

GAHC010197922018



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

Case No. : WP(C)/6173/2018

MULLUK CHAN MIA @ MULLUK CHAN
S/O- LT RAHMAT ALI @ RAKMAT ALI, VILL- ABRARBHITA, P.O.
BALARBHITA, P.S. BAGUAN, DIST- GOALPARA, ASSAM, PIN- 783129

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI-110001

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE DY. COMMISSIONER
GOALPARA
DIST- GOALPARA
ASSAM
783101

4:THE SUPERINTENDENT OF POLICE (B)
GOALPARA
ASSAM
783101

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 110001

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
BHANGAGARH

GHY-3

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

O R D E R

10.03.2023

(A.M. Bujor Barua, J)

Heard Mr. A Matin, learned counsel for the petitioner. Also heard Mr. PS Bhattacharyya, learned CGC appearing on behalf of respondents in the Union of India, Mr. J Payeng, learned Government Advocate for the State respondents in the Home Department of Government of Assam, Mr. AI Ali, learned counsel for the Election Commission of India, Ms. L Devi, learned counsel for the authorities under the NRC and Ms. U Das, learned counsel for the Deputy Commissioner, Goalpara.

2. The petitioner Mulluk Chan Mia @ Mulluk Chan was referred to the Foreigners Tribunal No. 4, Goalpara for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory subsequent to 25.03.1971 resulting in registration of FT Case No. FT(G-4) 1085/2016. The Foreigners Tribunal by the opinion dated 29.05.2018 opined that the petitioner is a foreigner who entered the State of Assam subsequent to 25.03.1971. Being aggrieved, this writ petition is instituted.

3. The petitioner relies upon a voters list of 1966 of village 305 Abrarbhita, police station Lakhipur in the Goalpara district which contains the name of

Rahmat Ali son of Haran at serial No. 188 and that of Rabiya Khatun, wife of Rahmat Ali at serial No. 189. The petitioner also relies upon a voters list of village Abrarbhita of the year 1997 which contains the name of the petitioner Mulluk Chan son of Rakmat Ali at serial No. 297 and Rabiya Khatun wife of Rakmat Ali at serial No. 298. It is stated that the name Rakmat Ali referred in the voters list of 1997 is a mis-spelling and actually it ought to have been Rahmat Ali. The petitioner also refers to an Admit Card issued by the SEBA, which contains the information that Mulluk Chan Mia is the son of Rahmat Ali. But the Admit Card does not contain the name of the village of Rahmat Ali.

4. To substantiate his claim further, the petitioner may produce any further school certificate corresponding to the Admit Card of the SEBA, the evidence of the Headmaster of the school along with the school records, which may establish that the petitioner Mulluk Chan is the son of Rahmat Ali of village Abrarbhita. The petitioner to also produce all the intervening voters list of village Abrarbhita between the year 1966 and 1977 so as to establish the continuity of the names contained therein.

5. For the purpose as indicated above, we remand the matter back to the Tribunal for a fresh adjudication on the aforesaid aspect and pass a reasoned order thereon. If the reasoned order is in favour of the petitioner, the same would prevail over the earlier opinion rendered by the Foreigners Tribunal No. 4, Goalpara and if the reasoned order goes against the petitioner, consequence as per law shall follow.

6. The petitioner shall appear before the Foreigners Tribunal No. 4, Goalpara on 11.04.2023.

7. Till the reasoned order is passed by the Tribunal, no coercive action be

taken against the petitioner.

8. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant