GAHC010045262017

2026:GAU-AS:16694-DB

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

Case No. : WP(C)/6376/2017

DILWAR HUSSAIN
S/O. ABDUL MANNAN, VILL. BHOGRIRAM GAON, P.O. and P.S. DOBOKA,
DIST. HIJAI, ASSAM.

VERSUS

THE UNION OF INDIA and 6 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS, JAISALMER HOUSE 26, MANSINGH ROAD, NEW DELHI-110011.

2:THE FOREIGNERS TRIBUNAL NAGAON 10TH

AT SANKARDEV NAGAR
HOJAI
DIST. HOJAI
ASSAM.

3:THE STATE OF ASSAM
REP. BY ITS SECRETARY
DEPTT. OF HOME
DISPUR
GHY.-06.

4:THE DIRECTOR GENERAL OF POLICE

POLICE HEAD QUARTERS
ULUBARI
GHY.-07
ASSAM.

5:THE SUPDT. OF POLICE BORDER

HOJAI
DIST. HOJAI
ASSAM.

6:THE OFFICER IN CHARGE

DOBOKA POLICE STATION
DOBOKA
DIST. HOJAI
ASSAM.

7:THE DY. COMMISSIONER

HOJAI
DIST. HOJAI
ASSAM

Advocates for the petitioner : Mr. U. Dutta, Advocate

Advocates for the respondents : Mr. S.K. Deka, CGC and

Mr. A.I. Ali, SC, ECI

Mr. J. Payeng, SC, FT & Border Matter

Mr. P.K. Borah, Govt. Advocate

:::BEFORE:::

HON'BLE MR. JUSTICE KALYAN RAI SURANA

HON'BLE MR. JUSTICE RAJESH MAZUMDAR

Date on which judgment is reserved : **03.11.2026**

Date of pronouncement of judgment : **13.11.2026**

Whether the pronouncement is of the : N/A

operative part of the judgment ?

Whether the full judgment has been : Yes

pronounced?

JUDGMENT & ORDER (CAV)

(Rajesh Mazumdar, J)

This Court had heard Mr. U. Dutta, learned counsel for the petitioner, Mr. S.K. Deka, learned CGC, Mr. A.I. Ali, learned Standing counsel for the ECI, Mr. J. Payeng, learned Standing counsel for the FT and Border Matters and Mr. P.K. Borah, learned Govt. Advocate, on 03.11.2026; hearing was concluded and the order reserved.

2. The present is a writ petition assailing the opinion dated 23.02.2017 passed by the learned Foreigners Tribunal, Nagaon, 10th, Hojai, Assam in FT Case No. 348/2015, whereby the petitioner was declared to be a foreigner under Section 2 (a) of the Foreigners Act, 1940, who had illegally entered into India on or after 25.03.1971.

3. On a reference being made by the competent authority, the learned Tribunal had registered the reference as FT/H/1485/2012 and had issued notice to the petitioner herein calling upon him to appear and file his written statement. In the meantime, the learned Foreigners Tribunal, Nagaon, Court No. 10 was created, and the case was transferred to the said Tribunal on jurisdictional grounds, and it was registered afresh as FT (D) Case No. 348/2015. Fresh notices were again issued to the petitioner herein, giving him the opportunity to file a written statement, if any. The petitioner appeared, filed

his written statement and adduced evidence both oral and documentary, and he was also subjected to cross-examination.

4. During the proceedings, the petitioner had exhibited a certified copy of the voter lists of 1966 as Ext-1 wherein, according to the petitioner, the name of his grandfather was recorded at SL No. 166. The petitioner had exhibited a certified copy of the voter lists of 1970 as Ext-2. A certified copy of the voter lists of 1993 was Ext-3, a certified copy of the voter lists of 1997 was Ext-4, and certified copies of the voter lists of 2005, 2010 and 2014 were Ext-5, 6 and 7 respectively. The certificate issued by the Government Gaonburha of the village where the petitioner resided was Ext-8, and the voter photo ID of the petitioner was exhibited as Ext-9.

5. The learned Tribunal, having considered the evidence led by the writ petitioner and also after considering Exhibits/documentary evidence brought on record, formed the opinion that the documents exhibited in the evidence did not have sufficient evidentiary relevance and were riddled with gross discrepancies and inconsistencies, rendering the same untrustworthy and unreliable. Framing the opinion that the petitioner herein had absolutely failed to discharge the mandatory burden to prove that he is an Indian citizen, the learned Tribunal returned an opinion that the petitioner was a foreigner from the post-25.03.1971 period as per Section 2 (a) of the Foreigners Act. The Deputy Commissioner, Hojai, was requested to ensure that the name of the petitioner be deleted from the existing voter lists, the ration card and also from the lists of

all other beneficial schemes under the Government. The elector's photo ID of the petitioner was directed to be seized.

6. Aggrieved by the opinion, the petitioner is before this Court, in this petition under Article 226 of the Constitution of India, praying for appropriate writ.

7. The learned counsel for the petitioner, Mr. U. Dutta, has submitted that the name of the grandfather of the petitioner was recorded in the voter lists in 1966 in respect of 92 Jamunamukh, Assam Legislative Assembly Constituency at SL No. 166 and the name of the grandfather of the petitioner along with the family members were enrolled in the voter lists of 1970 in respect of the same Legislative Assembly Constituency. The electoral roll of 1993 in respect of the same Legislative Assembly Constituency, according to the learned counsel for the petitioner, reflected the name of the petitioner, aged about 19 years, as the son of the projected father of the petitioner, namely, Abdul Mannan. The same electoral roll also contained the name of the father of the petitioner as a voter, showing him to be aged about 45 years and as a son of Abdul Latif, whom the petitioner projected as his grandfather.

8. The learned counsel for the petitioner has submitted that in the year 1966, the family of the petitioner had shifted to village Bhogiram Gaon from Niz-Doboka village, considering the better prospect of livelihood.

9. The learned counsel for the petitioner has submitted that the learned Tribunal failed to appreciate the different aspects proved by the petitioner

through his evidence and the relevant documents which were also exhibited and, therefore, the impugned opinion deserves interference of this Court.

10. The learned counsel for the petitioner has submitted that the names of the grandfather and grandmother of the petitioner were recorded in the voter lists of 1966 and 1970 in the same Legislative Assembly Constituency. He has submitted that the voter list of 1993 was evidence that the father of the petitioner, namely, Abdul Mannan, was the son of late Abdul Latif and that the petitioner was the son of Abdul Mannan. He has submitted that since linkage is adequately established, the finding of the learned Tribunal that there is no linkage between Ext. No. 1 and Ext. No.2 with Ext. 3 to 7 is not sustainable. He has prayed for setting aside of the impugned opinion dated 23.02.2017.

11. Mr. J. Payeng, learned Standing Counsel, FT & Border Matters, has, on the other hand, submitted that the written statement filed by the petitioner is conspicuously missing reference to the name of the alleged grandfather and grandmother of the petitioner. He has further submitted that the petitioner has not divulged when he had allegedly shifted from Niz-Doboka village to Bhogiram Gaon under Doboka Police Station. The learned Standing counsel has further submitted that the written statement filed by the petitioner was vague and devoid of material particulars.

12. The learned Standing counsel has further submitted that a perusal of the cross-examination of the petitioner would show that he could not name most of his alleged uncles and aunts. The learned Standing counsel has further

submitted that the names of the projected mother and grandmother of the petitioner, as found in the cross-examination, do not tally with the names which are available in the voter lists and the petitioner has not explained the errors, if any.

13. The learned Standing counsel has further submitted that there are no documents presented by the petitioner from 1970 to 1993 to establish that the projected father or grandfather of the petitioner had continued to reside within the territory of India. He has further submitted that the certificate issued by the Government Gaonburha, had not been proved in accordance with law and, carrying the said emblem, the certificate has lost all evidentiary value. The learned Standing Counsel has submitted that there are no errors in the opinion rendered by the learned Tribunal and, therefore, the writ petition deserves a dismissal.

14. The records received from the learned Tribunal have been duly perused, and the submissions made have been considered. The petitioner had failed to disclose the name of his projected grandmother in the written statement, and further, in his written statement, he had not asserted that the name appearing along with his projected grandfather was his grandmother.

In his cross-examination during the proceedings before the learned Tribunal, the petitioner had made a statement that the name of his father was Abdul Mannan and the name of his mother was Jamina Khatun. He had also stated that the name of his grandfather was late Abdul Latif and his

grandmother was late Jamila Begum. A perusal of the voter lists of 1966 and 1970 reveals that the wife of late Abdul Latif, the projected grandfather of the petitioner, was Jabeda Khatun and not Jamila Begum, as asserted by the petitioner in his cross-examination.

15. The petitioner had exhibited the voter lists of 1966 and 1970, projecting that his grandparents had appeared in the said voter lists of Village Niz-Doboka, and he had further relied upon the voter list of 1993, wherein the names of his father, mother, one brother, namely, Moinuddin, and the petitioner himself were reflected, showing them as voters of Village Niz-Doboka. There is no explanation as to the status of the alleged voters from the year 1970 to 1993. The assertion of the petitioner, that he thereafter moved to Bhogiram Gaon and was registered as a voter there, is sought to be projected through the voter lists of 2005.

16. The learned Tribunal has noticed that in the voter lists of 1966, the first person to be named is one Atur Zama, who has also been asserted to be a brother of his father and whose age has been shown to be 30 years in 1966. The learned Tribunal had also noticed, correctly, that the father of Atur Zaman was not recorded as Abdul Latif but was recorded as Yusuf.

17. The learned Tribunal then noted that Jabeda Khatun, wife of the projected grandfather Abdul Latif, was also shown to be 30 years of age in 1966, thus indicating that both mother and son were 30 years of age in the year 1966; we agree with the learned Tribunal that the projection of the petitioner is an

impossibility.

18. Save and except the certificate issued by the Gaonburah of Bhogiram Gaon, which certified the petitioner to be a resident of Bhogiram Gaon and son of one Abdul Mannan, there is no indication to link the petitioner to the projected father, namely, late Abdul Mannan, son of Abdul Latif, who was a resident of village Niz-Doboka. In **Afuja Begum Versus Union of India and Others**, reported in **2018 3 GauLT 20**, this Court held as follows:

> " *That apart, we also notice that the State Emblem of India was embossed at the top of the certificate issued by the Gaonburah. Under Schedule 1 of the State Emblem of India (Regulation of Use) Rules, 2007 framed under Section 11 of the State Emblem of India (Prohibition of Improper Use) Act. 2005, a Gaonburah is not an authorized authority to use the State Emblem in a certificate issued by him. Rule 10 clearly provides that no person other than those authorized shall use the State Emblem in any manner. Such unauthorized use of the State Emblem would render Ext-3 inadmissible in evidence.*"

19. Thus it is a settled position in law that the certificate of the Gaonburah, in the event it contains the State Emblem, loses all evidentiary value. The certificate, presented by the petitioner as an exhibit, contains the State Emblem and, therefore, does not have any evidentiary value.

20. We have carefully pursued the reasoning by the learned Tribunal while returning the opinion dated 23.02.2017, and we do not find any infirmity in the same to interfere with in the present writ petition.

21. Accordingly, the writ petition stands dismissed, leaving the parties to bear their own costs.

22. The consequences of dismissal shall follow.

23. The Trial Court Records (TCR) be returned forthwith, along with a copy of this order.

JUDGE **JUDGE**

Comparing Assistant