

GAHC010026132026



2026:GAU-AS:4097

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

Case No. : WP(C)/1445/2026

ABUL BADSHA @ ABUL BADGA
S/O. LATE MOHAMMAD ALI @ ALI SARKAR, R/O. VILLAGE SONARIBALI,
P.O. AND P.S. SAMAGURI, DISTRICT NAGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS
THROUGH - THE SECRETARY, TO THE GOVERNMENT OF INDIA, MINISTRY
OF HOME AFFAIRS, GRIHA MANTRALAYA, NEW DELHI- 110001

2:THE STATE OF ASSAM
THROUGH - THE SECRETARY
TO THE GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI - 6.

3:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER OF INDIA
NIRVACHAN SADAN ASHOKA ROAD
NEW DELHI 110 001

4:THE ASSAM STATE ELECTION COMMISSION
HOUSEFED COMPLEX
DISPUR
GUWAHATI 781006

5:THE DISTRICT COMMISSIONER
NAGAON
P.O. NAGAON
DISTRICT NAGAON
ASSAM. PIN CODE- 782001

6:THE ELECTORAL REGISTRATION OFFICER

NAGAON
P.O. NAGAON
88 NO. SAMGURI LAC
DISTRICT NAGAON
ASSAM. PIN CODE- 782001

7:THE CIRCLE OFFICER
KALIABOR REVENUE CIRCLE
DISTRICT NAGAON
ASSAM. PIN CODE- 782001

8:THE SUPERINTENDENT OF POLICE (BORDER)
NAGAON
P.O. NAGAON
DISTRICT NAGAON
ASSAM, PIN CODE- 78200

Advocate for the Petitioner : MR. R MAJUMDAR, MS. J GHOSH,MR. JUNM LASKAR

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 20.03.2026

Heard Mr. R. Majumdar, learned counsel for the petitioner; Mr. J. Payeng, learned Standing Counsel, Home and FT/NRC for the respondent nos. 2 & 8; Ms. S. Kataki, learned Standing Counsel, ECI for the respondent nos. 3 & 6; and Mr. S.R. Baruah, learned Junior Government Advocate, Assam for the respondent nos. 5 & 7.

2. The projected case of the petitioner is that he is a permanent resident of Village – Sonaribali, Post Office & Police Station – Samaguri, District – Nagaon, Assam. The petitioner has stated that the name of the father of the petitioner namely, Mohammed Ali appeared in the NRC details of 1951 from Village – Gotonga, Mouza – Rangagora, District – Nagaon [Assam]. Subsequently, the names of the parents and siblings of the petitioner appeared in the Electoral Rolls of 1965 and 1970 from Village – Gotonga, Mouza – Rangagora, District – Nagaon as voters of Samaguri Legislative Constituency Assembly [LAC]. The name of the

petitioner along with his wife appeared in the Electoral Roll of 1989 as residents of Village – Sonaribali for 88th No. Samaguri LAC. But, in the Electoral Roll 1997, the name of the petitioner was published with 'D' Voter mark. In the subsequent Electoral Rolls of 2005, 2010, 2013, 2014 & 2018 and also, in the recent Electoral Roll of 2025, the same position has subsisted.

3. With a projection that the respondent authorities had failed to do the needful, the petitioner is before this Court under Article 226 of the Constitution of India for an appropriate direction that the 'D' Voter tagged with the name of the petitioner in the Electoral Roll/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 embark on a fact finding exercise 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. 6 i.e. the Superintendent of Police [Border], Nagaon 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 respondent no. 6 to refer the case of the petitioner as regards the mark 'D' in the Electoral Roll/Voters List in respect to No. 88 Samaguri LAC to a competent Foreigners Tribunal, Nagaon district for an appropriate adjudication as regards the status of the petitioner as 'D' Voter in the concerned Electoral Roll/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 his 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