

GAHC010203782017



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

Case No. : WP(C)/6946/2017

MOSHIOR RAHMAN @ MASIYAR RAHMAN
S/O. AHAMMAD ALI @ AHAMMAD ALI SK., VILL. TOLLI PT-I, P.O.
AGOMONI, P.S. AGOMONI, DIST. DHUBRI, ASSAM, PIN-783335.

VERSUS

THE UNION OF INDIA and 8 ORS.
REP. BY THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW DELHI-01.

2:THE STATE OF ASSAM
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-06.

3:THE COMM. and SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.

DISPUR
GHY.-06.

4:THE DIRECTOR GENERAL OF POLICE
ASSAM

ULUBARI
GUWAHATI-05.

5:THE SUPERINTENDENT OF POLICE B
DHUBRI

ASSAM
DIST. DHUBRI

ASSAM
PIN-783301.

6:THE SUPERINTENDENT OF POLICE
DHUBRI

ASSAM
DIST. DHUBRI
ASSAM
PIN-783301.

7:THE DY. COMMISSIONER
DHUBRI

ASSAM
DIST. DHUBRI
ASSAM
PIN-783301.

8:THE OFFICER-IN-CHARGE
AGOMONI POLICE STATION

DIST. DHUBRI
ASSAM
PIN-78335.

9:THE ELECTORAL REGISTRATION OFFICER
NO. 25 GOLAKGANG LAC

DIST. DHUBRI
ASSAM PIN-783335

Advocate for the Petitioner : MSN NASRIN

Advocate for the Respondent : ASSTT.S.G.I.R. 1.

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

ORDER

Date : 26.04.2023
(AM Bujor Barua, J)

Heard Mr. MU Mondal, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondent no. 1 being the authorities under the Union of India, Mr. A Kalita, learned counsel for the respondents no. 2, 3, 4, 5, 6 and 8 being the authorities under the Home Department of the Government of Assam, Mr. M Dutta, learned counsel for the respondent no. 7 being the Deputy Commissioner, Dhubri and Mr. AI Ali, learned counsel for the respondent no. 9 being the authorities under the Election Commission of India.

2. The petitioner Masiyar Rahman, Son of Ahammad Ali of village 90 Talli part-I, Police Station Agomani had been issued a notice by the Foreigners' Tribunal No. 10, Dhubri in connection with Case No. FT(10)/AGM/540/2017 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. The Tribunal rendered an opinion/order dated 23.10.2017 declaring the petitioner to be a foreigner.

3. Being aggrieved this writ petition is instituted.

4. In the writ petition, the petitioner relies on the voters' list of 1966 of village 90 Tolli Pt I in the Dhubri district which contains the name of Ghoga, S/O Nijamuddin at Sl. No. 59 and that of Kasiran Nessa Bibi, W/O Ghoga at Sl. No. 60. The petitioner also relies on the voters' list of 1970 of village 90 Tolli Pt I which contains the name of Ghoga Sk, S/O Nizamuddin. The petitioner

thereupon relies on the voters' list of 1979 of village 90 Tolli Pt I which contains the name of Ahammad Ali, S/O Ghoga and Mariom Bibi, W/O Ahammad at Sl. No. 162 and 163. Similar voters' list of village 90 Tolli Pt I of 1989 is also referred containing the name of Ahammad Ali, S/O Joga. The petitioner further relies on the voters' list of 2005 of village 90 Tolli Pt I which contains the names of Ahammad Ali Sk, S/O Khoga Sk Ali at Sl. No. 104, Morium Bibi, W/O Ahammad Ali at Sl. No. 105 and that of Masiar Rahman, S/O Ahmmad Ali at Sl. No. 106 and the said voters' list also contains the name of other sons of Ahammad Ali.

5. The petitioner claims that as Ghoga, S/O Nijamuddin can establish his citizenship through the voters' list of 1966 and 1970 of village 90 Tolli Pt I and Ahammad Ali Sk can show that he is the son of Ghoga by relying on the voters' list of 1979 of village 90 Tolli Pt I and the voters' list of 2005 of village 90 Tolli Pt I also contains the name of Ahammad Ali Sk, S/O Khoga Sk Ali and Masiar Rahman, S/O Ahmmad Ali, we are satisfied that the petitioner had discharged the burden under Section 9 of the Foreigners' Act, 1946 that he is a citizen of India.

6. Accordingly, the petitioner Masiyar Rahman, S/O Ahammad Ali of village 90 Tolli Pt I is declared to be an Indian citizen. The petitioner shall be entitled to all the rights and liberty as may be entitled as a citizen of India.

7. The petitioner also makes a statement that Ghoga and Joga are one and the same person.

Writ petition stands allowed in the above terms.

JUDGE

JUDGE

Comparing Assistant