

GAHC010253882022



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

Case No. : WP(C)/8259/2022

ZAHED ALI
S/O- LATE RAHIMUDDIN,
R/O- VILLAGE TUBUKIJHAR,
P.O-,GHORAMARA,
P.S- TEZPUR, PIN-784001, DIST- SONITPUR, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SASTRI BHAWAN, NEW DELHI- 110001.

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

3:THE ELECTION COMMISSION OF INDIA
NEW DELHI-110001

4:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M)

5:THE DEPUTY COMMISSIONER
DIST- SONITPUR
TEZPUR
ASSAM

PIN-784001

6:THE SUPERINTENDENT OF POLICE (B)
DIST- SONITPUR
TEZPUR
PIN-784001
ASSA

Advocate for the Petitioner : MR. N BORAH

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

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

25.08.2023

(A.M. Bujor Barua, J)

Heard Mr. N. Borah, learned counsel for the petitioner. Also heard Ms. L. Devi, learned Central Government Counsel as well as Standing Counsel, NRC, for the respondent Nos. 1 & 4; Mr. G. Sarma, learned Standing Counsel, Foreigners Tribunal, for respondent Nos. 2 & 6; Mr. T. Pegu, learned Standing Counsel, Election Commission of India, for respondent No. 3. Mr. P. Sharma, learned Government Advocate, Assam, for respondent No. 5.

2. The petitioner, namely, Zahed Ali, claims that a notice was issued by the Foreigners' Tribunal No. 1, Tezpur, Sonitpur, in F.T. Case No. 3183/2012, in the name of Zabed Ali, son of late Rahimuddin of village Tupukijhar in the Sonitpur District. But a claim is made that the notice was served upon Zahed Ali, son of Rahimuddin of village Tupukijhar in the Sonitpur District. Zahed Ali accordingly appeared before the Tribunal and brought into its notice that the notice was

issued in a wrong name, but the Tribunal ignored the same and proceeded against Zahed Ali although the notice was issued against Zabed Ali. Being aggrieved, this writ petition is instituted.

3. The respondents claimed that the name of Zabed Ali appeared in the notice of the Tribunal because when the proceede was verified by the police, he had wrongly stated his name to be Zabed Ali even if may be Zahed Ali and therefore, the respondents are unwilling to change the name in the notice.

4. On the other hand, the petitioner claims prejudice inasmuch as he can prove his case only as Zahed Ali and not as Zabed ali.

5. Without going further into the rival contentions raised and as it would be indeterminable as to whether the petitioner is Zahed Ali or Zabed Ali or whether the notice was rightly issued or wrongly issued, we are of the view that the complete interest of justice of both the parties would be met if the petitioner, who is before the Court in this writ petition, whosoever he is whether he is Zahed Ali or Zabed Ali, to appear before the Tribunal on the date fixed. Upon appearing before the Tribunal, the petitioner will declare as to what is his name, his father's name and complete address and if the authorities intend to proceed against the present petitioner, the Tribunal to issue a fresh notice to the petitioner in the correct form of the name what he states before the Tribunal and the petitioner as would be personally appearing before the Tribunal would accept the notice in the Tribunal itself and that will make the service of notice to be complete. Thereafter the petitioner will discharge the burden under Section 9 before the Tribunal to prove that he is not a foreigner.

6. The earlier opinion dated 30.01.2020, in Case No. FT Case No. 3183/2012, which is assailed in this writ petition, is accordingly set aside and whatever

opinion the Tribunal may render upon the petitioner, appearing in the manner indicated above, shall be binding on the petitioner.

7. The petitioner to positively appear before the Tribunal on 22.09.2023 for doing the needful as indicated above and the Tribunal shall also do the needful as may be required in the manner indicated above.

8. The declaration of the name by the petitioner upon appearing before the Tribunal shall be in a written form.

9. The writ petition stands allowed as indicated above. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant