

GAHC010016332024



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

Case No. : WP(C)/629/2024

JOHIRUL ISLAM

S/O- LATE TALEBUR RAHMAN @ TALEBAR RAHMAN @ ABU TALEB
MOLLA, R/O- VILL- HOLDIBARI, P.O. DHUMERGHAT, P.S. LAKHIPUR,
DISTRICT- GOALPARA, ASSAM, PIN- 783330

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF HOME
AFFAIRS, GOVT. OF INDIA, SHASTRI BHAWAN, TILOK MARG, NEW DELHI-
01

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE HOME
DEPARTMENT
DISPUR
GUWAHATI-06

3:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 110001

4:THE CHIEF ELECTION OFFICER
ASSAM HOUSEFED COMPLEX
BELTOLA ROAD
GUWAHATI-06

5:THE DEPUTY COMMISSIONER
GOALPARA
P.O. AND DISTRICT- GOALPARA
ASSAM
PIN- 783101

6:THE ELECTION OFFICER
GOALPARA P.O. AND DIST.- GOALPARA
ASSAM
PIN- 783101

7:THE SUPERINTENDENT OF POLICE (B)
GOALPARA P.O. AND DIST.- GOALPARA
ASSAM
PIN- 783101

8:THE ELECTORAL REGISTRATION OFFICER
39 JALESWAR LEGISLATIVE ASSEMBLY
O/O THE BLOCK DEVELOPMENT OFFICER
LAKHIPUR DEVELOPMENT BLOCK
P.O. LAKHIPUR
DIST.- GOALPARA
ASSAM
PIN- 78312

Advocate for the Petitioner : MR. M H TALUKDAR

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

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

09.02.2024

1. Heard Mr. M.H. Talukdar, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned counsel for respondent Nos.1, 2 and 5, Mr. A.I. Ali, learned counsel for respondent Nos.3, 4, 6 & 8 and Mr. J. Payeng, learned counsel for the respondent No.7.

2. The case of the petitioner is that in the voters list of 1997, the name of the petitioner was marked with the letter "D" and thereupon the petitioner has approached the concerned respondent authorities for removal of the tag "D" in

his name from the voters list.

3. As the concerned respondent authorities had failed to do so, the petitioner is before this Court under Article 226 of the Constitution of India for an appropriate direction that the letter "D" tagged with the name of the petitioner in the voters list be removed.

4. Whether a person is a D voter or not is a matter of factual determination and the appropriate forum to do the same is the concerned Foreigners Tribunal. This Court in exercise of its powers under Article 226 of the Constitution of India would not have the competence to decide such a question which depends on the evidence that may be produced.

5. In the circumstances, this Court therefore directs the respondent No.7 i.e., the Superintendent of Police (Border), Goalpara to verify as to whether the petitioner has already been referred to the concerned Foreigners Tribunal and if upon verification it is found that the petitioner has not been referred to the concerned Foreigners Tribunal, this Court further directs the said respondent No.7 to refer the case of the petitioner as regards the mark "D" in the voters list in respect to 39 Jaleswar LAC to a competent Foreigners Tribunal, Goalpara district for an appropriate adjudication as regards the status of the petitioner as "D" voter in the concerned voters list.

6. Reference be made within a period of 2 (two) months from the date of receipt of a certified copy of this order. Upon such reference being made, the petitioner may participate in such proceedings and establish her case.

7. If the case of the petitioner as per the records had already been referred to the relevant Foreigners Tribunal there would be no requirement to make any further reference and the detailed information of the earlier reference be communicated to the petitioner.

8. With the above directions and observations, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant