respondent :

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

ORDER

Date : 31.03.2023

(A.M. Bujor Barua, J)

Heard Mr. H.R. Choudhury, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1, being the Union of India. Also heard Ms. A. Verma, learned counsel for the respondents No. 2, 4 and 5, being the authorities in the Home Department and Ms. M. Dutta, learned counsel for the respondent No. 3, being the Deputy Commissioner, Karimganj.

2. The petitioner Taj Uddin Jaigirdar was referred to the Foreigners' Tribunal No. 1, Karimganj 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. 946/09 was registered. The Tribunal rendered its opinion dated 14.03.2013 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 1966 of village Saidkhani, P.S. Patharkandi in the Karimganj district wherein at Sl. No. 210 the name of Ataur Rahman Jaigirdar son of Nisar Ali Jaigirdar appears. The petitioner also relies upon a transfer/leaving certificate issued by the Headmaster of Idgah High School, P.O. Mullaganj Bazar in the Karimganj district which contains the information that Taj Uddin Jaigirdar is the son of late Ataur

Rahman Jaigirdar who is an inhabitant of village Saidkhani, P.O. Mullaganj Bazar in the Karimganj district.

4. If the information contained in the school certificate as well as the voters' list of 1966 is correct, the petitioner prima facie may have established that he is a citizen of India.

5. In the circumstance, we remand the matter back to the Foreigners' Tribunal No. 1, Karimganj to examine the voters' list of 1966 of village Saidkhani containing the name of Aatur Rahman Jaigirdar as well as the school certificate containing the information that Taj Uddin Jaigirdar is the son of late Aatur Rahman Jaigirdar of village Saidkhani. As required under the law, the Headmaster of Idgah High School be examined before the Tribunal along with the school records which may contain the information that Taj Uddin Jaigirdar is the son of late Aatur Rahman Jaigirdar of village Saidkhani. The petitioner to also produce the complete the voters' list of 1966 of village Saidkhani before the Tribunal. Upon such examination, 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 14.03.2013 in F.T. Case No. 946/09 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 10.05.2023. 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.

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Comparing Assistant