

GAHC010224232024



2024:GAU-AS:11715

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

Case No. : WP(C)/5644/2024

NASIRA BIBI @ NASHERA BIBI
D/O- LATE ALAUDDIN, W/O- MOZIBAR RAHMAN,
VILLAGE- GOSSAIDUBI HINDU PARA, P.O- GOURNAGAR, P.S-LAKHIPUR,
DIST- GOALPARA, ASSAM, PIN-783129

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, SASTRI
BHAWAN, NEW DELHI- 110001.

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI-110001

3:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M)

4:THE STATE OF ASSAM
REP. BY THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6

5:THE SUPERINTENDENT OF POLICE (B)
GOALPARA

ASSAM
PIN-783101

6:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM
PIN-78310

Advocate for the Petitioner : MD. A HUSSAIN, J RAHMAN,MR. T ISLAM,MR. K ALOM

Advocate for the Respondent : DY.S.G.I., GA, ASSAM,SC, ECI,SC, F.T

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 27-11-2024

Heard Mr. A Hussain, learned counsel for the petitioner. Also heard Mr. K Gogoi, learned counsel for the respondent No. 1 and Ms. P Baruah, learned counsel for the respondent No. 2. Mr. J Payeng, learned counsel appears for the respondent Nos. 4 & 5 while Ms. U Das, learned counsel appears for the respondent No. 6.

2. The case of the petitioner is that in the voters list of 2005, 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.5, 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. 5 to refer the case of the petitioner as regards the mark "D" in the voters list of 2005 relating to LAC- 39 No. Jaleswar Legislative Assembly Constituency, wherein the petitioner is at Sl. No. 1273, House No. 367 pertaining to village 60 No. Gossaidubi Hindupara 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