

GAHC010200122019



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

Case No. : WP(C)/6197/2019

ASHOK MALO DAS
S/O- LATE FANI MALO DAS, VILL- BAHARI RESERVE, P.O- BAHARI HAT,
P.S- TARABARI, DIST- BARPETA, ASSAM, PIN- 781302

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY OF THE GOVT OF INDIA, MIN OF HOME
AFFAIRS, SHASTRI BHAWAN, TILAK MARG, NEW DELHI- 01

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

3:THE DEPUTY COMMISSIONER
BARPETA
P.O- BARPETA
DIST- BARPETA
ASSAM
PIN- 781301

4:THE SUPERINTENDENT OF POLICE (B)
BARPETA
P.O- BARPETA
DIST- BARPETA
PIN- 781301

5:THE ELECTION COMMISSION OF INDIA
THROUGH ITS SECRETARY
NIRVACHAN BHAVAN

NEW DELHI- 01

6:THE STATE COORDINATOR
NRC
ASSAM
BHANGAGARH
GUWAHATI- 05

7:THE DISTRICT ELECTION OFFICER
BARPETA
P.O- BARPETA
DIST- BARPETA
ASSAM
PIN- 78130

Advocate for the Petitioner : MR K BHUYAN

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

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

25.06.2024

Heard Mr. N. Islam, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned counsel for the respondent Nos. 1-4 and Mr. A.I. Ali, learned counsel for the respondent Nos. 5 & 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.4, i.e., the 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.4 to refer the case of the petitioner as regards the mark "D" in the voters list in respect to 47 No. Chenga LAC Part No.78 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 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