

GAHC010262012017



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

Case No. : WP(C)/2109/2017

AMZAD ALI
S/O LT. JAMAL UDDIN @ JAMAL SHEIKH VILL- LEMPARA, P.O. MARKULA
P.S. BAGUAN DIST. GOALPARA, ASSAM

VERSUS

THE UNION OF INDIA and 3 ORS.
REP. BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI - 781006

3:THE DEPUTY COMMISSIONER

GOALPARA
DIS.T GOALPARA
ASSAM

4:THE SUPERINTENDENT OF POLICE B
GOALPARA
ASSA

Advocate for the Petitioner : MRS.S AZIZ

Advocate for the Respondent :

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

16.03.2023

[Achintya Malla Bujor Barua, J.]

Heard Mr. A. Matin, learned counsel for the petitioner. Also heard Mr. G. Sarma, learned special counsel, FT, appearing for respondent Nos.2 and 4; Mr. U.K. Goswami, learned CGC, appearing for respondent No.1 and Ms. U. Das, learned Additional Senior Government Advocate, Assam, appearing for respondent No.3.

2. The petitioner Amzad Ali had been referred to the Foreigners' Tribunal-4th, Goalpara, 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 F.T. Case No.431/2016. The Tribunal rendered an opinion dated 30.01.2017 whereby the petitioner was declared 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 1966 of village Lempara Part, Mouza-Balijana Tehsil in the present Goalpara district, which contains the name of Jomal Sheikh, S/O Late Asimuddin at Sl. No.226. The petitioner also refers to the voters list of 1989 also in respect of Lempara Part, wherein at Sl. No.388 the names of Jamal Sheikh, S/O Asimuddin and that of Alladi Nessa, W/O Jamal Sk appeared at Sl. No.389. The petitioner thereupon relies upon the voters list of 2005 of village 193 Lempara which contains the name of Alladi Bewa, W/O Jamal Sk at Sl. No.685 and that of Amzad Ali, S/O Jamal Uddin at Sl. No.686. The petitioner claims that Jomal Sheikh of 1966 voters list of village Lempara Part is his father and Jamal Sheikh and Alladi Nessa of the voters list of 1989 also of village Lempara Part are his father and mother, respectively and that his name appeared along with his mother Alladi Bewa in the voters list of 2005 also of the village 193 Lempara. Accordingly, the petitioner claims that he could establish that he is a citizen of India.

4. In the circumstance, the matter is remanded back to the Foreigners' Tribunal-4th, Goalpara, to examine as to whether the voters list of 1966 of village Lempara Part containing the name of Jomal Sheikh, that of 1989 voters list of village Lempara containing that the names of Jamal Sheikh and Alladi Nessa and the 2005 voters list of village 193 Lempara containing the names of Alladi Bewa and Amzad Ali do establish that Amzad Ali is a citizen of India. The Tribunal upon consideration of the evidence and the materials on record 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 30.01.2017 and if it is against the petitioner, consequential action shall follow.
5. The petitioner shall accordingly appear before the Tribunal on 20.04.2023. Till the reasoned order is passed, no coercive action shall be taken against the petitioner.
6. The petitioner before the Tribunal to produce all the intervening voters list in a complete form so as to establish his claim.
7. Send back the LCR immediately.
8. Writ petition stands disposed of in the above terms.

Sd/- Robin Phukan
JUDGE

Sd/- Achintya Malla Bujor Barua
JUDGE

Comparing Assistant