

GAHC010194902019



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

Case No. : WP(C)/6532/2019

ABDUL MAZID MAJUMDAR @ ABDUL MAJID MAZUMDAR
S/O- LATE MAHAMMAD ALI MUNCHI @ MAHAMMAD ALI @ ALI MUNCHI,
VILL- ROWTA BAGAN, P.S- UDALGURI, DIST- UDALGURI, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE MIN OF HOME AFFAIRS, NEW DELHI

2:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

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

4:THE STATE COORDINATOR
NRC
ASSAM

5:THE DEPUTY COMMISSIONER
UDALGURI
DIST- UDALGURI
ASSAM

6:THE SUPERINTENDENT OF POLICE(B)
UDALGURI
DIST- UDALGURI
ASSAM

Advocate for the Petitioner : MR H R A CHOUDHURY

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

BEFORE
HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

26.04.2023

(AM Bujor Barua, J)

Heard Mr. A. Ahmed, 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. A. Kalita, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B),Udalguri and Ms. M. Dutta, learned Government Advocate for the Deputy Commissioner, Udalguri.

2. The petitioner Md. Abdul Mazid Majumdar @ Abdul Majid Mazumdar was referred to the Foreigners Tribunal No.2, Darrang, Mangaldai 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 registration of F.T. 2nd Case No.12122/2011 (Ref F.T. Case No.300/2007). The learned Tribunal rendered an opinion dated 15.05.2019 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 1961 of village Rowta Bagan which contains the name of Mahammad Ali Munchi, son of

Miyaruddin at Serial No.115 and that of Bella Bibi, wife of Mahammad Ali at Serial No.116. The voters list of 1965 of village Rowta Bagan is also referred which also contains the name of Md. Ali Munchiat Serial No.141. The petitioner also relies on the voters list of 1997 of village Rowta Bagan which contains the name of Md. Ali Munchi, Son of Miaruddin at Serial No.833 and that of Md. Majid Majumdar, son of Md. Ali Munchi at Serial No.840. It is stated that Md. Majid Majumdar of the voters list of 1997 is actually the petitioner Abdul Mazid Mazumdar. Reliance is also placed in the school certificate issued by the Principal of Danda Saharia Higher Secondary School at Rowta Chariali which contains the information that Abdul Mazid Mazumdar is the son of Mahammad Ali who is an inhabitant of village Rowta Bagan. The information contained in the voters lists of 1961 and 1965 of village Rowta Bagan as well as the voters list of 1997 also of village Rowta Bagan, may be an indication that the petitioner by virtue of his claim that Mahammad Ali Munchi referred in the voters list of 1961 of village Rowta Bagan is his father, had discharged his burden under Section 9 of the Foreigners Act, 1946. The information contained in the school certificate is also an indication that the petitioner may be son of Mahammad Ali of Rowta Bagan who, in fact, may be Mahammad Ali Munchi referred in the voters list of 1961.

5. In view of above, the matter is remanded to the Tribunal to examine the aforesaid aspect as to whether the name of the father of Abdul Mazid Mazumdar indicated in the school certificate as Mahammad Ali and Mahammad Ali Munchi referred in the voters list of 1961 of village Rowta Bagan are one and the same person and also whether Md. Majid Majumdar referred in the voters list of 1997 of village Rowta Bagan and Md. Abdul Mazid Mazumdar, the writ petitioner, are one and the same person.

6. The aforesaid aspect may also be verified by the authorities under the Superintendent of Police (Border) Darrang and submit the report to the Tribunal.
7. Upon undertaking the aforesaid exercise, a reasoned order may be passed by the Tribunal.
8. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 15.05.2019 and if it goes against the petitioner, consequence as per law shall follow.
9. The petitioner shall appear before the Foreigners Tribunal 2nd, Darrang, Mangaldai on 09.06.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.
10. The writ petition is disposed of as indicated above.
11. Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant