

GAHC010145942019



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

Case No. : WP(C)/5396/2019

MAINUDDIN SHEIKH
S/O ABDUL JABBAR, R/O VILL. BAGHMARI, P.O. KULHATI, P.S.
JAKHALABANDHA, MOUZA- DWARBAGARI, DIST. NAGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF
POLITICAL AND HOME AFFAIRS, NEW DELHI

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NIRVACHAN BHABAN
ASHOKA ROAD
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 CHIEF ELECTION OFFICER
ASSAM
HOUSEFED COMPLEX
BELTOLA ROAD
GUWAHATI-781006

5:THE ELECTORAL REGISTRATION OFFICER
KALIABOR SUB-DIVISION
DIST. NAGAON
ASSAM

6:THE DEPUTY COMMISSIONER CUM DISTRICT ELECTION OFFICE CUM
ELECTORAL REGISTRATION OFFICER

NAGAON
P.O. AND DIST. NAGAON
ASSAM

7:THE SUPERINTENDENT OF POLICE (BORDER)
NAGAON
P.O. NAGAON
DIST. NAGAON
ASSAM
PIN-75411

Advocate for the Petitioner : MS. G BORAH, MRS R DEKA

Advocate for the Respondent : ASSTT.S.G.I., SC, ECI,SC, NRC,SC, F.T

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 28.08.2024

Heard Ms. G. Borah, learned counsel for the petitioner. Also heard Mr. R. K. Deb Choudhury, learned counsel for respondent No.1, Mr. H Kuli, learned counsel appearing on behalf of Mr. A Ali, learned counsel for respondent Nos.2, 4, 5 & 6, Mr. G Sharma, learned counsel appearing on behalf of respondent Nos.3 and 7.

The case of the petitioner is that in the voters list of 2010, 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.

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.

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.

In the circumstances, this Court therefore directs the respondent No.7 i.e., the Superintendent of Police (Border), Nagaon 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 of Kaliabor LAC to a competent Foreigners Tribunal, Nagaon district for an appropriate adjudication as regards the status of the petitioner as "D" voter in the concerned voters list.

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.

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

Comparing Assistant