

GAHC010267822022



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

Case No. : WP(C)/8361/2022

IDDRISH ALI
S/O- LATE ABDUL KHALEK,
PERMANENT R/O- VILLAGE RAJABARI GRANT,
P.S- BATADRABA, DIST- NAGAON, ASSAM.

PRESENT ADDRESS-
C/O- MD. MUKHTABUR RAHMAN,
VILL- DHAI ALI,
P.S- SIVASAGAR, DIST- SIVASAGAR, ASSAM

VERSUS

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

2:THE ELECTION COMMISSION OF INDIA

NEW DELHI-110001

3:THE STATE OF ASSAM
REP. BY THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

4:THE ASSAM STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
BHANGAGARH
GUWAHATI-05

DIST- KAMRUP (M)

5:THE DEPUTY COMMISSIONER
SIVASAGAR
DIST- SIVASAGAR
ASSAM
PIN-785640

6:THE SUPERINTENDENT OF POLICE (B)
SIVASAGAR
DIST- SIVASAGAR
ASSAM
PIN-78564

Advocate for the Petitioner : MR. S A AHMED

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

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

ORDER

02.08.2023

(AM Bujor Barua, J)

Heard Mr. SA Ahmed, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. A Ali, learned counsel for the authorities under the Election Commission of India, Mr. G Sarma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Sivasagar and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Sivasagar.

2. The petitioner, namely, Idrish Ali was referred to the Foreigners Tribunal Jorhat for rendering an opinion as to whether he is a foreigner within the meaning of Foreigner Act, 1946 which resulted in the registration of Case No.FT/SVR/2904/2005, corresponding to SP's Enquiry No.36/2005 wherein an opinion dated 03.12.2022 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding, the petitioner relies upon the voters list of 1965 of village Rajabari Grant P.S. Dhing which contains the name of A Khaleque son of Akmol Pradhani at Sl.No.275 and it is claimed that A Khaleque is the father of the petitioner. To substantiate that A Khaleque is his father, the petitioner refers to the voters of 1997 of village Rajabari Grant which contains the name of Idrish Ali son of A Khaleque at Sl.No.754. It is also pointed out that the voters list of 1997 of village Rajabari Grant contains the name of Nurjahan wife of A Khaleque at Sl.No.751 and the name of Nurjahan wife of A Khaleque also appears in the voters list of 1965 at Sl.No.277 in respect of village Rajabari Grant. As the name of Nurjahan appears with A Khaleque in the voters list of 1965 and in the voters list of 1997 the name of Nurjahan appears along with Idrish Ali in respect of the same village Rajabari Grant, it is claimed that the burden under Section 9 of the Foreigners Act 1946 has been discharged by the petitioner to prove that he is a citizen of India.

5. In view of the above, the matter stands remanded back to the Tribunal to enable the Tribunal to examine the voters list from the years 1965 up to 1997 in respect of village Rajabari Grant. The petitioner to produce the complete and continuous voters lists of village Rajabari Grant for examination of the Tribunal.
6. The respondents in the Home Department may also make their own verification on the aforesaid aspect and submit a report before the Tribunal, if so advised.
7. Accordingly, the petitioner shall appear before the Tribunal on 29.08.2023.
8. The Tribunal upon doing the needful and after examining the evidences and materials shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 03.12.2022 of the Foreigners Tribunal Jorhat in Case No.FT/SVR/2904/2005, corresponding to SP's Enquiry No.36/2005 and if it is against the petitioner, consequential action under the law shall follow.
9. Till the reasoned order is passed, no coercive action be taken against the petitioner.
10. Writ petition stands disposed of in the above terms.
11. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant