
(2019) 02 GAU CK 0025
In the Gauhati High Court
Case No : Writ Petition (C) No. 8445 Of 2018

Abdul Matin

APPELLANT

Vs

Union Of India And 5 Ors

RESPONDENT

Date of Decision : 11-02-2019

Acts Referred:

Citation : (2019) 02 GAU CK 0025

Hon'ble Judges : Achintya Malla Bujor Barua, J;Ajit Borthakur, J

Bench : Division Bench

Advocate : FH Laskar

Final Decision : Allowed

Judgement

AM Bujor Barua, J

1. Heard Mr. F.H. Laskar, learned counsel for the petitioner, Mr. A Ali, learned counsel for the Election Commission of India, Mr. J. Payeng, learned standing counsel for the State of Assam appearing for the Foreigners Tribunal and Border Affairs, Ms. A. Verma, learned standing counsel for the authorities under the NRC as well as Ms. G Sarma, learned counsel for the authorities under the Union of India.

2. On being referred by the Superintendent of Police (Border), Nagaon, FT Case No.NFT (No.3)71/2015 was registered against the petitioner in the Foreigners Tribunal No.3, Nagaon. In the written statement, a stand was taken that the father of the petitioner is Abdul Majid, whose name appears in the voters list of 1970 of village Geruagaon of Khatowal Police Station. A further stand was taken that the name of the petitioner appears in the voters list of 2010 also pertaining to village Geruagaon along with the aforementioned Abdul Majid.

3. The petitioner relies upon the voters list of 1965 of village Geruagaon, Mouza Khatowal, wherein the name of Abdul Majid appears in SI No.100 showing him to be son of Amiruddin aged about 50 years and SI No.101 is of Ayesha Banu, wife

of Majid age 32 years. Reliance is also placed on voters list of 1970 of village Geruagaon, where SI No.53 shows Abdul Majid son of Amir age 35 years. The voters list of 1979 of village Geruagaon at SI No.280, House No.73 shows Abdul Majid son of Aais Ali age 45 years. The voters list of 1997 at SI No.457 also shows Abdul Majid son of Aais Ali age 58 years of village Geruagaon. The voters list of 2005 of village Geruagaon at SI No.593 shows Abdul Majid son of Aais Ali age 70 years and the voters list of 2010 also pertaining to village Geruagaon at SI No.18 shows Abdul Majid son of late Aais Ali age 73 years.

4. It is noted that in the voters list of 1965, the wife of Abdul Majid, son of Amir Uddin is shown as Ayesha Banu. The voters list of 1970 does not show the name of the wife of Abdul Majid. The voters list of 1979 also does not show the name of wife of Abdul Majid. But the voters list of 1997 shows Hamida Khatun to be the wife of Abdul Majid and her age is 45 years. Voters list of 2005 and 2010 also show Hamida Khatun to be the wife of Abdul Majid. It is taken note of that firstly from the voters list of 1979, 1997, 2005 and 2010 Abdul Majid referred therein is son of Aais Ali, whereas in the voters list of 1965 and 1970, he is shown to be son of Amir Uddin/Amir. It is pertinent to note that from the voters list of 2010, which contains the name of the petitioner, it can be established that he is the son of Abdul Majid, who in turn is the son of Aais Ali. But as because of there is a difference in the name of the father of Abdul Majid in the voters list of 1965 and 1970 from the voters list of 1979, 1997, 2005 and 2010, which shows Abdul Majid son of Amir Uddin, we are unable to convince ourselves that the petitioner Abdul Matin son of Abdul Majid, who in turn is the son of Aais Ali can be linked up with Abdul Majid son of Amir Uddin, whose name appears in the voters list of 1965 and 1970.

5. Further, there is a wide discrepancy in the age of Abdul Majid of the voters list of 1965 and 1970 and that of Abdul Majid in the voters list of 1979, 1997, 2005 and 2010. When we perused the order dated 12.07.2018 of the Foreigners Tribunal No.3, Nagaon, it is noticed that the aforesaid discrepancy as indicated above has not been taken note of by the Tribunal.

6. Accordingly, the order of the Tribunal dated 12.07.2018 in FT Case No.NFT (No.3)71/2015 is set aside and the matter is remanded back to the Tribunal for a consideration by taking note of all the aforesaid discrepancies as indicated.

7. The petitioner shall now appear before the Tribunal on 06.03.2019. Upon his appearance, the Tribunal shall take the aforesaid discrepancy indicated above into consideration and pass its reasoned order. The reasoned order be passed by the Tribunal shall prevail over the order dated 12.07.2018.

8. It is clarified that no further evidence shall be allowed from the petitioner and the matter be decided within the available existing evidence. In the event, the petitioner does not appear before the Tribunal or does not co-operate with the Tribunal, the Tribunal would be at liberty to pass any order as permissible under the law. The reasoned order be passed within a period of 60 days from the date

of appearance of the petitioner before the Tribunal.

The writ petition stands allowed to the extent indicated above.