

GAHC010285852018



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

Case No. : WP(C)/23/2019

IBRAHIM ALI
SON OF LATE ALIM UDDIN, VILLAGE- DAKHIN CHENIMARI, P.O.
KATHONI, P.S. LAHARIGHAT, DISTRICT- MORIGAON, ASSAM. PIN- 782127.

VERSUS

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

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
MORIGAON
DIST. MORIGAON
ASSAM
PIN- 782127

4:THE SUPERINTENDENT OF POLICE (B)
MORIGAON
ASSAM
PIN- 782127.

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI
110001.

6:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
BANGAGARH
GHY- 781032

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

Date : 04.04.2023

(A.M. Bujor Barua, J)

Heard Ms. P. Ghosh, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1 and 6, being the Union of India and the State Co-ordinator of NRC, respectively. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2 and 4, being the authorities in the Home Department; Ms. U. Das, learned counsel for the respondent No. 3, being the Deputy Commissioner, Morigaon and Mr. A. Ali, learned counsel for the respondent No. 5, being authorities in the Election Commission of India.

2. The petitioner Ibrahim Ali was referred to the Foreigners' Tribunal No. 2, Morigaon for rendering an opinion as to whether he is a person who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly F.T. Case No. 931/2012 was registered. The Tribunal rendered its opinion dated 09.10.2018 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village Dakhin Chenimari, Mouza Laharighat in the Nagaon district which contains the name of Alimuddin son of Akanu at Sl. No. 338 and also the voters' list of 1997 of village Dakhin Chenimari, Mouza Laharighat in the Nagaon district which contains the name of Alimuddin son of Akalu Sk. at Sl. No. 164 and that

of Ibrahim son of Alimuddin at Sl. No. 167 and both of them are residing in the same house No. 39. The petitioner claims that he has discharged the burden of having proved that he is a citizen of India inasmuch as per the voters' list of 1997 he is the son of Alimuddin where the name of Alimuddin also appears and as per the voters' list of 1966, Alimuddin himself is a citizen of India.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 2, Morigaon to examine the voters' lists of 1966 and 1997 of village Dakhin Chenimari, Mouza Laharighat in the Nagaon district as indicated above and pass a reasoned order as to whether the same indicates that the petitioner is a citizen of India. The petitioner to produce the complete voters' lists of 1966 up to 1997 of village Dakhin Chenimari before the Tribunal. The respondents in the Home Department of the Government of Assam through the Superintendent of Police(B), Morigaon may make their own verification as to whether the information contained in the aforesaid voters' lists are correct and also whether the writ petitioner Ibrahim Ali and Ibrahim of the voters' list of 1997 of village Dakhin Chenimari are one and the same person. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 09.10.2018 F.T. Case No. 931/2012 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 22.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant