

GAHC010199542019



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

Case No. : WP(C)/6412/2019

NURUL AMIN
S/O- HAZARAT ALI, R/O- VILL- BATABORI, P.O. TENGABORI, P.S.
LAHORIGHAT, PIN- 782127, 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-7

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

GS ROAD
BHANGAGARH
GHY-5

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 LAHKAR

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

22.05.2023

[Achintya Malla Bujor Barua, J.]

Heard Mr. K. Lahkar, learned counsel for the petitioner. Also heard Mr. K.K. Para, learned CGC, appearing for respondent No.1 as well as appearing for respondent No.5; Mr. G. Sarma, learned special counsel, FT, appearing for respondent Nos.3, 4 and 7; Mr. A.I. Ali, learned standing counsel, ECI, appearing for respondent No.2 and Ms. U. Das, learned Addl. Senior Government Advocate, Assam, appearing for respondent No.6.

2. The petitioner Nurul Amin had been referred to the Foreigners' Tribunal 2nd, Morigaon, for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971, which resulted in registration of Case No.F.T. 14/2017. The Tribunal rendered an opinion dated 14.11.2018 declaring the

petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding before the Court, the petitioner relies upon the voters list of 1970 of village Batabori, P.S.-Lahorighat, in the Nagaon district, which contain the names of Hazarat Ali, S/O Faiz at Sl. No.48 and Mullekjan Bibi, W/O Hazarat at Sl.No.52 and both are residing in the same house No.12. Reliance is also placed of the voters list of 1997 of village Batabori, which contain the names of Hazarat Ali, S/O Faizuddin at Sl.No.809 and Nurul Amin, S/O Hazarat at Sl. No.814 and both are also shown to be resided in the same house No.31. The petitioner accordingly claims that the burden under Section 9 of the Foreigners Act, 1946 has been discharged inasmuch as the names of Nurul Amin and Hazarat Ali appeared together in the same voters list, where the name of Hazarat Ali earlier appeared in the voters list of 1966 of the same village.

4. For the purpose, the matter is remanded back to the Foreigners' Tribunal 2nd, Morigaon to examine the voters list of 1966 and 1997 of village Batabori. The petitioner to produce the complete voters list of all the intervening years between 1966 and 1997 of village Batabori for examination of the Tribunal. The respondents may also make their own verification more particularly whether Nurul Amin of the 1997 voters list and the proceedee under verification Nurul Amin are one and the same person. Upon doing the needful, the Tribunal shall pass a reasoned order. In the event, the reasoned order is passed in favour of the petitioner, the same shall prevail over the earlier opinion dated 14.11.2018 and if it is against the petitioner, consequential action shall follow.

5. The petitioner shall accordingly appear before the Tribunal on 06.07.2023. Till the reasoned order is passed, no coercive action shall be taken against the petitioner.

6. Send back the LCR immediately.

7. Writ petition stands disposed of in the above terms.

Sd/- Robin Phukan
JUDGE

Sd/- Achintya Malla Bujor Barua
JUDGE

Comparing Assistant