

GAHC010110972024



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

Case No. : WP(C)/2961/2024

FOZAR ALI
SON OF LATE JOSHIM UDDIN, RESIDENT OF VILLAGE- PASCHIM
MOINBARI, POST OFFICE- MOINBARI, POLICE STATION- KALGACHIA,
DISTRICT- BARPETA, ASSAM, PIN- 781319

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, SHASTRI BHAWAN, NEW DELHI- 110001

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI- 781006

3:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S.ROAD
BHANGAGARH
GUWAHATI
ASSAM

PIN- 781005

5:THE DISTRICT COMMISSIONER
BARPETA
POST OFFICE AND POLICE STATION- BARPETA
DISTRICT- BARPETA
ASSAM
PIN- 781301

6:THE SUPERINTENDENT OF POLICE (BORDER)
BARPETA
POST OFFICE AND POLICE STATION- BARPETA
DISTRICT- BARPETA
ASSAM
PIN- 781301

7:THE OFFICER-IN-CHARGE OF KALGACHIA POLICE STATION
POST OFFICE- KALGACHIA
DISTRICT- BARPETA
ASSAM
PIN- 78131

Advocate for the Petitioner : MS. D GHOSH

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

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI
ORDER

10.06.2024

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Mr. A.I. Ali, learned counsel for the respondent i.e. Election Commission of India and Mr. M. Chetia, learned Government Advocate for the State respondents.

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. 6 i.e. Superintendent of Police (Border), Barpeta 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. 6 to refer the case of the petitioner as regards the mark "D" in the voters list in respect to 40 No. Sorbhog LAC to a competent Foreigners Tribunal, Barpeta 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 his 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.

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

JUDGE

Mahruaii

Comparing Assistant