

GAHC010268322018



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

Case No. : WP(C)/8409/2018

SORIF UDDIN
S/O- SALAM UDDIN, R/O- VILL- TENGAGURI KACHARIGAON, P.S.
LAHARIGHAT, DIST- MORIGAON, ASSAM, PIN- 782127

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWAN, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY-6

3:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S.ROAD
BHANGAGARH
GHY, ASSAM, PIN- 781005

5:THE DY. COMMISSIONER
MORIGAON
P.O. AND P.S. MORIGAON

DIST- MORIGAON
ASSAM
PIN- 782105

6:THE FOREIGNERS TRIBUNAL NO. 2ND
MORIGAON
ASSAM
DIST- MORIGAON
ASSAM
PIN- 782105

7:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
P.O. AND P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782105

8:THE OFFICER-IN-CHARGE
LAHARIGHAT P.S.
P.O. LAHARIGHAT
DIST- MORIGAON
ASSAM
PIN- 78212

Advocate for the Petitioner : MS. D GHOSH

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

19.06.2023

[Achintya Malla Bujor Barua, J.]

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel appearing on behalf of Mr. R.K.D. Choudhury, learned Dy.S.G.I. for the respondent No.1 and also appearing as standing counsel, NRC, for respondent No.4;

Mr. G. Sarma, learned special counsel, FT, appearing for respondent Nos.2, 6, 7 and 8; Mr. A.I. Ali, learned standing counsel, ECI, for respondent No.3 and Ms. K. Phukan, learned Junior Government Advocate, Assam, appearing for respondent No.5.

2. The petitioner Sorif Uddin had been referred to the Foreigners' Tribunal 2nd, 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, which resulted in registration of Case No.F.T. 27/2017. The Tribunal rendered an opinion dated 02.07.2018 declaring the petitioner 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 Tengaguri Kacharigaon, Police Station-Laharighat, in the Nagaon district, which contains the name of Abbas Ali S/o Tarif Seikh at Sl.No.67, which information is also available in the voters list of 1970 of village Tengaguri Kacharigaon. The petitioner also relies upon the voters list of 1985 of village Tengaguri Kacharigaon containing the names of Abbas Ali S/o Arik Sk at Sl.No.102 and Salam Uddin S/o Abbas Ali at Sl.No.104 and both are residing in the same house No.10. It is claimed that Abbas Ali is the grandfather and Salam Uddin is the father of the petitioner. To substantiate the same reliance is placed on the voters list of 2005 of village Tengaguri Kacharigaon containing the names of Salam Uddin S/o Abbas Ali at Sl.No.151 and Sorif Uddin S/o Salam Ali at Sl.No.154 and both are residing in the same house No.38. The petitioner claims that Sorif Uddin S/o Salam of the 2005 voters list of village Tengaguri Kacharigaon is the petitioner himself and accordingly prays that a burden under Section 9 of the Foreigners Act, 1946 has been discharged.

4. In view of above, the matter is remanded back to the Tribunal to examine the voters list of 1966 of village Tengaguri Kacharigaon containing the name of Abbas Ali S/o Tarif Seikh at Sl.No.67, whereas his name also appears in the voters list of 1970 as well as in the voters list of 1985 of the same village Tengaguri Kacharigaon

containing the names of Abbas Ali and Salam Uddin together as well as in the voters list of 2005 of village Tengaguri Kacharigaon containing the names of Salam Uddin and Sorif Uddin together. The respondents in the Home Department to make an enquiry and submit a report before the Tribunal of the authenticity of the information as claimed in respect of the voters lists of 1966, 1970, 1985 and 2005 of village Tengaguri Kacharigaon as well as on the fact claimed as to whether Sorif Uddin S/o Salam of the 2005 voters list of village Tengaguri Kacharigaon and the writ petitioner Sorif Uddin are one and the same person. Upon doing the needful, the Tribunal 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 02.07.2018 and if it is against the petitioner, consequential action shall follow.

5. The petitioner shall accordingly appear before the Tribunal on 25.07.2023. Till the reasoned order is passed, no coercive action shall be taken against the petitioner.

6. Send back the LCR immediately.

7. Writ petition stands disposed of in the above terms.

Sd/- Robin Phukan
JUDGE

Sd/- Achintya Malla Bujor Barua
JUDGE

Comparing Assistant