

GAHC010263402017



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

**Case No. : WP(C)/6527/2017**

ABDUL MAZID  
S/O. LT. AFSAR @ AMSAR ALI, VILL. SARUCHALA, P.O. AKRABORI, P.S.  
MOIRABARI, PIN-782123, DIST. MORIGAON, ASSAM.

VERSUS

THE UNION OF INDIA and 5 ORS  
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME  
AFFAIRS, NEW DELHI.

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

3:THE DIRECTOR GENERAL OF POLICE

ASSAM  
ULUBARI  
GHY.-781007.

4:THE DY. COMMISSIONER

MORIGAON  
DIST. MORIGOAN  
ASSAM.

5:THE SUPDT. OF POLICE B

MORIGOAN

DIST. DARRANG  
ASSAM.

6:THE OFFICER IN CHARGE

MOIRABARI POLICE STATION  
MORIGAON DIST. DARRANG  
ASSAM

**Advocate for the Petitioner** : MR.K LAHKAR

**Advocate for the Respondent** : GA, ASSAM

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

**ORDER**

**15.05.2023**

[A.M.Bujor Barua, J.]

Heard Mr. K.M. Hasan, learned counsel for the petitioner. Also heard Mr. K.K. Parasar, learned counsel for the respondent no. 1; Mr. G. Sarma, learned counsel for the respondent nos. 2, 3, 5 and 6; and Mr. T.R. Gogoi, learned counsel for the respondent no. 4.

2. The petitioner Abdul Mazid had been referred to the Foreigners' Tribunal, No. 5, Morigaon 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 resulting in registration of FT Case No. 235/2016, wherein an opinion dated 30.08.2017 had been rendered declaring the petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies on the Voters' List of 1966 of village Saruchala, P.S. Lahorighat in the Nagaon district, which contains the name of Amsar Ali, son of Sabdi Mushi at serial no. 347 and that of Maleka Khatun wife of Amsar at serial no. 348, Khateman Nessa daughter of Amsar, Abdul Hamid son of Afsar and Abdul Khaleque son of Afsar. All are shown to be residing in the same house no. 62. In the Voters' List of 1970 the name of Amsar is corrected to be written as Apsar Ali son of Sabdi Munshi at serial no. 348 and that of Maleka Khatun wife of again Amsar at serial no. 348, Khateman Nessa daughter

of Amsar, Abdul Hamid son of Afsar and Abdul Khaleque son of Afsar. The interchanging of the name Apsar and Amsar in the two Voters' List indicates that Amsar and Apsar are one and the same person. The petitioner claims that he is the son of Apsar Ali and to substantiate the same relies upon the Voters' List of 1977 of village Saruchala which contains the name Abdul Mazid son of Afsar and Sakina Khatun wife of Abdul Mazid. It is stated that Afsar, the father of Abdul Mazid of the Voters' List of 1977 is Apsar of the Voters' List of 1966 and 1970 of village Saruchala.

4. In the circumstance, the matter is remanded back to the Foreigners' Tribunal, No. 5, Morigaon to examine the Voters' Lists of 1966, 1970 and 1977 of village Saruchala and pass a reasoned order as to whether the petitioner could discharge the burden under section 9 of the Foreigners' Act of 1946 and also the respondent in the Home Department of Government of Assam to make their own verification and to submit the report before the Tribunal. The petitioner in order to facilitate the process to submit the complete Voters' List of 1970 and 1977 of village Saruchala as to enable the Tribunal to examine as to whether the name of Apsar and Abdul Mazid appeared in the same village.

6. Upon undertaking the exercise, the Tribunal may pass a reasoned order and if the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 30.08.2017 passed in FT Case No. 235/2016, and if against, consequence under the law is applicable to the petitioner.

7. The petitioner to appear before the Tribunal on 28.06.2023.

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

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

**JUDGE**

**JUDGE**

**Comparing Assistant**