

GAHC010234782023



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

Case No. : I.A.(Civil)/3263/2023
in
WP(C) 1380/2023

ALI AKBOR @ ALI AKBOR MUNCHI
S/O- LATE MOHAMMAD ALI, VILL. SALABILA PT-2, P.S. MANIKPUR, DIST.
BONGAIGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, HOME
DEPARTMENT, NEW DELHI-1.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOK ROAD
NEW DELHI-110001.

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZEN
ASSAM
BHANGAGARH
GUWAHATI-05.

5:THE DEPUTY COMMISSIONER
BONGAIGAON
DIST. BONGAIGAON
ASSAM PIN- 783380.

6:THE SUPERINTENDENT OF POLICE (BORDER)
BONGAIGAON
DIST. BONGAIGAON
ASSAM
PIN- 783380.

7:THE OFFICER-IN-CHARGE
MANIKPUR POLICE STATION
DIST. BONGAIGAON
ASSAM
PIN- 783390

Advocate for the Petitioner : MR. M I HUSSAIN

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

BEFORE

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

09-11-2023

(M.R.Pathak, J)

Heard Mr. M. I. Hussain, learned counsel for the applicant and Mr. H. Gupta, learned Central Government Counsel for the opposite party No.1. Also heard Mr. G. Sarma, learned Standing Counsel, Department of Home for the opposite party Nos. 2, 6 and 7; Mr. A. I. Ali, learned Standing Counsel, Election Commission of India for the opposite party No.3 as well as Mr. P. Sarma, learned Additional Senior Government Advocate, Assam for the opposite party No.5.

2) The applicant herein as a petitioner filed the connected WP(C) No. 1380/2023 being aggrieved with the opinion dated 21.12.2022, passed by the learned Member, Foreigners' Tribunal No.1 Bongaigaon, Assam in Case No.BNGN/FT/900/09, whereby, he was declared to be a foreigner of post 25.03.1971 stream, who entered into the territory of India (Assam) from the specified territory of Bangladesh.

3) The Court after hearing the petitioner and the respondents, on verification of the case records of the concerned Foreigners' Tribunal and the Voters Lists, by order dated 14.08.2023

disposed of said WP(C) No. 13820/2023 remanding the matter back to the Tribunal concerned to examine the Voters Lists of 1966, 1970 & 1979 enabling the respondents in the Home Department to make their verification and submit the report before the concerned Tribunal as to whether Ali Akbor of the 1975 & 1979 Voters List and the writ petitioner (applicant herein) Ali Akbor @ Ali Akbor Munchi are the one and the same person with the following observation –

“7. Upon doing the needful, the Tribunal to pass a reasoned order. The petitioner to appear before the Tribunal on 18.09.2023. In the event, the reasoned order is in favour of the petitioner, the same would prevail over the order dated 21.12.2022, passed in case No. BNGN/FT/900/09 and if it is against him, consequences under the law may follow.

8. Till the reasoned order is passed, no coercive action be taken against the petitioner.”

4) Mr. Hussain, learned counsel for the applicant/petitioner submitted that the year 1975 reflected in the paragraph - 6 of the said order dated 14.08.2023 has been wrongly typed and that as 1975 Voters List was never placed before the Tribunal as well as before the Court in the connected WP(C) No. 1380/2023 and therefore, in place of 1975, the Voters List of 1966 and 1970 should be reflected.

5) Hence, this Interlocutory Application.

6) On perusal of the records of WP(C) No. 1380/2023 and on reading of the order dated 14.08.2023, we have noticed that the Court while passing the said order dated 14.08.2023 directed the respondents in the Home Department to make their verification and submit the report before the Tribunal as to whether Ali Akbor, whose name figured in the Voters List of 1975 & 1979 and the present applicant/petitioner Ali Akbor @ Ali Akbor Munchi are the one and the same person or not.

7) From the perusal of the records of WP(C) No. 1380/2023 as we have noticed that the Voters List of 1975 as was neither placed before the concerned Foreigners' Tribunal in Case No.BNGN/FT/900/09 as well as in WP(C) No. 1380/2023 the 'year 1975 &' reflected in the paragraph – 6 of the said order dated 14.08.2023 passed in WP(C) No. 1380/2023 should be deleted keeping only 1979 Voter List in the paragraph – 6 of the said order dated 14.08.2023.

8) To that extent, this Interlocutory Application stands allowed.

9) This order shall be read together with the order dated 14.08.2023, passed in the connected WP(C) No. 1380/2023.

10) This Interlocutory Application accordingly, stands disposed of.

JUDGE

JUDGE

Comparing Assistant