

GAHC010176992020



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

Case No. : WP(C)/5238/2020

MD. RUSTOM ALI
S/O- LT. ABBAS ALI, R/O- VILL- KUPATIMARI, P.S. BHURAGAON, PIN-
782121, DIST.- MORIGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS,
NEW DELHI- 110001

2:THE CHIEF ELECTION COMMISSIONER OF INDIA
ASHOK ROAD
NEW DELHI- 110001

3:THE STATE OF ASSAM
REP. BY ITS SECY.
GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

4:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GHY-07

5:THE STATE COORDINATOR
OFFICE OF THE STATE COORDINATOR OF NATIONAL REGISTER OF
CITIZENS (NRC)
ASSAM
1ST FLOOR
ACHYUT PLAZA

GS ROAD
BHANGAGARH
GHY-05

6:THE DY. COMMISSIONER
MORIGAON
DIST.- MARIGAON
ASSAM
PIN- 782104

7:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
DIST.- MARIGAON
ASSAM
PIN- 78210

Advocate for the Petitioner : MR. K M HASSAN

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 26.06.2023
(A.M. Bujor Barua, J)

Heard Mr. K.M. Hassan, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 5, being the Union of India and the State Co-ordinator of NRC, respectively. Also heard Mr. A.I. Ali, 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. 3, 4 and 7, being the authorities in the Home Department and Ms. U. Das, learned counsel for the respondent No. 6, being the Deputy Commissioner, Morigaon.

2. The petitioner Md. Rustom Ali was referred to the Foreigners' Tribunal No. 2, Morigaon for rendering an opinion as to whether he is a foreigner under the

Foreigners Act, 1946 and accordingly Case No. F.T.1274/12 was registered. The Tribunal had rendered its opinion dated 31.08.2020 by arriving at its conclusion that the petitioner is a foreigner under the Foreigners Act, 1946. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village Kupatimari, PS Laharighat in the Nagaon district which contains the name of A. Abbas Ali son of Mamud Sheikh at Sl. No. 539. It is claimed that A. Abbas Ali is the father of the petitioner. The name of A. Abbas Ali son of Mamud also appears at Sl. No. 564 of the voters' list of 1970 of village Kuratimari along with Malesa Khatun wife of Abbas at Sl. No. 565 and both are shown to be residing in the same house No. 122. Further reliance is also placed upon the voters' list of 1970 village Kuratimari, PS Laharighat in the Nagaon district which contains the name of Rustam Ali son of Abbas at Sl. No. 515. It is claimed that Rustam Ali of the voters' list of 1970 of village Kuratimari is the petitioner himself.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 2, Morigaon to examine the aforesaid voters' lists of 1966 and 1970 of village Kuratimari in the Nagaon district. The State respondents in the Home Department may also make their own verification as to whether Rustam Ali of the voters' list of 1970 of village Kuratimari and the petitioner proceedee are one and the same person as well as any further verification and thereafter submit a report before the Tribunal.

5. Upon doing the needful, 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 31.08.2020 in Case No. F.T.1274/12 and if it is against the petitioner, consequences under law shall follow. The petitioner to

appear before the Tribunal on 01.08.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

J U D G E

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Comparing Assistant