GAHC010084872023

2026:GAU-AS:17532

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

Case No. : WP(C)/6755/2023

SHAIJ UDDIN @ MAIJ UDDIN
S/O LT. ASAR UDDIN @ ASAR ALI R/O VILL. RAGHAB BEEL P.O. BARENGABARI P.S GOBARDHANA DIST. BAKSA ASSAM PIN 781315

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP BY THE COMMISSIONER AND SECRETARY TO THE MINISTRY OF HOME AFFAIRS GOVT OF INDIA NEW DELHI

2:THE STATE OF ASSAM
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM HOME DEPTT DISUR GUWAHATI 6

3:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI GUWAHATI 6

4:THE STATE CO ORDINATOR
NATIONAL REGISTRER OF CITIZENS NRC ASSAM ACHUYT PLAZA BHANGAGARH GUWAHATI 5

5:THE ELECTION COMMISSION OF ASSAM
REP BY THE COMMISSIONER BELTOLA BASISTHA ROAD HOUSEFED COMPLEX GUWAHATI 6 ASSAM

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

7:THE SUPERINTENDENT OF POLICE (BORDER)
BARPETA
P.O. BARPETA DIST. BARPETA ASSAM PIN 781301

8:THE SUPERINTENDENT OF POLICE (BORDER)
BASKA
P.O. BASKA PIN 781372 DIST. BASKA ASSA

Advocate for the Petitioner : MR. D P BORAH, MR B PAUL,MS. S BORO

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE PRANJAL DAS

Advocate for the petitioner	: Mr. D.P. Borah.
Advocate the respondents	: Mr. B. Kaushik, CGC.
	: Mr. G. Sarma, SC, FT & Border matters.
	: Mr. A.I. Ali, SC, ECI.
	: Mr. P. Sarmah, Addl. Sr. Govt. Advocate.

Date on which judgment is reserved : 06.10.2026.

Date of pronouncement of judgment : 26.11.2026.

Whether the pronouncement is of the operative part of the judgment? : NO.

Whether the full judgment has been Pronounced? : YES.

JUDGMENT AND ORDER

(*CAV*)

(K.R. Surana, J)

Heard Mr. D.P. Borah, learned counsel for the petitioner. Also heard Mr. B. Kaushik, learned CGC for respondent no.1; Mr. A.I. Ali, learned

standing counsel for respondent no.5; Mr. G. Sarmah, learned standing counsel for F.T. and Border matters, for respondent nos. 2, 3, 4 and 7; and Mr. P. Sarmah, learned Addl. Senior Government Advocate for respondent no.6.

2) As per the reference forwarded by the Electoral Registration Officer, 40 Sarbhog LAC, the name of the proceedee who was suspected to be a foreigner is Mayez Uddin, son of Achar of Village- Raghab Bil, P.S. Barpeta Road, Dist. Barpeta. Thus, the Superintendent of Police (Border), Barpeta had forwarded the reference to the Foreigners Tribunal against the said Mayez Uddin. Notice on the proceedee was also issued in the name of Mayez Uddin, which was served on 16.05.2017. However, the petitioner appeared and filed his written statement by projecting his name to be Shaij Uddin @ Maij Uddin.

3) By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Shaij Uddin @ Maij Uddin has assailed the opinion dated 05.07.2018, passed by the learned Member, Foreigners' Tribunal-III, Barpeta, in F.T. Case No. 2668(III)/2016 [arising out of Ref. IMDT Case No. 6119/B/98], by which he was declared to be a foreigner of post 25.03.1971, who had entered into India (Assam) through unauthorised route after 25.03.1971 from the specified territory and hence, he is liable to be deported.

4) The learned counsel for the petitioner had submitted that the petitioner had submitted all the relevant documentary evidence, which was discarded by the learned Tribunal illegally, without appreciating the exhibited voters list. It was submitted that the exhibited documents were discarded on the ground that in the written statement the petitioner had not disclosed material facts regarding his date of birth, existence of brothers and sisters and

other relevant facts which are within petitioner's knowledge. Moreover, only by holding that there is no linkage with his own family members before 25.03.1971, the entire evidence was discarded and the petitioner was declared to be a foreigner.

5) Per contra, the learned standing counsel for the Border and FT matters has made his submissions in support of the impugned opinion. It was submitted that there is a catena of judgments where this Court had consistently held that facts must be pleaded in the written statement and proved with the assistance of cogent and admissible evidence, which was not done in this case. Hence, it was submitted that merely because the name of one projected family member is recorded in voters' lists, is not a proof that every family member had his or her existence in India (State of Assam) prior to the cut-off date as there is possibility of the suspected foreigner entering into Assam after 25.03.1971. In the said context, it was submitted that after the voter list of 1970, the next exhibited voter list is of the year 1989, with a huge gap of 19 (nineteen) years, during which his projected family members had no proof of existence in the State and in support of his submissions, reliance is placed on the provision of Section 6-A(2) of the Citizenship Act, 1955, which is a special provision for the State of Assam.

6) Considered the submissions and perused the record received from the learned Tribunal.

7) On examination of record, it is seen that in his written statement, the petitioner, while denying that he was a foreigner, had *inter alia*, stated that he was born and grew up at village- Satbainirtop, Mouza- Howly, P.S.

and Dist. Barpeta. His father is Asar Ali @ Asaruddin and his name appeared in the NRC of 1951 at the said village. His grandfather is Jahur Ali and grandmother is Kasitan Nessa, his younger uncle is Jubbar Ali, his mother is Tarabhanu Nessa and name of aunty is Moymana Khatun, whose names appear in the voter list of 1966 and 1970 of same village. It was stated that his grandfather expired before the year 1989 and the petitioner along with all his family members had shifted to village- Raghabil under 40 No. Sarbhog LAC and the names of the petitioner, his father, mother, uncle- Jaijuddin, aunty- Ambiya Khatun, sister- Asiya Khatun, appeared in the voter list of 1989 of village- Raghabil, under 40 No. Sarbhog LAC, but in the said voter list, the name of the village is wrongly mentioned as Bagharbil, which should be Raghabil. The name of the petitioner was marked 'D' (doubtful) in the voter list of 1997 of village- Raghabil under 40 No. Sarbhog LAC and in subsequent voter list. The name of his grandfather appeared in the revenue receipt dated 16.05.1947 and 25.02.1950 in respect of land covered by patta no. 123 and 701 at village- Balabhita. The name of his uncle appeared in the Elector Photo Identity Card (EPIC for short) at village- Raghabil under 40 No. Sarbhog LAC. He had stated that his real name is Saij Uddin, but his name is recorded in the voter list of 1997 as Maij Uddin, in which name notice was issued in this case. His age in 1989 was 20 years, but in the said voter list, his name was recorded as 25 years. The name of his father is Asar Uddin, but recoded in the voter list of 1989 as Asar Ali. Accordingly, it was stated that Shaij Uddin and Maij Uddin are same and one person, i.e. petitioner and Asar Ali and Asar Uddin are same and one person, i.e. his father. Accordingly, it was prayed that the petitioner be declared as an Indian citizen and drop the proceeding against him.

8) In support of his defence, the petitioner had examined himself as DW-1 by filing his evidence-on-affidavit and he had exhibited the following documents, viz., (i) certified copy of voter list of 1966 (Ext.A); (ii) certified copy of voter list of 1970 (Ext.B); (iii) certified copy of voter list of 1989 (Ext.C); (iv) certified copy of voter list of 1993 (Ext.D); (v) certificate by *Gaonburah* (Ext.E); (vi) certificate by *Gaonburah* (Ext.F); (vii) revenue paying receipt (Ext.G); (viii) revenue paying receipt (Ext.H); (ix) self-sworn affidavit for correction of name (Ext.I). Despite filing of evidence-on-affidavit, the learned Tribunal had permitted recording of examination-in-chief wherein the petitioner as DW-1 had deposed regarding the documents which were exhibited and annexed with his evidence.

9) In his cross-examination, the petitioner had stated that he was born and brought up at village- Satbhainirtup, from where his family had shifted to Raghabil and living there about 40 years ago. His actual name is Saij Uddin. He had stated that he had not produced any certificate from *Gaonburah* of village- Satbhainirtup to the effect that he was born and brought up at village Satbhainirtup.

10) The petitioner had examined Sri Phanindra Kr. Das, the *Gaonburah* of village- Satbhanirtup as DW-2, who had stated in his examination-in-chief that he was working as *Gaonburah* of village- Satbhainirtup since 2002. He knows Saijuddin son of Late Asaruddin of village- Satbhainirtup, which is within his charge. He had stated that so far he knows that the petitioner was born and brought up at village- Satbhainirtup from where he shifted to village- Raghab Bil in the year 1975 due to poverty. He had issued a certificate (Ext.E) in favour of the petitioner, wherein due to oversight, the name of father of

Asaruddin has been written instead of name of Saijuddin. Saijuddin obtained a fresh certificate (Ext.H) from him. Hence, he prayed for cancelling Ext.E and accepting Ext.H. In his cross-examination, DW-2 had stated that the father of the petitioner was personally known to him. Late Asaruddin died in village- Raghab Bil after shifting from village- Satbhainirtup. He had stated that he had not produced any record/ document in support of which certificate (Ext.H) was issued. He had seen Asaruddin, the father of the petitioner since after his childhood.

11) The petitioner had examined Sri Bonoy Prasad Urang, *Gaonburah* of Raghab Bil as DW-3. In his examination-in-chief, he had stated that he has been working as *Gaonburah* of village- Raghab Bil since October, 1983. He knows Saijuddin, son of Asaruddin of village- Raghab Bil, which is under his charge. In the year 1974/1975, the petitioner with his family had shifted to Raghab Bil and his father died in village- Raghab Bil in the year 2003. He had issued certificate (Ext.F), identifying the petitioner and Ext.F(1) was his signature. He had not maintained any counterfoil of certificate issued by him. He had not produced any record/ document/ population register of village- Raghab Bil. In his cross-examination, DW-3 had stated that he cannot say where the petitioner was born and brought up. The petitioner came to his village at the age of 7/8 years.

12) Thereafter, the State had examined Sri Birbal Ramchiary as CW-1. He had stated in his examination-in-chief that he was working as Technical Officer, R.R. Station, Agriculture Department, Sarbhog, Assam. He was entrusted as Local Verification Officer by the Election Department in the year 1997. Accordingly, on 27.09.1997, he had visited village- Raghab Bil under

Sarbhog LAC for verification of electoral rolls and while he went to the house of the petitioner, Mayez Uddin, son of Achar of village Raghab Bil and asked him to produce relevant documents in support of his nationality but he failed to produce any document. Thereafter, he allowed time to produce documents but the proceedee did not appear and submitted documents to their office at Kalpani Bazar. On failure of the petitioner to produce any document he had submitted the report before the ERO, Sarbhog LAC. Ext.1 (containing 3 pages) is his report, where Ext.1(1) is his signature. He forwarded the report to the ERO, Sarbhog LAC. Subsequently, his report was forwarded by the ERO, Sarbhog LAC to the SP(B), Barpeta, who in turn made his reference vide Ext.2. Ext.3 is the report of the ERO. In his cross-examination, the CW-1 had stated that he accompanied the local *Gaonburah* and the Lat Mandal at the time of his visit to the house of the petitioner. He did not issue any notice asking him and allowing him time for production of documents. He did not record the statement of any witness in course of verification. He had denied the suggestion that he had submitted a false report.

13) The learned Tribunal, on appreciation of materials available on record declared the petitioner to be a foreigner of post 25.03.1971. The relevant paragraph nos. 3 to 11 of the impugned opinion is extracted hereinbelow:-

> "*3. The proceedee has submitted a copy of NRC, 1951 as annexure –I. From this documents, it appears that Asar Ali son of Jahar Ali has one elder sister Nurjahan and sister Jabeda Khatun and two brothers Jubbar Ali and Antap Ali. The proceedee has not mentioned their names as his own brothers and sisters. Ext. –G and Ext. –I are revenue paying receipt, but in the W/S the proceedee has not mentioned anything about the land possessed by him or by his father and grandfather and other family members. As such, a serious doubt and contradictory*

version in between the W/S and evidence-in-chief. Apart from the affidavit in regards of name change, age etc, is a mere declaration and cannot be accepted.

4. The statement of DW-2, Gaonburah issued certificate Ext. –H, the contents of the certificate are that the father of the proceedee Saijuddin son of Asar Uddin and residing at village Satboinirtup and voter of that village. On his deposition DW-2 stated that he has been working as Gaonburah in the said village since 2002 and shifted from this village by the proceedee in the year 1975. The Gaonburah stated that without supporting documents, son his version is not acceptable and contradictory one.

5. The deposition of DW-3, Gaonburah issued a certificate as Ext. –F. He has issued certificate that Saijuddin and Mayzuddin is the same and one person and residing the address mentioned herein. His statement with the contents of the certificate are contradictory one and deposed and issued without maintained Register.

6. So, the two certificate cannot be accepted as linkage certificate in favour of the proceedee. If it has submitted by the proceedee as a link documents which has to be supported by other evidence. So, such documents would not only have to be proved in accordance with law but must be corroborated by other substantive evidence to prove citizenship from the statements DWs and W/S it arise doubt about it. The proceedee cannot insist that only that portion of the voters' list and documents which are in his favour should be accepted and those portions going against him should be over looked. The said documents has to be appreciated as a whole. The proceedee totally failed in this regard.

7. The documents which are Exhibited in support of his case, do doubts certified copies of voters' lists are secondary evidence but the contents of such secondary evidence would have to be proved by comparing with his primary evidence the proceedee has failed to do.

8. The W/S is the vital memorandum of the proceedee in the case, if he stated in

the W/S and submit and stated in the affidavit(evidence-in-chief) other materials a serious doubt arises.

9. From the W/S it is evident that the proceedee does not disclose basic material facts which are within his specific knowledge and he does not say when he was born. He remained silent as regard his brothers and sisters and sons and daughters of the grandfather and father when one's citizenship is being questioned by the State, he or she has to disclose all material facts which are within his special knowledge and information to prima facie established his citizenship of India, which are thereafter required to be proved by adducing cogent and reliable evidence. If, he fails to disclose such material facts at the first instance of the W/S which is the vital defence statement of the proceedee may lead to drawing of adverse inference against the proceedee and he cannot go beyond the pleadings.

10. The proceedee in his W/S column No. 12 discloses a serious doubt about his age and the name of the proceedee " that the 2nd party's real name Asar Uddin". From the discussion and appreciation of the evidence and documents there is no admissible evidence establishing linkage with the proceedee with his own family members to a period prior to 25.03.1971, as such, there are glaring inconsistent and contradiction in his version of the proceedee which remained unexplained and which are not reliable.

11. In the W/S the proceedee neither disclose the name of the brothers and sisters of his father nor sons and daughters of the grandfather. There is no single whisper in this regard by disclosing their names and others particulars. As such, a serious doubt arises against the proceedee. The proceedee could not proved by producing documents as a proofs and by adducing evidence in favour of him of the special knowledge and information about the citizenship of mother. The evidence which are given are not trustworthy, reliable and believable and sufficient.

As such, after discussion and gone through the case records, documents, evidence and entire material of the reference I am of the opinion that the proceedee

miserably failed to discharge his burden of proof by birth and through linkage with the own family members. Averments made in the W/S and deposition and witnesses not proved by adducing cogent and reliable evidence and failure to disclose the material particulars in this case. Accordingly, he is an illegal migrant and declared the contesting proceedee as a foreigner u/s 2(a) of the Foreigners' Act, 1946.

The reference thus stands disposed of on contest in terms of above discussion."

14) In paragraph 3 of the opinion, the learned Tribunal had referred to the contents of NRC of 1951 (not an exhibited document) and observed that Asar Ali, son of Jahar Ali has one elder sister- Nurjahan and sister- Jabeda Khatun and two brothers Jubbar Ali and Antap Ali and observed that the petitioner had not mentioned their names as his own brothers and sisters. The said finding is *ex facie* perverse because as per the contents of the N.R.C. of 1951 (page 54 off the Tribunal's record) the said Nurjahan, Jabeda Khatun, Jubbar Ali and Antap Ali were related as brothers and sisters of Asar Ali, all being sons and daughters of Jahar Ali. The petitioner projects Asar Ali as his father and therefore, the petitioner has not pleaded/disclosed the names of the said four persons as his brothers and sisters. Thus, the learned Tribunal has wrongly read the contents of the N.R.C of 1951, which is not an exhibited document, which has vitiated the impugned opinion.

15) In paragraph 7 of the opinion, the learned Tribunal had discarded the exhibited certified copies of voters' lists on the ground that they are secondary evidence and their contents would have to be proved by comparing with primary evidence, which the petitioner had failed to do. The said finding is in total ignorance of the provision of Section 74 to 79, read with

Clause (a) and (e) of Section 65 of the evidence Act, 1872. The voter list is a public record and certified copies of the voter list is permitted to be issued. In the said context, it would be relevant to refer to the decision of this Court in the case of *Borhan Ali @ Barhan Ali v. Union of India & Ors., (2018) 6 GLR 491: 2018 (4) GLT 392: (2018) 0 Supreme(Gau) 491*. The relevant paragraphs 21 thereof is quoted below:-

> ***21***. *At this stage, we may advert to the decision of the Orissa High Court in Ganesh Swain (supra). That was an appeal against a preliminary decree for partition. In the context of that case, reliance was placed on an entry in the voters list. Trial Court did not place any reliance on the voters list on the ground that two of its pages did not bear any seal of the Panchayat office or election office but instead had the seal of the Sadar Police Station without signature. Orissa High Court held that voters list prepared under the Representation of the People Act, 1951 was a public record within the meaning of Section 35 of the Evidence Act and a public document within the meaning of Section 74(1)(iii) of the Evidence Act and was, thus, admissible in evidence. It was, therefore, not necessary to call in evidence the author thereof or the person supplying the information to prove its genuineness.*
>
> ***21.1***. *With respect, we are unable to agree with the above observations of the Orissa High Court. It is no doubt true that voters list is a public record within the meaning of Section 35 of the Evidence Act and is a public document within the meaning of Section 74(1)(iii) of the Evidence Act. Section 61 of the Evidence Act says that contents of documents may be proved either by primary or by secondary evidence. This Section does not make any distinction between a public document and a private document. Therefore, when a party seeks to rely upon a document, the contents of the document would have to be proved either by primary or by secondary evidence.*
>
> ***21.2***. *What is primary evidence is dealt in Section 62 of the Evidence Act. Primary evidence means the document itself produced for the inspection of the Court. Section 63 deals with secondary evidence. Secondary evidence means and includes certified copies.*
>
> ***21.3***. *Ordinarily, a document has to be proved by primary evidence (please see Section 64). But in certain cases enumerated in Section 65 of the Evidence*

Act, secondary evidence may be given of the existence, condition or contents of a document when the original is a public document within the meaning of Section 74 [Section 65(e)]; when the original is in possession or power of any person legally bound to produce it but despite notice under Section 66, such person does not produce it [Section 65(a)]; when the original is a document of which a certified copy is permitted by the Evidence Act or by any other law in force to be given in evidence [Section 65(f)]:, etc. This Section itself mentions that when the original is a public document within the meaning of Section 74 or when the original document is a document of which a certified copy is permitted by law to be given in evidence i.e., clauses (e) and (f), a certified copy of the document but no other kind of secondary evidence is admissible.

***21.4**. As noticed above, Section 66 requires giving of notice to the party in possession of the document to produce the same before the Court.*

***21.5**. That brings us to Section 76 of the Evidence Act. Every Public Officer having custody of a public document which any person has a right to inspect shall give that person on demand a copy of it on payment of the legal fees therefor together with a certificate written at the foot of such a copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title and shall be sealed whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.*

***21.6**. As per Section 77 of the Evidence Act, such certified copies may be produced in proof of contents of the public document or part thereof.*

***21.7**. Therefore, if a proceedee relies on a voters list, only a certified copy of such voters list or extract thereof would be admissible in evidence. Filing of an unsigned or unauthenticated or uncertified copy of voters list sought to be relied upon as proof of citizenship would not be admissible in evidence. Therefore, we would respectfully disagree with the view taken by the Orissa High Court.*

***21.8**. There is one more aspect. Though under Section 79 of the Evidence Act, there is presumption as to the genuineness of certified copies provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf, it is in the public domain that citizenship is a contentious issue in so far the State of Assam is concerned. There are 100 Foreigners Tribunals functioning in the State of Assam which are mandated under the law to answer references made to them by the referral authority, i.e., concerned Superintendent of Police (Border) as to whether the proceedee is a*

foreigner or not. Simultaneously, process is on for finalizing or rather updating National Register of Citizens (NRC) in the State of Assam. In both the processes, proceedee or the claimant, as the case may be, primarily rely upon voters lists to prove their citizenship. It is also in public domain that a large number of voters lists have been detected which have been suspected to be not genuine. Therefore, notwithstanding the presumption of genuineness under Section 79, it would be safe for the Tribunals and the Courts to insist on proof of contents of such certified copies by comparing with the primary evidence, i.e., electoral roll in original produced and testified before the Tribunal or the Court by the lawful custodian of such primary evidence i.e., by the concerned Electoral Registration Officer or by his authorized officer or personnel.

***21.9**. Thus no reliance can be placed on exhibits C, D and E. Notwithstanding the same, a comparison of the contents of the above documents would reveal the absurdity of the narrative presented by the petitioner. For example, in Ext.D, age difference between Atakjan and Borhan Ali i.e., mother and son was 9 years whereas in Ext.E, Hayat Ali and Atakjan were conspicuous by their absence.*

16) Therefore, while it was permissible for the learned Tribunal to call for the original voter list from its custodian, or to refer to the absurdity of accepting oral evidence compared to documentary evidence, as was held in the case of *Borhan Ali @ Barhan Ali (supra)*, but the learned Tribunal could not have discarded the exhibited voters' lists, being voter list of 1966 (Ext.A), 1970 (Ext.B), 1989 (Ext.C), 1993 (Ext.D), on the ground that contents of certified copies of voter list was not proved by producing original voter lists.

17) The learned Tribunal, in its opinion, has not referred to the nomenclature or discipline of the exhibited documents. Therefore, on perusal of the Tribunal's records, it is seen that the documents exhibited by the petitioner are - (i) certified copy of voter list of 1966 (Ext.A), (ii) certified copy of voter list of 1970 (Ext.B), (iii) certified copy of voter list of 1989 (Ext.C), (iv) certified copy of voter list of 1993 (Ext.D), (v) Identity Card issued by *Gaonburah* (Ext.E),

(vi) certificate issued by *Gaonburah* (Ext.F), (vii) land revenue paid receipt (Ext.G), (viii) Identity card issued by the *Gaonburah* (Ext.H), (ix) land revenue receipt (Ext.I), affidavit regarding name discrepancy (Ext.J).

18) It is seen from paragraph 4 of the impugned opinion that the finding/observation of the learned Tribunal is that "The Gaonburah stated that without supporting documents, son his version is not acceptable and contradictory one." That part of the finding/observation is *ex facie* incorrect. The examination-in-chief and cross-examination of DW-2 is quoted hereinbelow.

"*On S/A*

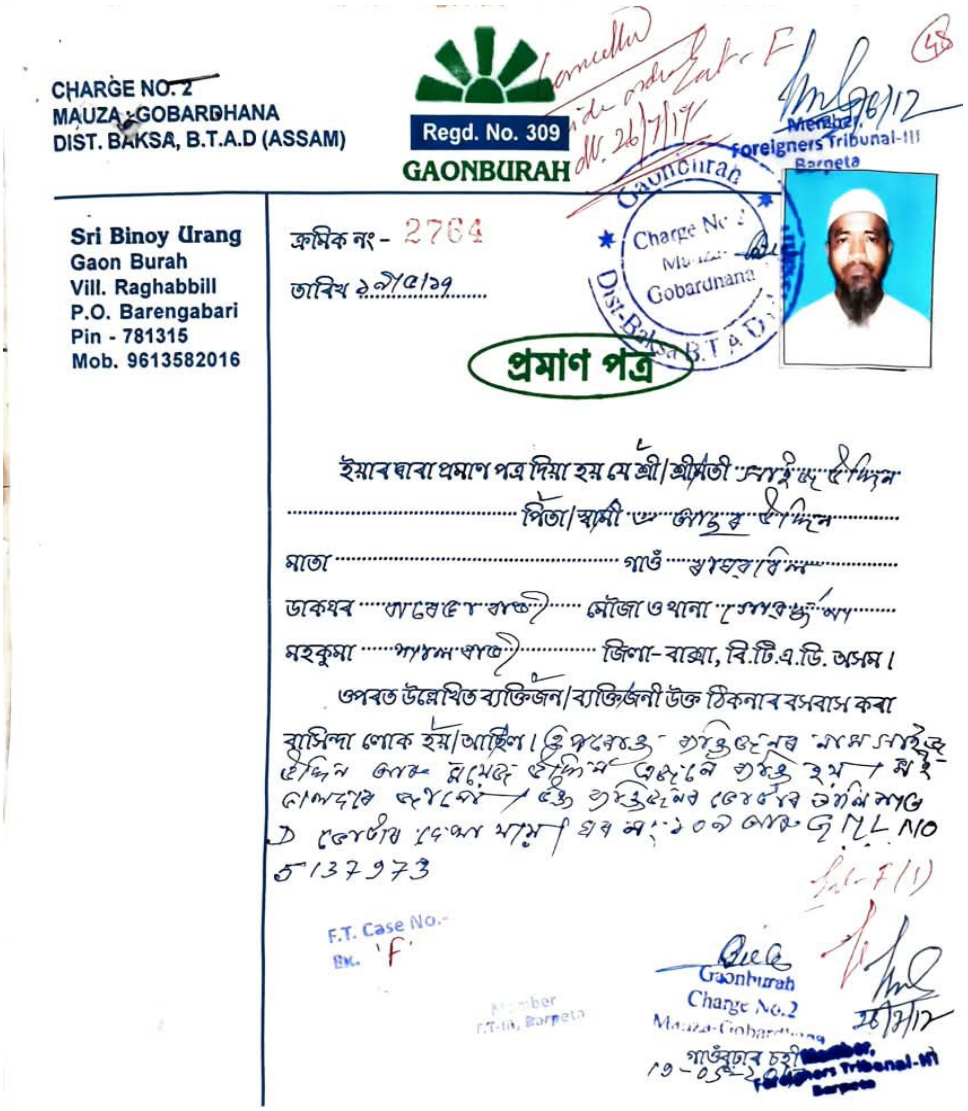
I have been working as Gaonburah of village Satbhanirtup since 2002. I know the OP Saijuddin son of late Asaruddin of village Satbhanirtup, which is within my charge. So far, I know the OP Saijuddin was born and brought up at village Satbhanirtup. The OP shifted from village Satbhanirtup to village Raghab Bil in the year 1975 due to his poverty. I have issued a certificate in favour of the OP vide Ext. -E, wherein due to oversight the name of father of the OP Asaruddin has been written instead of the OP Saijuddin. Saijuddin, who obtained a fresh corrected certificate from me vide Ext. H and hence, prayed for canceling the certificate marked as Ext. -E, accepting the certificate produced today vide Ext. -H.

xxxxxx xxxxxx xxxxxx

Asaruddin, the father of the OP was personally known to me. Late Asaruddin died at village Raghab Bil after shifting from village Satbhanirtup. I have not produced any record/document in support of which the certificate marked as Ext. -H was issued. I have seen Asaruddin, the father of the OP since after my childhood."

19) The finding of the learned Tribunal on Ext.F, as recorded in paragraph 5 of the impugned opinion is again fake, manufactured and/or perverse, which could only happen if the learned Member did not read the

contents of the said Ext.F. Therefore, the scanned copy of Ext.F, i.e. the certificate dated 19.05.2017 of the Gaonburah is made a part of this order, which would show that the hand written Assamese language, which is the State language, the DW-3 did state that Saijuddin and Mayzuddin are one and same person. The scanned copy of the certificate is attached herewith:



CHARGE NO. 2
MAUZA - GOBARDHANA
DIST. BAKSA, B.T.A.D (ASSAM)

Regd. No. 309
GAONBURAH

Sri Binoy Urang
Gaon Burah
Vill. Raghabbill
P.O. Barengabari
Pin - 781315
Mob. 9613582016

ক্ৰমিক নং - 2764
তাৰিখ ১৯/৫/১৭

প্ৰমাণ পত্ৰ

ইয়াৰ দ্বাৰা প্ৰমাণ পত্ৰ দিয়া হয় যে শ্ৰী/শ্ৰীমতী সাইজ উদ্দিন
পিতা/স্বামী ও আজুৰ উদ্দিন
মাতা গাওঁ বাঘৰবিল
ডাকঘৰ বাৰেঙাবাৰী মৌজা ও থানা গোবৰ্দ্ধনা
মহকুমা পাল বাৰী জিলা- বাক্সা, বি.টি.এ.ডি. অসম।
ওপৰত উল্লেখিত ব্যক্তিজন/ব্যক্তিজনী উক্ত ঠিকনাৰ বসবাস কৰা বাসিন্দা লোক হয়/আছিল। ওপৰোক্ত ব্যক্তিজনৰ নাম সাইজ উদ্দিন আৰু ময়েজ উদ্দিন একজনে ব্যক্তি হয়। মই ভালদৰে জানো। উক্ত ব্যক্তিজনৰ ভোটাৰ তালিকাত D ভোটাৰ দেখা যায়। ঘৰ নং ১০৯ আৰু GML NO 5137973

F.T. Case No.-
Ex. 'F'

Member
F.T-III, Barpeta

Gaonburah
Charge No.2
Mauza-Gobardhana
19-05-2017

Member,
Foreigners Tribunal-III
Barpeta

20) Thus, in a case where citizenship is being decided, the learned

Member, Foreigners Tribunal-III, Barpeta has made the *quasi-judicial* adjudicatory process of mockery of justice by "intentional" wrong or erroneous reading of documentary evidence. Thus, the impartiality of the learned Tribunal in this case is doubted. Moreover, though the Foreigners Tribunals are dealing primarily with Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964, the learned Tribunal is ignorant of the decision of this Court in *Borhan Ali @ Barhan Ali (supra).*

21) Therefore, in light of the discussions above, the impugned opinion, which is found to vitiated with a gross perversity, is set aside. The matter is to be send back for a fresh opinion.

22) The court is constrained to express an opinion that the learned Member, namely, Mr. Chandra Kumar Baruah, Foreigners Tribunal-III, Barpeta can't be trusted of doing a fair adjudication of this particular case.

23) Under such exceptional circumstances, the Court is inclined to direct the Registry to register a Misc. Case, because:

a. As the manner in which the pleadings and evidence was read and opinion was rendered, the fair adjudication of this case before the learned Member, Foreigners Tribunal-III, Barpeta cannot be expected.

b. Therefore, in the Misc. Case, the learned Member, whose name is referred hereinbefore shall be impleaded as respondent no. 8.

c. Further orders for transfer of the proceeding shall be passed in the Misc. Case after issuing notice to the respondents including the newly impleaded respondent no. 8.

24) In the meantime, the petitioner, namely, Shaij Uddin @ Maij Uddin is directed to appear before the Office of the Senior Superintendent of Police (Border), Barpeta and take bail of Rs.5,000/- (Rupees five thousand only) with one surety of like amount to the satisfaction of the said authority. Further, the Superintendent of Police (Border), Barpeta is directed that on appearance of the petitioner within the period indicated above, the biometrics of the iris of both eyes, the fingerprints of both hands and the photographs of the petitioner shall be obtained, whereafter, he shall be allowed to remain on bail.

25) On his appearance before the Superintendent of Police (Border), Barpeta, as directed above, the said authority shall obtain necessary information and documentation as required under the Rules from the petitioner for securing his presence.

26) On failure of the petitioner to appear before the Superintendent of Police (Border), Kokrajhar, the bail to the petitioner would stand lapsed.

27) As a condition of bail, the petitioner shall appear before the Office of the Senior Superintendent of Police (Border), Barpeta once every first week (seven days) of every month and the said authority shall cause recording his attendance in a register. This shall continue till appropriate order is passed by this Court for transfer of the records for the hearing and fresh opinion.

28) The Registry shall retain the learned Tribunal record till further order to be passed in the Misc. Case to be registered.

29) This writ petition is allowed with remand of the matter, and the remand would be subject to further orders to be passed in the Misc. Case to be registered.

JUDGE **JUDGE**

Digitally signed by Champak Rajbongshi
Date: 2026.11.26 16:06:43 +05'30'

Comparing Assistant **Private Secretary**