

GAHC010302902019



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

Case No. : WP(C)/9569/2019

NAZIR HUSSAIN
S/O- LATE GIASUDDIN ALI, VILL- MATIABAG, P.S- GAURIPUR, DIST-
DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, SHASTRI BHAWAN, TRILOK MARG, NEW DELHI- 110001

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI- 110001

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

4:THE STATE COORDINATOR

NRC
ASSAM
1ST FLOOR
ACHYUT PLAZA
G S ROAD
BHANGAGARH
GUWAHATI
ASSAM PIN- 781005

5:THE DEPUTY COMMISSIONER

OF DHUBRI
DIST- DHUBRI
P.O
P.S AND DIST- DHUBRI
ASSAM
PIN- 783301

6:THE SUPERINTENDENT OF POLICE
DHUBRI DISTRICT
DHUBRI
P.O AND P.S- DHUBRI
DIST- DHUBRI
ASSAM
PIN- 78330

Advocate for the Petitioner : MR. A T SARKAR

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

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

ORDER

Date : 08.05.2023
(AM Bujor Barua, J)

Heard Mr. AT Sarkar, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 4 being the authorities under the Union of India and NRC respectively, Mr. AI Ali, learned counsel for the respondent no. 2 being the authorities under the Election Commission of India, Mr. G Sarma, learned counsel for the respondents no. 3 and 6 being the authorities under the Home Department of Government of Assam, and Ms. U Das, learned counsel for the respondent no. 5 being the Deputy Commissioner, Dhubri.

2. The petitioner Nazir Hussain had been referred to the Foreigners' Tribunal

No. 4, Dhubri 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.-4/117/GPR/2018. The Tribunal rendered an opinion dated 24.10.2019 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding the petitioner relies on the voters' list of 1966 of village Matiabag containing the name of Foza Sk, S/O Juru Sk at Sl. No. 02 and that of Giasuddin Sk, S/O Foze Sk. at Sl. No. 04. It is claimed that Giasuddin Sk is the father of the petitioner. The petitioner also relies on the voters' list of 1985 of village Matiabag containing the name of Giasuddin, S/O Foze Sk. at Sl. No. 133 and that of Nur Nehar Bibi, W/O Giasuddin at Sl. No. 134 and also the voters' list of 1997 of village Matiabag which contains the name of Nur Nehr Bibi, W/O Gias at Sl. No. 1268 and that of Nazir Hussain, S/O Gias at Sl. No. 1270. Accordingly, the petitioner claims that he has discharged the burden under Section 9 of the Foreigners' Act, 1946.

5. In view of the above, the matter is remanded back to the Tribunal to examine the voters' lists of 1966, 1985 and 1997 of village Matiabag and pass a reasoned order as to whether the petitioner Nazir Hussain through Nur Nehr Bibi of the 1997 voters' list has established that he is the son of Giasuddin of the 1985 voters' list who again is the son of Foze Sk of 1966 voters' list of the same village and thereafter, the respondents in the Home Department to make their own verification on the authenticity of the said information and also as to whether Nazir Hussain of the voters' list of 1997 of village Matiabag and the petitioner Nazir Hussain are one and the same person. The petitioner may produce any further material if so advised.

7. The petitioner to appear before the Tribunal on 16.06.2023.
8. If the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 24.10.2019 passed in Case No. F.T.-4/117/GPR/2018 and if against, consequence under the law is applicable to the petitioner.
9. Till the reasoned order is passed, no coercive action be taken against the petitioner.

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant