

GAHC010196422017



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

Case No. : WP(C)/2953/2017

SAHED ALI SK @ SAHID ALI SK
S/O- LATE ESAMUDDIN SK @ ESBUDDIN SK, VILL- JHALER ALGA PT-I,
P.O- SOUTH GERAMARI, P.S- GOURIPUR, DIST- DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.
REPRESENTED BY THE SECY. TO THE GOVT OF INDIA, MINISTRY OF
HOME AFFAIRS, NEW DELHI

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT
OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

3:THE SUPERINTENDENT OF POLICE
DHUBRI

4:THE DEPUTY COMMISSIONER
DHUBRI

5:THE OFFICER-IN-CHARGE
GOURIPUR POLICE STATION
DIST- DHUBRI

6:THE CHIEF ELECTION COMMISSIONER OF INDIA
THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

7:THE ELECTORAL REGISTRATION OFFICER
24 NO. GOURIPUR LEGISLATIVE ASSEMBLY CONSTITUENCY
DHUBR

Advocate for the Petitioner : MS.S DAS

Advocate for the Respondent :

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

20.03.2023

[A.M.Bujor Barua,j.]

Heard Mr. F.U. Borbhuiya, learned counsel for the petitioner; Ms. P. Swargiary, learned Counsel for the respondent no. 1; Mr. G. Sarma, learned Counsel for the respondent nos. 2, 3 and 5; and Ms. K. Phukan, learned Counsel for the respondent no. 4.

2. The petitioner, Sahed Ali SK @ Sahid Ali SK had been referred to the Foreigners Tribunal No. 4, Dhubri for rendering an opinion as to whether he is person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of FT Case No. 4/296/GPR/16. The Tribunal rendered an opinion dated 12.04.2017 by declaring the petitioner to be a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of village 130 Jhaler Alga Part 1, P.S. Dhubri, district Dhubri of 1966 which contains the name of Esabuddin SK, son of Fazir at serial no. 190 and that of Samarthaban Bibi wife of Eshabuddin at serial no. 191. The petitioner claims that Eshabuddin is his father and Samarthaban Bibi is his mother. The petitioner also relies upon the voters' list of 1989 of the same village 130 Jhaler Alga Part 1, P.S. Dhubri, district Dhubri which contains the name of Esamuddin SK son of Fazi at serial no. 462 and that of Sahed Ali SK son of Esamuddin at serial no. 464 and also that of Samarthaban Bibi wife of Esamuddin at serial no. 463.

4. We have taken note that Esamuddin SK and Sahed Ali reside in the house no. 148. If the information contained in the two voters' lists of 1966 and 1989 is correct, prima-facie, the petitioner may have established that he is the son of Esabuddin SK whose name appears in the voters list of 1966 of village 130 Jhaler Alga Part 1.

5. In view of the above, we remand the matter back to the Tribunal to examine the aforesaid aspect and thereupon pass a reasoned order. Before the Tribunal the petitioner to produce the complete voters' list of village 130 Jhaler Alga Part 1 from 1966 to 1989. If the reasoned order to be passed is in favour of the petitioner, the same prevail over the earlier opinion dated 12.04.2017 and if the same is against the petitioner, consequence as per law shall follow. The Tribunal to also consider the authenticity and correctness of the Voters' Lists that may be produced.

6. The petitioner shall appear before the Foreigners Tribunal, No.4, Dhubri on 02.05.2023. Till such reasoned order is passed, no coercive action be taken against the petitioner.

7. The writ petition is allowed to the extent as indicated above.

8. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant