

GAHC010202752019



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

Case No. : WP(C)/6241/2019

PURNIMA DAS
W/O- SRI JYOTISH DAS, R/O- LDS ROAD, NO.2, GARWAN PATTY, WARD
NO.14, P.O- TEZPUR, P.S- TEZPUR, DIST- SONITPUR, ASSAM- 784001

VERSUS

UNION OF INDIA AND 6 ORS
THROUGH THE COMMISSIONER AND SECRETARY TO THE MIN OF HOME
AFFAIRS, GOVT OF INDIA, NEW DELHI- 01

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

3:THE STATE COORDINATOR
NRC
ACHYUT PLAZA
BHANGAGARH
GUWAHATI
ASSAM
PIN- 781005

4:THE ELECTION COMMISSION OF INDIA
THROUGH THE CHIEF ELECTION COMMISSIONER
NIRVACHAN SADAN
NEW DELHI

5:THE CHIEF ELECTORAL OFFICER
ASSAM C BLOCK

4TH FLOOR
JANATA BHAWAN
DISPUR
GHY- 06

6:THE DEPUTY COMMISSIONER
SONITPUR
TEZPUR

7:THE DEPUTY COMMISSIONER
KAMRUP (R

For the petitioner (s) : Mr. A. Ganguli, Advocate

For the respondent (s) : Mr. A. I. Ali, SC, ECI
Mr. M. Chetia, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

19.07.2024

Heard Mr. A. Ganguli, the learned counsel for the petitioner. Also heard Mr. A. I. Ali, the learned counsel appearing on behalf of the respondent Nos. 4 & 5 and Mr. M. Chetia, the learned counsel appearing on behalf of the respondent Nos.2, 3, 6 & 7.

2. The case of the petitioner is that in the voters list of 2018, 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 Superintendent of Police (Border), Sonitpur 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 73 No. Tezpur LAC to a competent Foreigners Tribunal, Sonitpur 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 by the Superintendent of Police (Border), Sonitpur. 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