

GAHC010292742019



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

Case No. : WP(C)/8818/2019

MAJID ALI
S/O- LT. HUSSAIN ALI, VILL. BARCHAKABAHA, P.S.- MIKIRBHETA, DIST.-
MORIGAON, ASSAM.

VERSUS

THE UNION OF INDIA AND 4 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
MORIGAON
ASSAM.

4:THE SUPDT. OF POLICE (B)
MORIGAON
ASSAM.

5:THE OFFICER-IN-CHARGE
MIKIRBHETA POLICE STATION
MORIGAON
ASSAM

Advocate for the Petitioner : MR. P RAHMAN

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

05.04.2023

(A.M. Bujor Barua, J)

Heard Mr. P Rahman, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Ms. A Verma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. T. Pegu, learned counsel for the Election Commission of India and Ms. K Phukan, learned counsel for the Deputy Commissioner, Morigaon.

2. The petitioner Majid Ali had been referred to the Foreigners Tribunal No. 2, 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 Case No. F.T(C) 146/2009.

3. Initially the petitioner disputes that the signature of Majid Ali appearing in the notice served by the process server is not his signature. But when the learned counsel for the petitioner was put to a situation as to whether he seriously disputes the signature, so that an enquiry can be made and if the result is in the favour of the petitioner, appropriate action can be taken against the person who had manipulated the signature of the petitioner or if it is against the petitioner, appropriate action will be taken against the petitioner, the learned counsel for the petitioner withdraws his submission and accepts that it is the signature of the petitioner. Accordingly, we understand that the notice was duly

served on the petitioner, but the petitioner voluntarily did not appear before the Tribunal resulting in the ex-parte order dated 11.09.2012 declaring him to be a foreigner.

4. We have noticed that even after being declared foreigner by the Tribunal in the year 2012, the petitioner evaded the authorities up to the year 2019 when this writ petition was filed.

5. From the said point of view, we do not notice any infirmity in the ex-parte order dated 11.09.2012. But, however, for the interest of justice, we afford another opportunity to discharge the burden u/s 9 of the Foreigners Act, 1946 to prove his citizenship.

6. But, for the conduct of the petitioner, a cost of Rs. 7,500/- is imposed on the petitioner to be paid to the District Legal Services Authority, Morigaon and upon showing proof of the payment of cost, the petitioner shall appear before the Foreigners Tribunal No. 2, Morigaon on 24.05.2023. Upon appearance of the petitioner, the Tribunal shall pass a reasoned order.

7. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant