GAHC010048292024

2026:GAU-AS:15714-DB

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

Case No. : WP(C)/1655/2024

MD. HUSSAIN AHMED
SON OF LATE ABDUR RAHMAN,
RESIDENT OF VILLAGE- DIKHARUMUKH, TAPATJURI,
POLICE STATION AND POST OFFICE- DOBOKA,
DISTRICT- HOJAI, ASSAM, PIN- 782440.

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY,
MINISTRY OF HOME AFFAIRS,
NEW DELHI-1.

2:THE ELECTION COMMISSION OF INDIA
REPRESENTED BY THE CHIEF ELECTORAL OFFICER
ASSAM

DISPUR
GUWAHATI- 781006.

3:THE REGISTRAR GENERAL OF INDIA
REPRESENTED BY THE STATE COORDINATOR
NRC (NATIONAL REGISTER OF CITIZENS)
ASSAM

ULUBARI
GUWAHATI-5.

4:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY

HOME DEPARTMENT
DISPUR

GUWAHATI- 781006
ASSAM.

5:THE DISTRICT COMMISSIONER
HOJAI
DISTRICT- HOJAI
ASSAM

PIN- 782442.

6:THE FOREIGNERS REGISTRATION OFFICER
IN THE DISTRICT OF HOJAI
DISTRICT- HOJAI
ASSAM

PIN- 782442.

7:THE SUPERINTENENT OF POLICE (BOARDER) IN THE DISTRICT OF HOJAI
DISTRICT- HOJAI
ASSAM

PIN- 782442.

8:THE OFFICER-IN-CHARGE
DOBOKA POLICE STATION
DISTRICT- HOJAI
ASSAM
PIN- 782440

Advocate for the Petitioner : ALHAJJ I UDDIN, MR R HOQUE,MRS. R MOMTAZ

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : 13.10.2026
(K.R. Surana, J)

Heard Mr. A.I. Uddin, learned counsel for the petitioner. Also heard Mr. J.K. Goswami, learned CGC; Ms. A. Verma, learned standing counsel for the FT and Border matters; Mr. A.I. Ali, learned standing counsel for the 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 has assailed the impugned opinion dated 27.12.2023, passed by the learned Member, Foreigners Tribunal-3rd, Hojai at Sankardev Nagar, in F.T(D) Case No. 1552/2015, corresponding to Case No. FT/H/3180/2012, arising out of S.P.(B)'s F.T. Case No. 385/2010, by which the petitioner was declared to be a foreigner of post 25.03.1971 stream.

3. Pursuant to the order passed on 22.03.2024, the record of the Tribunal is received. The same has been examined.

4. On perusal of the records, it is noted that the petitioner has filed his written statement and he has examined himself as DW-1. He has exhibited 14 documents, which were marked as Ext.1 to Ext.14.

5. The petitioner had also examined one Furkan Ali, his projected uncle

as DW-2, who was examined and cross-examined on 24.08.2022. The petitioner had also examined one Jainul Ahmed, the projected brother of the petitioner as DW-3, who had filed his evidence-on-affidavit on 15.03.2023 and cross-examined on 03.04.2023 and had exhibited 3 (three) documents which were marked as Ext. 15, Ext.16, and Ext.17.

6. The petitioner had also examined one Kala Bibi, the projected mother as DW-4. She filed her evidence-on-affidavit on 24.04.2023. She was cross-examined on 14.06.2023, and had exhibited 4 (four) documents, which were marked as Ext.19, Ext.20, Ext.21, and Ext.22.

7. Moreover, that 3 (three) more witnesses were examined as Court witnesses. One Deben Teron, Gaonburah, who was examined and cross-examined on 01.02.2022, who had exhibited his certificate as Ext.9 along with his signature thereon. One Faizuddin Talukdar, Headmaster of Jamunagaon Agarshit L.P. School was examined and cross-examined on 28.04.2023, who had exhibited his certificate as Ext.8 and his signature thereon. One Jubjyoti Sharma, Lat Mandal of Dabaka Revenue Circle was examined and cross-examined on 01.09.2023. He had appeared before the Court along with the handwritten Jamabandi of Namati Mouza, Tapat Juri Kissam periodic patta No.13, dag No.241, stating that on 19.06.1998, certain pattadars named by him were included in the patta by purchase, without mentioning the deed number.

8. In the impugned opinion, the learned Tribunal is found to have discussed the evidence of DW-2, DW-3, and DW-4, but there is no discussion on

the evidence of the 3 (three) Court witnesses referred above.

9. The Court is also inclined to take notice of the fact that as per observation-1 of the learned Tribunal, by referring to Ext.3 to Ext.7, it was held that the petitioner has duly substantiated his claim that he is the son of Late Abdul Rahman and Kala Bibi. However, in the subsequent paragraphs of the impugned opinion, the learned Tribunal expresses its doubt as to whether the voter, whose name appears in Ext.3, Ext.4, and Ext.5 are one and the same person.

10. Be that as it may, as the evidence of the 3 (three) Court witnesses were not found to have been discussed in the impugned opinion, the same is found to have vitiated the impugned opinion. It is well settled that the Courts and Tribunals are required to discuss the evidence of the witnesses examined by the parties. The same having not been done in this case, the Court has no hesitation to set aside the impugned opinion dated 27.12.2023, passed by the learned Member, Foreigners Tribunal-3rd, Hojai at Sankardev Nagar, in F.T(D) Case No. 1552/2015.

11. However, the matter is remanded back to the said learned Tribunal for passing a fresh opinion after discussing the evidence of all the witnesses examined.

12. It is clarified that the merit of the impugned opinion has not been gone into, and therefore, this order shall not prejudice the learned Tribunal at the

time of passing the fresh opinion.

13. The petitioner, namely, Md. Hussain Ahmed, who is duly represented by his learned counsel, is directed to appear before the said learned Tribunal within the outer time limit of 27.11.2026 and by producing a certified copy of the order, await for any further order that may be passed by the said learned Tribunal.

14. On appearing before the said learned Tribunal, the petitioner shall apply for bail and the learned Tribunal, while granting bail, shall made it valid for a period of 30 (thirty) days after passing of the fresh opinion.

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

16. The parties are left to bear their own cost.

17. 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.

JUDGE **JUDGE**

Comparing Assistant