

GAHC010279592019



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

Case No. : WP(C)/8416/2019

SULTAN MAMUD @ SULTAN ALI
S/O LT. ABUL HUSSAIN @ ABDUL HUSSAIN, VILL. TUPKARCHAR, P.O.
TOPGAON, P.S. MERECHAR, DIST- BONGAIGAON, ASSAM, INDIA. PIN-
783348.

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GHY.-06.

3:THE DY. COMMISSIONER
BONGAIGAON
DIST.- BONGAIGAON
ASSAM
PIN- 783380.

4:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 110001.

5:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
GHY.-05.

6:THE SUPDT. OF POLICE (B)

BONGAIGAON
DIST.- BONGAIGAON
ASSAM
PIN- 783385

Advocate for the Petitioner : MR H R A CHOUDHURY

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

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

ORDER

01.06.2023

(AM Bujor Barua, J)

Heard Mr. AM Ahmed, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for the authorities under the NRC, Mr. T Pegu, 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) Bongaigaon and Mr. NK Das, learned Government Advocate for the Deputy Commissioner, Bongaigaon.

2. The petitioner, Sultan Mamud @ Sultan Ali, was referred to the Foreigners Tribunal Bongaigaon 2nd Abhyapuri for rendering an opinion as to whether he is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of Case No.BNGN/FT/2060/07 arising out of BNGN IMDT Case No.1823/04 wherein an opinion dated 29.07.2019 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. The petitioner relies upon the voters list of 1966 of village Topkarchar which contains the name of Bahej Ali Akand son of Asar Uddin at Sl.No.36 as well as the voters list of 1970 of village Topkarchar which contains the name of Bahej Akand son of Asar Uddin at Sl.No.42 and that of Abul Hussain son of Bahej Ali at Sl.No.47 where both are shown to be residing in the same House No.12. It is claimed that Bahej Ali is the grandfather of the petitioner and Abul Hussain is the father of the petitioner. To substantiate his claim, reliance is placed on a sale deed of a plot of land at village Topkarchar wherein the purchaser is shown to be Sultan Mamud son of Lt. Abul Hussain of village Tupkachar.

5. The petitioner also relies upon a Chitha of a surveyed village of a plot of land in village Tupkarchar which contains the information that by an order of the Circle Officer dated 11.11.2017, the land has been mutated in favour of Sultan Ali in place of Abul Hussain.

6. In view of the above, the matter stands remanded back to the Tribunal to examine the voters list of 1966 and 1970 of village Topkarchar relied upon by the petitioner containing the name of Bahej Ali the grandfather of the petitioner and Abul Hussain the father of the petitioner, whereas the plot referred in the

sale deed and the copy of the chitha which also contains the information that Sultan Mamud is the son of Abul Hussain of village Topkarchar.

7. The petitioner shall appear before the Tribunal on 07.07.2023.
8. The respondents in the Home Department, Government of Assam through the Superintendent of Police (B) Bongaigaon may make further verification of the aforesaid materials as indicated above and submit a report before the Tribunal, if so advised.
9. The Tribunal 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 order dated 29.07.2019 of the Foreigners Tribunal Bongaigaon 2nd Abhyapuri in Case No.BNGN/FT/2060/07 arising out of BNGN IMDT Case No.1823/04 and if it is against the petitioner, consequential action under the law shall follow.
10. Till the reasoned order is passed, no coercive action be taken against the petitioner.
11. Writ petition stands disposed of in the above terms.
12. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant