GAHC010130902020

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

Case No. : WP(C)/3937/2020

ABDUL KADER ALI @ ABDUL KADER @ KADER ALI
S/O LATE ABBAS ALI @ ABBAS ALI SK., VILL-NAYAYANGURI, P.S.-GOBARDHANA, DIST-BAKSA, BTAD, ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW DELHI-1

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY ITS SECRETARY
NIRVACHAN BHAWAN
NEW DELHI-1

3:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-06

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZEN
ASSAM
BHANGAGARH
GUWAHATI-05

5:THE DEPUTY COMMISSIONER
BAKSA CUM THE ELECTION OFFICER
BAKSA
BTAD

ASSAM
P.O.
P.S. AND DIST-BAKSA
BTAD
ASSAM
PIN-781343

6:THE SUPERINTENDENT OF POLICE (BORDER)
BAKSA
BTAD
ASSAM
P.O.
P.S. AND DIST-BAKSA
BTAD
ASSAM
PIN-78134

Advocate for the Petitioner : MR S HOQUE

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

BEFORE

HON'BLE MR. JUSTICE SUMAN SHYAM

14.12.2020

Heard Mr. S Hoque, learned counsel appearing for the petitioner.

The writ petitioner has approached this Court by filing the present petition being aggrieved by inclusion of his name in the electoral roll in the category of 'D' Voters.

Mr. A Ali, learned Standing Counsel, ECI, appearing for the respondent No.2 submits on instructions that no reference case is pending against the petitioner before the Foreigners Tribunal.

Mr. KK Parasar, learned CGC, appears for respondent Nos.1 and 4 whereas Ms. M Bhattacharjee, learned Govt. Advocate, Assam appears for respondent Nos.3, 5 and 6.

There is no dispute about the fact that any doubt cast on the citizenship of an individual can be cleared only by obtaining an opinion from the Foreigners Tribunal if a reference is made to that effect by the concerned authority. However, delay in obtaining such opinion

might have serious adverse impact thereby causing prejudice to the interest of the individual concerned. There is consensus at the Bar that the matter should be referred to the Foreigners Tribunal without any further delay.

In view of the above and considering the facts and circumstances of the case, I dispose of the writ petition at the stage of motion hearing by providing that the respondent No.6 shall take necessary steps for sending a reference to the jurisdictional Foreigners Tribunal pertaining to the citizenship claim of the writ petitioner, by following the due procedure prescribed by law.

The direction of this Court be complied with as expeditiously as possible, but not later than 4 (four) weeks from the date of receipt of a certified copy of this order.

The writ petition stands disposed of.

JUDGE

Comparing Assistant