

GAHC010256292018



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

Case No. : WP(C)/7987/2018

ABDUR RAJJAK

S/O- SAMSUL HOQUE @ SAMSUL ALI, VILL- TAPARBHITA, P.S- BAGUAN, ,
P.O- AMBARIBAZAR, DIST- GOALPARA, ASSAM, PIN- 783129

VERSUS

THE UNION OF INDIA AND 7 ORS
TO BE REP BY THE SECRETARY TO THE MIN OF HOME AFFAIRS, GOVT OF
INDIA, NEW DELHI- 1, INDIA

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GHY- 06

3:THE SUPERINTENDENT OF POLICE (B)
KAMRUP(R)
P.O- AMINGAON
DIST- KAMRUP(R)
ASSAM
PIN- 781031

4:THE DEPUTY COMMISSIONER
KAMRUP(R)
P.O- AMINGAON
DIST- KAMRUP(R)
ASSAM
PIN- 781031

5:SUPERINTENDENT OF POLICE(B)
GOALPARA

P.O AND DIST- GOALPARA
ASSAM
PIN- 783121

6:THE DEPUTY COMMISSIONER
GOALPARA
P.O AND DIST- GOALPARA
ASSAM
PIN- 783121

7:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI- 01

8:THE NRC
COORDINATOR
NRC
ASSAM
BHANGAGARH
GUWAHATI- 0

Advocate for the Petitioner : MR. A R SIKDAR

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

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

ORDER

Date : 23.06.2023
(AM Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 8 being the authorities under the Union of India and NRC respectively, Ms. A Verma, learned counsel for the respondents no. 2, 3 and 5 being the authorities under the Home Department of Government of Assam, Ms. U Das, learned counsel for the respondent no. 4 and 6 being the Deputy Commissioner, Kamrup and the

Deputy Commissioner, Goalpara respectively and Mr. T Pegu, learned counsel for the respondent no. 7 being the authorities under the Election Commission of India.

2. The petitioner Abdur Rajjak had been referred to the Foreigners' Tribunal No. 3, Kamrup for rendering an opinion as to whether he is a foreigner within the meaning of Foreigners Act, 1946, resulting in registration of A.F.T. (R) 1149/17. The Tribunal rendered an opinion dated 08.10.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding reliance is placed on the voters' list of 1961 of village Taparabhita Gol which contains the names of Hosenali Sheikh S/O Baccha at Sl. No. 38 and that of China Nessa W/O Hosenali at Sl. No. 39. It is claimed that Hosenali Sheikh is the grandfather and China Nessa is the grandmother of the petitioner where both are residing in the same house no. 18. Further reliance is placed on the voters' list of 1970 of village Taparbhita which contains the name of Samsol Ali S/O Hosen Ali at Sl. No. 21. It is claimed that Samsol Ali is the father of the petitioner.

5. Further reference is made to the voters' list of 1994 of village Taparbhita which contains the names of Abdur Rezzak S/O Samsul at Sl. No. 337 and that of Samsul Hoque S/O Hosen at Sl. No. 338 where both are residing in the same house no. 146.

6. It is taken note that Samsul Hoque in the year 1994 was 48 years and Abdur Rezzak was 20 years and therefore, there could not be any possibility of the name of Abdur Rezzak appearing in the voters' list prior to 1994.

7. In view of the above, the matter stands remanded back to the Tribunal to

examine the voters' lists of 1961, 1966, 1970 and 1994 of village Taparbhita and pass a reasoned order. The petitioner to produce the complete voters' lists of village Taparbhita from the year 1961 to 1994 for examination of the Tribunal. The respondents in the Home Department to make their own enquiry and verification and thereafter, submit a report before the Tribunal as well as to verify as to whether the petitioner Abdur Rajjak and Abdur Rezzak of the 1994 voters' list of village Taparbhita are one and the same person. Upon doing the needful a reasoned order be passed by the Tribunal.

8. The petitioner to appear before the Tribunal on 01.08.2023.

9. If the order of the Tribunal is in favour of the petitioner, the same shall prevail over the opinion dated 08.10.2018 passed in A.F.T. (R) 1149/17 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant