

GAHC010263312018



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

Case No. : WP(C)/8246/2018

RAHMAN KHAN @ RAKMAT ALI
S/O. LT. FARMAN KHAN @ FARMAN, R/O. VILL. HARIPUR, P.S. TARABARI,
DIST. BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT, PF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, TILOK MARG, NEW DELHI-01.

2:THE STATE OF ASSAM

REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

3:THE DY. COMMISSIONER

BARPETA
P.O. AND DIST. BARPETA
ASSAM-781301.

4:THE SUPDT. OF POLICE (B)

BARPETA
P.O. AND DIST. BARPETA
ASSAM-781301.

5:THE ELECTION COMMISSION OF INDIA

NEW DELHI-01.

6:THE STATE CO-COORDINATOR OF NATIONAL REGISTRATION OF
CITIZEN (NRC)

BHANGAGARH
GUWAHATI-05

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 6 being the authorities under the Union of India and NRC respectively, Ms. A Verma, learned counsel for the respondents no. 2 and 4 being the authorities under the Home Department of Government of Assam, Ms. U Das, learned counsel for the respondent no. 3 being the Deputy Commissioner, Barpeta and Mr. T Pegu, learned counsel for the respondent no. 5 being the authorities under the Election Commission of India.

2. The petitioner Rahman Khan had been referred to the Foreigners' Tribunal No. 7, Barpeta for rendering an opinion as to whether he is a foreigner within the meaning of Foreigners Act, 1946, resulting in registration of F.T. Case No. 43/2017. The Tribunal rendered an opinion dated 15.09.2018 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 1966 of village Haripur Police Station Tarabari in the Barpeta district which contains the names of Manu Khan S/O Arman at Sl. No. 88 and that of Farman Khan S/O Manu at Sl. No. 93. Reliance is also placed on the voters' list of 1970 of village Haripur which contains the names of Manu Khan S/O Arman at Sl. No. 117 along with Farman Khan S/O Manu at Sl. No. 122 and that of Ramena Khatun W/O Farman at Sl. No. 124. It is stated that Farman Khan is the father and Ramena Khatun is the mother and Manu Khan is the grandfather of the petitioner. Thereafter, reliance is placed on the voters' list of 1997 of village Haripur which contains the names of Rakmat Khan S/O Farman at Sl. No. 507 and Ramena Khatun W/O Farman at Sl. No. 509 where both are residing in the same house no. 372.
5. The later voters' list of 2010 of village Haripur had corrected the name of Rakmat Khan as Rahman Khan and it is sought to be explained that Rakmat Khan was an aberration in the voters' list of 1997 whereas the petitioner is Rahman Khan.
6. Ms. A Verma, learned counsel for the Home Department raises an objection that there is no in between voters' lists from the year 1970 to 1997 although a reference is made by Mr. AR Sikdar, learned counsel for the petitioner to the voters' list of 1989 of village Haripur.
7. In view of the above, the matter stands remanded back to the Tribunal to examine the voters' lists of 1966, 1970, 1989 and 1997 of village Haripur and thereafter, pass a reasoned order. The petitioner to produce the complete and continuous voters' lists from the year 1966 to 1997 of village Haripur as well as

the later voters' list of 2010 etc. The respondents in the Home Department to make their own enquiry and verification and thereafter, submit a report before the Tribunal. The report to also contain whether Rakmat Khan and Rahman Khan are one and same person and whether Rahman Khan of the 2010 voters' list of village Haripur and the writ petitioner proceedee Rahman Khan are one and the same person.

8. A copy of this order be provided to Ms. A Verma, learned counsel for the Home Department of Government of Assam.

9. The petitioner to appear before the Tribunal on 02.08.2023.

10. If the order of the Tribunal is in favour of the petitioner, the same shall prevail over the opinion dated 15.03.2018 passed in F.T. Case No. 43/2017 and if against, consequence under the law is applicable to the petitioner.

11. 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