

GAHC010142622025



2026:GAU-AS:818

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

Case No. : WP(C)/3711/2025

HASHEM ALI KHAN ALIAS MD. HASEN KHAN
S/O- ZOLISH KHA @ JALISH KHAN, R/O- VILL.- SUNDARPARA PART-I, P.O.
JAMADARHAT, P.S. FAKIRGANJ, DIST. DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY ITS SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF
HOME AFFAIRS, NEW DELHI-110001.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTORAL OFFICER
ASSAM
DISPUR
GUWAHATI-06.

3:THE REGISTRAR GENERAL OF INDIA
REPRESENTED BY THE STATE COORDINATOR
NRC
ASSAM
ULUBARI
GHY-05.

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

5:THE DIRECTOR GENERAL OF POLICE (ADMINISTRATION)
ASSAM

ULUBARI
GUWAHATI-07.

6:THE DISTRICT COMMISSIONER
KAMRUP METRO
ASSAM
HENGRABARI
GHY-36.

7:THE SUPERINTENDENT OF POLICE (B)
KAMRUP METRO
ASSAM
PANBAZAR
GHY-01

Advocate for the Petitioner : MR. A RAHMAN,

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 ANJAN MONI KALITA

ORDER

Date : 21.01.2026
(K.R. Surana, J)

Heard Mr. A. Rahman, learned counsel for the petitioner. Also heard Ms. K. Phukan, learned CGC; Mr. G. Sarma, learned standing counsel for FT, Border matters and NRC; Ms. K. Bhattacharyya, learned counsel appearing on behalf of Ms. S. Katakey, learned standing counsel for respondent ECI, and Mr. P. Sarmah, learned Additional Senior Govt. Advocate for the State respondent.

2) By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Hashem Ali Khan @ Md. Hasen Khan, has assailed the opinion dated 30.04.2024, passed by the learned Member, Foreigners' Tribunal- 3rd, Kamrup (M), in F.T. Case No. 602/2017, arising out of

F.T. (DCP)- 752/2017 (Assam), by which the petitioner was declared to be a foreigner of post 25.03.1971 stream.

3) Pursuant to the order of the Court, the record of the Tribunal is received.

4) On perusal of the records of the Tribunal, it is seen that on 26.07.2022, one Hasen Ali Khan has appeared before the learned Tribunal and has stated that he is not the proceedee in the instant case. He has also stated that the proceedee, namely, Hashem Ali Khan is his stepbrother. Accordingly, the learned Tribunal had directed the said Hasen Ali Khan to produce his brother/proceedee on the next date. On 18.08.2022, the proceedee Hasem Ali Khan has entered appearance, though notice was not served upon him.

5) The learned counsel for the petitioner has submitted that though the petitioner has entered appearance and has filed his written statement along with all the annexures, and has also filed evidence-on-affidavit, thereafter, he could not appear before the learned Tribunal as he had left for Shillong, Meghalaya for labour work and during that time, he had also lost contact with his advocate.

6) Although, the learned standing counsel for the FT matters has opposed the prayer made in this writ petition, but considering the conduct of the petitioner in appearing before the learned Tribunal without the notice being served upon him, without going into the merit of the case, the Court is inclined to give an opportunity to the petitioner to appear before the learned Tribunal to prove his documents as well as to produce witnesses, if any.

7) Resultantly, the matter is remanded back to the said learned Tribunal to proceed again from the stage of further evidence/cross-examination

of DWs.

8) The petitioner, who is represented in this writ petition by his learned counsel, is directed to appear before the said learned Foreigners Tribunal on or before the outer time limit of 21.02.2026, and on the said date, by producing a certified copy of this order before the said learned Tribunal, shall take such steps as the petitioner may be so advised. It is made clear that if the petitioner fails to appear before the said learned Tribunal within the time allowed, it would be permissible for the said learned Tribunal to treat the petitioner as absent on call and to pass a fresh opinion in accordance with law.

9) This writ petition is allowed to the extent as indicated above.

10) The parties are left to bear their own cost.

11) The petitioner shall submit a certified copy of this order to the Deputy Commissioner of Police (Border), Kamrup (M), to bring the order to the notice of the said authority.

12) The Registry shall expeditiously return back the Tribunal's record along with a copy of this order to be made a part of the records by the learned Tribunal for future reference.

13) Before parting with the records, it is made clear that as this order has been passed under facts and circumstances unique to this case, this order is not intended to be a precedent in any other case.

JUDGE

JUDGE

Comparing Assistant