

GAHC010178382018



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

Case No. : WP(C)/5704/2018

TALEP ALI @ TALEB ALI
SON OF LATE KOYSER ALI SHEIKH, RESIDENT OF VILLAGE-
KISMATHHASDAHA PART-II, POLICE STATION- DHUBRI, DISTRICT-
DHUBRI, ASSAM, PIN- 783334

VERSUS

THE UNION OF INDIA AND 9 ORS.
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, GOVERNMENT
OF INDIA, SHASTRI BHAWAN, NEW DELHI-1.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI- 781006.

3:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001.

4:THE STATE COORDINATOR

NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S. ROAD
BHANGAGARH
GUWAHATI

ASSAM
PIN- 781005.

5:THE FOREIGNERS TRIBUNAL KAMRUP (METRO) NO. 2

AT GUWAHATI
HEDAYATPUR
GUWAHATI-03
DISTRICT- KAMRUP(METRO)
ASSAM.

6:THE DEPUTY COMMISSIONER
DHUBRI
POST OFFICE AND POLICE STATION- DHUBRI
DISTRICT- DHUBRI
ASSAM
PIN- 783301.

7:THE DEPUTY COMMISSIONER OF POLICE (B)
CITY GUWAHATI
KAMRUP(METRO)
ASSAM
PIN- 781001.

8:THE SR. SUPERINTENDENT OF POLICE (B)
CITY GUWAHATI

KAMRUP(METRO)
ASSAM
PIN- 781001.

9:THE SUPERINTENDENT OF POLICE (B)
DHUBRI
POST OFFICE AND POLICE STATION- DHUBRI
DISTRICT- DHUBRI
ASSAM
PIN- 783301.

10:THE OFFICER-IN-CHARGE OF DHUBRI POLICE STATION

POST OFFICE- DHUBRI
DISTRICT- DHUBRI
ASSAM
PIN- 783301

Advocate for the Petitioner : MS. D GHOSH

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

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

Date : 15-05-2023

JUDGMENT & ORDER (ORAL)

(AM Bujor Barua, J)

Heard Ms. D Ghosh, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Mr. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, the Deputy Commissioner of Police (B) City Guwahati, Kamrup(M), Sr. Superintendent of Police (B) City Guwahati, Kamrup(M), the Superintendent of Police (B) Dhubri as well as the Officer-in-Charge of Dhubri Police Station and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Dhubri.

2. The petitioner, namely, Talep Ali @ Taleb Ali was referred to the Foreigners Tribunal No.2 Kamrup(M) Guwahati for rendering an opinion as to whether he is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T. Case No.135/2017 wherein an opinion dated 29.06.2018 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971. In the order of the Tribunal, it has been recorded that a reference has been

made by the Sr. Superintendent of Police (B), City, Guwahati against Taleb Ali @ Talep Ali, son of Lt. Kaichar Ali @ Koyser Ali Sheikh @ Koser Ali @ Koyser of village Kismathasdaha Pt.II under Dhubri Police Station in the Dhubri district.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding, the petitioner relies upon the voters list of 1956 of village Kismat Hasdaha which contains the name of Shataru Sheikh son of Nosho at Sl.No.1505. The petitioner thereupon relies upon the voters list of 1966 of village Kismat Hasdaha Pt. II which contains the name of Koyser Ali Sheikh, son of Shataru at Sl.No.229 as well as the voters list of 1970 of village Kismat Hasdaha Pt. II which contains the name of Koyser Ali Sheikh, son of Shataru at Sl.No.232 and that of Kachuani Bibi wife of Koyser at Sl.No.233. The petitioner also relies upon the voters list of 1975 of village Kismat Hasdaha Pt. II containing the name of Koyser Ali son of Sataru at Sl.No.219 and that of Kasuani Bibi wife of Koyser at Sl.No.220. Further reliance is placed on the voters list of 1985 of village Kismat Hasdaha Pt. II which contains the name of Koyser Ali son of Sataru at Sl.No.424, Kasuani Bibi wife of Koyser at Sl.No.425 and that of Ala Uddin son of Koyser at Sl.No.426. Petitioner thereafter relies upon the voters list of 2008 of village Kismat Hasdaha Pt. II containing the name of Koyser Ali son of Nataru Sheikh at Sl.No.850, Alep Uddin son of Koyser Ali at Sl.No.851 and that of Kachuani Bibi, wife of Koyser Ali at Sl.No.853 along with Talep Ali son of Koyser Ali at Sl.No.85. The voters list of 2010 of village Kismat Hasdaha Pt. II also contains the same information.

5. We have noticed that in the voters list of 2008 and 2010 of village Kismat Hasdaha Pt. II, the father of Koyser Ali had been shown as Nataru Sheikh instead of Sataru Sheikh, whereas the name of Alim Uddin has been shown as Alep Uddin, but otherwise the entries in the voters list appears to be consistent and all the voters list are of the same village i.e. village Kismat Hasdaha Pt. II.

6. We have also perused that the reference was against Taleb Ali @ Talep Ali, son of Lt. Kaichar Ali @ Koyser Ali Sheikh @ Koser Ali @ Koyser of village Kismathasdaha Pt.II which gives an indication that the writ petitioner/proceedee Taleb Ali @ Talep Ali and the Talep Ali of the 2008 and 2010 voters list of village Kismathasdaha Pt.II are one and the same person.

7. In view of such conclusion arrived, the petitioner Taleb Ali @ Talep Ali is declared to be a citizen of India. Consequently, all such legal rights and privileges that may accrue to the petitioner Taleb Ali @ Talep Ali upon such declaration that he is a citizen of India be made available to him.

8. Writ petition, accordingly, stands allowed.

9. LCR be sent back.

JUDGE

JUDGE

Comparing Assistant