2026:GAU-AS:15325

THE GAUHATI HIGH COURT

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

W.P. (C) NO. 6574 OF 2019

NURUL HOQUE
S/O- FARUK HUSSAIN, R/O- VILL- PASCHIM LANKA GAON, P.S- LANKA, DIST- HOJAI, ASSAM

VERSUS

UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF HOME AFFAIRS, SHASTRI BHAWAN, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GHY- 6

3:THE DEPUTY COMMISSIONER
HOJAI
PIN-

4:THE SUPERINTENDENT OF POLICE (B)
HOJAI
PIN-

5:THE ELECTION COMMISSION OF INDIA
NEW DELHI- 110001

6:THE STATE COORDINATOR
NRC
ASSAM, GUWAHATI- 78100

BEFORE

HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

For the petitioner : Ms. S.K. Nargis.
For respondents : Mr. C.K.S. Barua, CGC.
: Mr. J. Payeng, SC, FT & Border.
: Mrs. R.B. Bora, G.A
: Mr. A.I. Ali, SC, ECI.

Date on which judgment is reserved : 22.06.2026

Date of pronouncement of judgment : 12.10.2026

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 Mrs. S.K. Nargis, learned counsel for the petitioner. Also heard Mr. C.K.S. Barua, learned CGC for respondent no.1; Mr. J. Payeng, learned standing counsel for Border and F.T. matters for respondent nos. 2, 4 and 6; Mrs. R.B. Bora, learned Govt. Advocate for respondent no.3; and Mr. A.I. Ali, learned standing counsel for Election Commission of India, respondent no.5.

2) By filing this writ petition under Article 226 of the Constitution of India, the petitioner, namely, Unruly Hogue, has assailed the opinion dated 10.10.2018, passed by the learned Member, Foreigners Tribunal, Negron 7th at Lanka, Hojai, by which the petitioner has been declared to be a foreigner under

Section 2(a) of the Foreigners Act, 1946, who has illegally entered into the territory of India (Assam) after 25.03.1971 without any valid documents.

3) On service of notice, the petitioner had appeared before the learned Tribunal and had filed his written statement, wherein apart from usual denial, in brief, it was stated as follows: -

a. The petitioner was born and brought up at village- Godaimari, P.S. Rupahihat, Mouza- Juria, Nagaon, and is presently residing at village- Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam.

   It may be stated herein that in paragraph 3 of the written statement available in the Tribunal's record, the name of the village where the petitioner is born is written as "Godaimari", whereas, in paragraph 3 of the copy of the written statement which is annexed to the writ petition as Annexure- 14, the name of the village where the petitioner was born is stated to be "Samdhara".

b. The name of his grandparents were enrolled in the voter list of 1965 and 1970 as Mafij Uddin, son of Haji Usman of village- Samdhara, P.S. Rupahihat, Mouza- Juria, Dist. Nagaon, under Rupahi Hat LAC. After 1971, his grandfather and father shifted their residence to nearby village- Godaimari and the name of his grandfather and father and other members of his family

were enrolled in the voter list of 1975, 1979 and 1989 of village- Godaimari, P.S. Rupahihat, Mouza- Juria, Dist. Nagaon, under Rupahi Hat LAC. The name of his grandfather, parents and his name was enrolled in the voter list of 1997 of village- Godaimari, P.S. Rupahihat, Mouza- Juria, Dist. Nagaon, under Rupahi Hat LAC. The name of his parents, and his name was enrolled in the voter list of 2005, 2010, 2014 under village- Godaimari, P.S. Rupahihat, Mouza- Juria, Dist. Nagaon, under Rupahi Hat LAC. The petitioner shifted his residence from village- Godaimari to village- Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai and on 29.10.2014, he had applied for transfer of his vote from 85 No. Rupahi Hat LAC to 91 No. Hojai LAC and his name was enrolled in the voter list of 2016 in the said Paschim Lanka Gaon village under 91 No. Hojai LAC.

It may be stated herein that on a comparative reading of the written statement of the petitioner which is annexed to this writ petition at Annexure-14 with the written statement available in the Tribunal's record, both are not similar because in the copy of written statement annexed to the writ petition, paragraph nos. 14 to 16 is not available.

c. In paragraph 15 of the written statement which is available in the Tribunal's record, it has been stated as follows: –

"15. That, in the voter list of 2018 under 91 No. Hojai LAC of Village Paschim Lanka Gaon, P.S. Lanka, Dist. Nagaon, Assam "D" is put in front of the name of Opp. Party Faruk Hussain."

17. That, an Aadhaar Card has been issued in the name of the opp. Party vide No. 7448 8084 4704 by the concerned authority and as a Bonafide citizen of India.

d. There is a mismatch of other paragraphs of the written statement which is available in the learned Tribunal's record with the written statement annexed to the writ petition, which has been referred to later, which makes the written statement annexed to the writ petition as totally unreliable as the same is not a replica and/or true copy of the written statement that is available in the Tribunal's record.

4) Thereafter, the petitioner had filed his evidence-on-affidavit as DW-1. It may be stated that the copy of the evidence-on-affidavit, which is annexed to the writ petition is again not the true copy of the evidence-on- affidavit available in the Tribunal's record. While the copy of the same available in the learned Tribunal's record contains reference to 15 (fifteen) exhibited documents, the copy of the evidence-on- affidavit of DW-1, which is annexed to the writ petition contains reference to 14 (fourteen) exhibited documents. The petitioner (DW-1) in response to the learned Tribunal's query, has referred to 15 (fifteen) exhibited documents and in Tribunal's record, 15 (fifteen) exhibited documents are available.

The discrepancies noticed are referred to later, which makes the copy of evidence-on- affidavit annexed to the writ

petition as totally unreliable as the same is not a replica and/or true copy of the evidence-on- affidavit of the petitioner (DW-1) that is available in the Tribunal's record.

5) It would be now appropriate to refer to the discrepancies in the written statement and evidence-on- affidavit on comparative reading of the ones available in the Tribunal's record and the writ petition. For the purpose of comparative reading of the written statement and evidence-on-affidavit, the scanned copy of the copies available in the Tribunal's record and the ones annexed to the writ petition are made a part of this order: -

ANNEXURE: 14

BEFORE THE HON' BLE MEMBER OF FOREIGNERS TRIBUNAL LANKA, HOJAI::ASSAM

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Case No. FT(L)820/2016

State

Vs

Md. Nurul Hoque

WRITTEN STATEMENT ON BEHALF OF THE OPP. PARTY MD. NURUL HOQUE IN CONNECTION WITH THE ABOVE CITED CASE.

Sir,

The Opp. Party Md. Nurul Hoque S/O Faruk Hussain @ Faruk Hussain Ali, R/O Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam do hereby submits his written statement in connection with above cited case as follows:-

1. That sir, opp. Party is a bonafide citizen of India by birth and a permanent resident of the above noted address.

2. That sir, the allegations made in proceeding is absolutely baseless, false and fabricated.

3. That sir, the opp. party/respondent is a citizen of India by birth and born and brought up at Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam and presently residing at Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam.

4. That sir, the name of grandparents of opp. party has been enrolled in the voter list of 1965 under Rupahi Hat LAC vide Sl. No. 470 to 472, House No. 94 of Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman.

Contd.....p/2

Certified to be true copy

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5. That sir, the name of grandparents of opp. party has been enrolled in the voter list of 1970 under 87 Rupahi Hat LAC vide Sl. No. 584, House No. 94, Part No. 46 of Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman.

6. That sir, the name of grandfather, father along with other family members name have been enrolled in the voter list of 1975 under 85 Rupahi Hat LAC vide Sl. No. 126 to 131, House No. 21(ka) , Part No. 11 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman.

7. That sir, the name of grandfather, father along with other family members name have been enrolled in the voter list of 1979 under 85 Rupahi Hat LAC vide Sl. No. 332 to 336, House No. 58, Part No. 11 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman.

8. That sir, the name of grandfather, father along with other family members name have been enrolled in the voter list of 1989 under 85 Rupahi Hat LAC vide Sl. No. 521 to 530, House No. 114, Part No. 17 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O ~~Haji~~ Usman.

9. That sir, the name of opp. party, his grandfather's, his parents name along with other family members name have been enrolled in the voter list of 1997 under 85 Rupahi Hat LAC vide Sl. No. 418 to 428, House No. 127, Part No. 17 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman.

10. That sir, the name of opp. party, his parents name along with other family members name have been enrolled in the voter list of 2005 under 85 Rupahi Hat LAC vide Sl. No. 485 to 494, House No. 128, Part No. 23 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

Contd.....p/3

Certified to be true copy

Advocate

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11. That sir, the name of opp. party, his parents name along with other family members name have been enrolled in the voter list of 2010 under 85 Rupahi Hat LAC vide Sl. No. 490 to 499, House No. 128, Part No. 24 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

12. That sir, the name of opp. party, his parents name along with other family members name have been enrolled in the voter list of 2014 under 85 Rupahi Hat LAC vide Sl. No. 523 to 534, House No. 128, Part No. 25 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

13. That sir, the opp. party shifted his residence from Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam to Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam and also applied for transfer his vote from 85 No Rupahi Hat LAC to 91 No Hojai LAC on dated 29/10/2014.

16. That, an Elector Photo Identity card was issued in the name of opp. party vide No. CBD0066498 by the Election Commission of India as a bonafide citizen of India.

17. That, the Sarkari Gaonburah of Village Godaimari has been issued a certificate stating that the opp. party is a inhabitant of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

18. That, the opp. party begs to submit that he reserved the right to submit additional written statement if required in future during the trial of the instant case.

19. That sir, there is no any shadow of doubt in respect of the Nationality of the opp. party as his grandfather's & parents name and his own name has been recorded in the voter list of 1966 to 2016.

Contd.....p/4

Certified to be true copy
Advocate

20. That sir, the respondent has sufficient documents to prove her nationality or citizenship & the photocopy of all the documents enclosed herewith.

21. That sir, the police has not properly investigated the case.

Under the above facts and circumstances it is prayed that your honour would be pleased enough to declare the respondent to be an Indian National i.e. not a foreigner & for this act of your Kindness the respondent shall ever pray.

VERIFICATION

I, Md. Nurul Hoque, the respondent of the above cited case do hereby verify that all the contents made above in this written statement are true and I put my hand under this verification on this the day of March, 2017.

Certified to be true copy

Advocate

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BEFORE THE HON' BLE MEMBER OF FOREIGNERS TRIBUNAL LANKA, HOJAI::ASSAM



Case No. FT(L)820/2016

State

Vs

Md. Nurul Hoque

WRITTEN STATEMENT ON BEHALF OF THE OPP. PARTY MD. NURUL HOQUE IN CONNECTION WITH THE ABOVE CITED CASE.

Sir,

The Opp. Party Md. Nurul Hoque S/O Faruk Hussain @ Faruk Hussain Ali, R/O Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam do hereby submits his written statement in connection with above cited case as follows:-

1. That sir, opp. Party is a bonafide citizen of India by birth and a permanent resident of the above noted address.

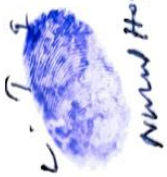
2. That sir, the allegations made in proceeding is absolutely baseless, false and fabricated.

3. That sir, the opp. party/respondent is a citizen of India by birth and born and brought up at Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam and presently residing at Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam.

4. That sir, the name of grandparents of opp. party has been enrolled in the voter list of 1965 under Rupahi Hat LAC vide Sl. No. 470 to 472, House No. 94 of Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman.

Contd.....p/2

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Sunil Ch. Das, Advocate
Sankardev Nagar, Hojai
M-7002443259

5. That sir, the name of grandparents of opp. party has been enrolled in the voter list of 1970 under 87 Rupahi Hat LAC vide Sl. No. 584, House No. 94, Part No. 46 of Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman.

6. That sir, after the year of 1971 the grandfather and father of the opp. party shifted their residence from village Samdhara to nearby village Godaimari and the name of grandfather, father along with other family members name have been enrolled in the voter list of 1975 under 85 Rupahi Hat LAC vide Sl. No. 125 to 131, House No. 21(ka), Part No. 11 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

7. That sir, the name of grandfather, father along with other family members name have been enrolled in the voter list of 1979 under 85 Rupahi Hat LAC vide Sl. No. 332 to 336, House No. 58, Part No. 11 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman.

8. That sir, the name of grandfather, father along with other family members name have been enrolled in the voter list of 1989 under 85 Rupahi Hat LAC vide Sl. No. 521 to 530, House No. 114, Part No. 17 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

9. That sir, the name of opp. party, his grandfather's, his parents name along with other family members name have been enrolled in the voter list of 1997 under 85 Rupahi Hat LAC vide Sl. No. 418 to 428, House No. 127, Part No. 17 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

10. That sir, the name of opp. party, his parents name along with other family members name have been enrolled in the voter list of 2005 under 85 Rupahi Hat LAC vide Sl. No. 485 to 494, House No. 128, Part No. 23 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

Contd.....p/3



Sunil Ch. Das, Advocate
Sankardev Nagar, Hojai
M-7896AA1555

11. That sir, the name of opp. party, his parents name along with other family members name have been enrolled in the voter list of 2010 under 85 Rupahi Hat LAC vide Sl. No. 490 to 499, House No. 128, Part No. 24 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

12. That sir, the name of opp. party, his parents name along with other family members name have been enrolled in the voter list of 2014 under 85 Rupahi Hat LAC vide Sl. No. 523 to 534, House No. 128, Part No. 25 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

13. That sir, the opp. party shifted his residence from Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam to Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam and also applied for transfer his vote from 85 No Rupahi Hat LAC to 91 No Hojai LAC on dated 29/10/2014.

14. That, the name of opp. party has been recorded in the voter list of 2016 under 91 No Hojai LAC vide Sl. No. 675, House No. 150, Part No. 244 of Village Paschim Lanka Gaon, P.S. Lanka, Dist. Nagaon, Assam.

15. That, in the voter list of 2018 under 91 No Hojai LAC of Village Paschim Lanka Gaon, P.S. Lanka, Dist. Nagaon, Assam "D" is put in front of the name of Opp. party Faruk Hussain.

16. That, an Elector Photo Identity card was issued in the name of opp. party vide No. CBD0066498 by the Election Commission of India as a bonafide citizen of India.

17. That, a Aadhaar Card has been issued in the name of opp. party vide No. 7448 8084 4704 by the concern authority and as a bonafide citizen of India.

18. That, the Sarkari Gaonburah of Village Godaimari has been issued a certificate stating that the opp. party is a inhabitant of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam.

Contd.....p/4

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Sunil Ch. Das, Advocate
Sankardev Nagar, Hojai
M-7896443555

19. That, the actual and correct of father of the opp. party is Faruk Hussain and the actual and correct name of grandfather's of the opp. party is Mofij Uddin, but in some voter list my father' name has been recorded Farukul Hussain & Fakkul Islam instead of his actual and correct name Faruk Hussain and the grandfather's name of the opp. party has been recorded as Mofij Uddin Master instead of his actual and correct name Mofij Uddin and also the actual and correct name of great grandfather's of the opp. party is Haji Usman, but in some of voter list his name has been recorded as Haji Umon & Usman Ali Sarkar instead of his catual and correct name Haji Usman.

20. That, the opp. party begs to submit that he reserved the right to submit additional written statement if required in future during the trial of the instant case.

21. That sir, there is no any shadow of doubt in respect of the Nationality of the opp. party as his grandfather's & parents name and his own name has been recorded in the voter list of 1965 to 2016.

22. That sir, the respondent has sufficient documents to prove her nationality or citizenship & the photocopy of all the documents enclosed herewith.

23. That sir, the police has not properly investigated the case.

Under the above facts and circumstances it is prayed that your honour would be pleased enough to declare the respondent to be an Indian National i.e. not a foreigner & for this act of your Kindness the respondent shall ever pray.

VERIFICATION

I, Md. Nurul Hoque, the respondent of the above cited case do hereby verify that all the contents made above in this written statement are true and I put my hand under this verification on this the day of March, 2017.

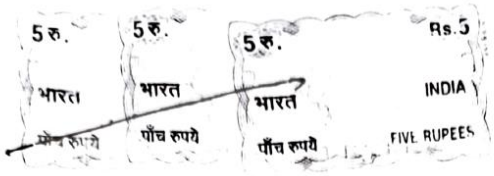


Scanned copy of evidence- on- affidavit of the petitioner (DW-1) annexed to writ petition

ANNEXURE: 15

BEFORE THE HON' BLE MEMBER OF FOREIGNERS TRIBUNAL
LANKA, HOJAI::ASSAM

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Case No. FT(L)820/2016

State

Vs

Md. Nurul Hoque

NOTARY. GOVT. OF ASSAM. NAME Sri Bichhi Nath AREA HOJAI DISTRICT REGD.NO.

AN AFFIDAVIT UNDER ORDER 18 RULE 4 OF CPC. WRITTEN EVIDENCE IN-CHIEF OF DW-1 MD. NURUL HOQUE IN CONNECTION WITH THE ABOVE CITED CASE.

I, Md. Nurul Hoque aged about 43 years, S/O Faruk Hussain @ Faruk Hussain Ali, R/O Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam do hereby solemnly affirm and declare as follows:

NOTARY. GOVT. OF ASSAM. Area. Hojai District. Regd.No.

1. That sir, I am an Indian citizen by birth and permanently residing in the above noted address. This is true.

2. That sir, I was born and brought up at Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam and presently residing at Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam. This is true.

3. That sir, my grandparent's name has been enrolled in the voter list of 1965 under Rupahi Hat LAC vide Sl. No. 470 to 472, House No. 94 of Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman. This is true. **Exhibit-1** is the certified copy of the said voter list.

Certified to be true copy

Contd.....p/2

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4. That sir, my grandparent's name has been enrolled in the voter list of 1970 under 87 Rupahi Hat LAC vide Sl. No. 584, House No. 94, Part No. 46 of Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman. This is true.

Exhibit-2 is the certified copy of the said voter list.

NOTARY GOVT. OF ASSAM

5. That sir, after the year of 1971 my grandfather and father shifted their residence from village Samdhara to nearby village Godaimari and my grandfather, father along with other family members names have been enrolled in the voter list of 1975 under 85 Rupahi Hat LAC vide Sl. No. 125 to 131, House No. 21(ka), Part No. 11 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.

NOTARY GOVT. OF ASSAM Area Hojai District Regd. No. 3

6. That sir, my grandfather's, father's along with other family members names have been enrolled in the voter list of 1979 under 85 Rupahi Hat LAC vide Sl. No. 332 to 336, House No. 58, Part No. 11 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman. This is true.

7. That sir, my grandfather's, father's along with other family members name have been enrolled in the voter list of 1985 under 85 Rupahi Hat LAC vide Sl. No. 456 to 460, House No. 86, Part No. 16 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.

Exhibit-3 is the certified copy of the said voter list.

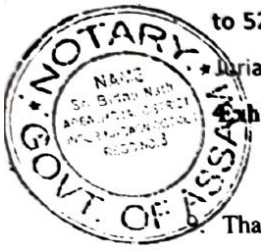
Contd.....p/3

Certified to be true copy

Advocate

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8. That sir, my grandfather's, father's along with other family members name have been enrolled in the voter list of 1989 under 85 Rupahi Hat LAC vide Sl. No. 521 to 525, House No. 114, Part No. 17 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.
Exhibit-4 is the certified copy of the said voter list.



That sir, my name, my grandfather's, my parents name along with other family members name have been enrolled in the voter list of 1997 under 85 Rupahi Hat LAC vide Sl. No. 419 to 427, House No. 127, Part No. 17 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.
Exhibit-5 & 5(A) are the certified copy of the said voter list.

8/5/18

NOTARY
GOVT OF ASSAM
Area Hojai District
Regd.No.3

10. That sir, my name, my family members name have been enrolled in the voter list of 2005 under 85 Rupahi Hat LAC vide Sl. No. 485 to 494, House No. 128, Part No. 23 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.
Exhibit-6 is the certified copy of the said voter list.

11. That sir, my name and my family members name have been enrolled in the voter list of 2010 under 85 Rupahi Hat LAC vide Sl. No. 49 to 49 , House No. 128, Part No. 24 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.
Exhibit-7 is the certified copy of the said voter list.

Contd.....p/4

Certified to be true copy

Advocate

That sir, my name along with other family members name have been enrolled in the voter list of 2014 under 85 Rupahi Hat LAC vide Sl. No. 523 to 534, House No. 128, Part No. 25 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.

Exhibit-8 is the certified copy of the said voter list.

13. That sir, I shifted my residence from Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam to Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam and also applied for transfer my vote from 85 No Rupahi Hat LAC to 91 No Hojai LAC on dated 29/10/2014. This is true.

14. That, my name has been recorded in the voter list of 2016 under 91 No Hojai LAC vide Sl. No. 675, House No. 150, Part No. 244 of Village Paschim Lanka Gaon, P.S. Lanka, Dist. Nagaon, Assam and my aged wrongly appeared as 53 years instead of 41 years. This is true.

Exhibit-9 is the certified copy of the said voter list.

15. That, my name and wife's name has been recorded in the voter list of 2017 under 91 No Hojai LAC vide Sl. No. 678 & 683 of Village Paschim Lanka Gaon, P.S. Lanka, Dist. Nagaon, Assam. This is true.

Exhibit-10 is the certified copy of the said voter list.

Contd.....p/5

Certified to be true copy

Advocate

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16. That sir, an Elector Photo Identity card was issued my name vide No. [illegible]BD0066498 by the Election Commission of India as a bonafide citizen of India and a regular voter and in the said Elector Photo Identity Card wherein my aged has been wrongly appeared as 52 years in the year 2015 instead of 40 years. This is true.

Exhibit-11 is said elector photo identity card.

17. That, a Aadhaar Card has been issued in my name vide No. 7448 8084 4704 by the concern authority and as a bonafide citizen of India. This is true.

Exhibit-12 is the said Aadhaar Card.

18. That, the Sarkari Gaonburah of Village Godaimari has been issued a certificate stating that I was an inhabitant of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.

Exhibit-13 is the said Gaonburah Certificate.

19. That, the actual and correct of my father is Faruk Hussain, but in some voter list my father' name has been recorded Farukul Hussain and in the Case recorded my father's name recorded as Faruk Ali Hussain instead of his actual and correct name Faruk Hussain. An affidavit is sworn by me in this regards. This is true.

Exhibit-14 is the said Affidavit.

Contd.....p/6

Certified to be true copy

Advocate

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20. That, I am not a foreigner but Indian National as I was born and brought up at Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam and presently residing at Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam and my grandparents & parents name has been recorded in records of 1965.

21. That, the police has not properly investigated the case for which this false case has been instituted against me. This is true.

22. That, I am swearing this affidavit before the Notary Public to submit the same as my written evidence in-chief under order 18 rule 4 of CPC to proof my nationality.

NOTARY
GOVT. OF ASSAM
Area Hojai District
Regd. No. 3

VERIFICATION

I, Md. Nurul Hoque, the opp. Party of the above cited case do hereby verified that all the statements made above are true to the best of my knowledge belief and information and knowing it to be true I put my signature under this verification on this 8th day of July, 2016 at Hojai, Sankardev Nagar.

Identified by
8/7/18

Deponent

NURUL HOQUE

Certified to be true copy

Scanned copy of evidence- on- affidavit of the petitioner (DW-1) in Tribunal's record

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BEFORE THE HON' BLE MEMBER OF FOREIGNERS TRIBUNAL

LANKA, HOJAI::ASSAM

Nurul Hoque

Case No. FT(L)820/2016

State

Vs

Md. Nurul Hoque

AN AFFIDAVIT UNDER ORDER 18 RULE 4 OF CPC. WRITTEN EVIDENCE IN-CHIEF OF DW-1 MD. NURUL HOQUE IN CONNECTION WITH THE ABOVE CITED CASE.

I, Md. Nurul Hoque aged about 43 years, S/O Faruk Hussain @ Faruk Hussain Ali, R/O Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam do hereby solemnly affirm and declare as follows:

1. That sir, I am an Indian citizen by birth and permanently residing in the above noted address. This is true.

2. That sir, I was born and brought up at Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam and presently residing at Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam. This is true.

3. That sir, my grandparent's name has been enrolled in the voter list of 1965 under Rupahi Hat LAC vide Sl. No. 470 to 472, House No. 94 of Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman. This is true. **Exhibit-1** is the certified copy of the said voter list.

Contd.....p/2

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Mafij Uddin

4. That sir, my grandparent's name has been enrolled in the voter list of 1970 under 87 Rupahi Hat LAC vide Sl. No. 584, House No. 94, Part No. 46 of Vill. Samdhara, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman. This is true.

Exhibit-2 is the certified copy of the said voter list.

5. That sir, after the year of 1971 my grandfather and father shifted their residence from village Samdhara to nearby village Godaimari and my grandfather, father along with other family members names have been enrolled in the voter list of 1975 under 85 Rupahi Hat LAC vide Sl. No. 125 to 131, House No. 21(ka), Part No. 11 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.

6. That sir, my grandfather's, father's along with other family members names have been enrolled in the voter list of 1979 under 85 Rupahi Hat LAC vide Sl. No. 332 to 336, House No. 58, Part No. 11 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam as Mafij Uddin S/O Haji Usman. This is true.

Exhibit- 3 is the certify copy of the said voter list-

7. That sir, my grandfather's, father's along with other family members name have been enrolled in the voter list of 1985 under 85 Rupahi Hat LAC vide Sl. No. 456 to 460, House No. 86, Part No. 16 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.

Exhibit-4 is the certified copy of the said voter list.

Contd.....p/3

8. That sir, my grandfather's, father's along with other family members name have been enrolled in the voter list of 1989 under 85 Rupahi Hat LAC vide Sl. No. 521 to 525, House No. 114, Part No. 17 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.
Exhibit-5 is the certified copy of the said voter list.

9. That sir, my name, my grandfather's, my parents name along with other family members name have been enrolled in the voter list of 1997 under 85 Rupahi Hat LAC vide Sl. No. 419 to 427, House No. 127, Part No. 17 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.
Exhibit-6 & 6(A) are the certified copy of the said voter list.

10. That sir, my name, my family members name have been enrolled in the voter list of 2005 under 85 Rupahi Hat LAC vide Sl. No. 485 to 494, House No. 128, Part No. 23 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.
Exhibit-7 is the certified copy of the said voter list.

11. That sir, my name and my family members name have been enrolled in the voter list of 2010 under 85 Rupahi Hat LAC vide Sl. No. 490 to 498, House No. 128, Part No. 24 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.
Exhibit-8 is the certified copy of the said voter list.

Contd.....p/4

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Nurul Hoque

12. That sir, my name along with other family members name have been enrolled in the voter list of 2014 under 85 Rupahi Hat LAC vide Sl. No. 523 to 534, House No. 128, Part No. 25 of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.

Exhibit-9 is the certified copy of the said voter list.

13. That sir, I shifted my residence from Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam to Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam and also applied for transfer my vote from 85 No Rupahi Hat LAC to 91 No Hojai LAC on dated 29/10/2014. This is true.

14. That, my name has been recorded in the voter list of 2016 under 91 No Hojai LAC vide Sl. No. 675, House No. 150, Part No. 244 of Village Paschim Lanka Gaon, P.S. Lanka, Dist. Nagaon, Assam and my aged wrongly appeared as 53 years instead of 41 years. This is true.

Exhibit-10 is the certified copy of the said voter list.

15. That, my name and wife's name has been recorded in the voter list of 2017 under 91 No Hojai LAC vide Sl. No. 678 & 683 of Village Paschim Lanka Gaon, P.S. Lanka, Dist. Nagaon, Assam. This is true.

Exhibit-11 is the certified copy of the said voter list.

Contd……..p/5

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Nurul Hoque

16. That sir, an Elector Photo Identity card was issued my name vide No. CBD0066498 by the Election Commission of India as a bonafide citizen of India and a regular voter and in the said Elector Photo Identity Card wherein my aged has been wrongly appeared as 52 years in the year 2015 instead of 40 years. This is true.

Exhibit-12 is said elector photo identity card.

17. That, a Aadhaar Card has been issued in my name vide No. 7448 8084 4704 by the concern authority and as a bonafide citizen of India. This is true.

Exhibit-13 is the said Aadhaar Card.

18. That, the Sarkari Gaonburah of Village Godaimari has been issued a certificate stating that I was an inhabitant of Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam. This is true.

Exhibit-14 is the said Gaonburah Certificate.

19. That, the actual and correct of my father is Faruk Hussain, but in some voter list my father' name has been recorded Farukul Hussain and in the Case recorded my father's name recorded as Faruk Ali Hussain instead of his actual and correct name Faruk Hussain. An affidavit is sworn by me in this regards. This is true.

Exhibit-15 is the said Affidavit.

Contd.....p/6

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20. That, I am not a foreigner but Indian National as I was born and brought up at Vill. Godaimari, P.S. Rupahi Hat, Mouza- Juria, Dist. Nagaon, Assam and presently residing at Vill. Paschim Lanka Gaon, P.S. Lanka, Dist. Hojai, Assam and my grandparents & parents name has been recorded in records of 1965.

21. That, the police has not properly investigated the case for which this false case has been instituted against me. This is true.

22. That, I am swearing this affidavit before the Notary Public to submit the same as my written evidence in-chief under order 18 rule 4 of CPC to proof my nationality.

NOTARY. GOVT. OF ASSAM Area. Hojai District Regd. No. 3

VERIFICATION

I, Md. Nurul Hoque, the opp. Party of the above cited case do hereby verified that all the statements made above are true to the best of my knowledge belief and information and knowing it to be true I put my signature under this verification on this 8th day of July, 2016 at Hojai, Sankardev Nagar.

Identified by
8/7/18

Deponent

NURUL HOQUE

6) Thus, from the written statement filed by the petitioner as DW-1 before the learned Tribunal, it is seen that the petitioner has not disclosed the name of (i) his grandmother, (ii) siblings of his father, if any, (iii) his own siblings; (iv) wife; and (v) children. It was stated that the name of his grandfather is Mofij Uddin but it has been recorded as Mofij Uddin Master; name of his father is Faruk Hussain, but in the voter list, his father's name was recorded as Farukul Hussain and Fakkrul Islam; name of his great-grandfather is Haji Usman, but in some voter list it has been recorded as Haji Umon and Usman Ali Sarkar.

7) The names that appear in the exhibited voter's lists are as follows:-

Sl.	Name of voter	Name of relation	Age of voter	Village and LAC detail.
1	Voter List 1965 Mofij Uddin Amiran Nessa Jahuran	(Ext.1) Haji Usman Mofij Uddin - do -	 42 35 25	Vill. Samdhara 87 Rupahihat LAC
2	Voter list 1970 Mofij Uddin	(Ext.2) Haji Usman	 47	Vill. Samdhara 87 Rupahihat LAC
3	Voter list 1979 Johurul Islam Farukul Islam Johuran Nessa Mofij Uddin	(Ext.3) Mofij - do – Mofij Ha: Usman	 29 28 45 57	Vill. Godaimari 85 Rupahihat LAC
4	Voter list 1985 Mofij Johuran Nessa Johirul Islam Farukul Belayat Islam	(Ext.4) Usman Mofij Mofij Mofij Mofij	 62 50 34 33 21	Vill. Godaimari 85 Rupahihat LAC
5	Voter list 1989 Mofij Johuran Nessa Johirul Islam Farukul Hussain Belayat Islam	(Ext.5) Usman Ali Sarkar Mofij Mofij Mofij Mofij	 70 60 37 33 31	Vill. Godaimari 85 Rupahihat LAC
6	Voter list 1997 Johuran Nessa Johirul Islam	(Ext.6) Mofij Mofij	 65 45	Vill. Godaimari 85 Rupahihat LAC

	Farukul Hussain Belayat Islam	Mofij Mofij	43 38	
7	Voter list 1997 Sakinur Islam Monjila Begum Rashida Begum Sufiya Khatun Nurul Hoque	[Ext.6(A)] Mofij Mofij Johirul Farukul Farukul	 23 25 26 39 22	Vill. Godaimari 85 Rupahihat LAC
8	Voter list 2005 Johuran Nessa Faruk Hussain Sakinur Islam Sufiya Khatun Nurul Hoque	(Ext.7) Late Mofij Uddin Late Mofij Uddin Late Mofij Uddin Faruk Hussain Faruk Hussain	 72 50 30 46 29	Vill. Godaimari 85 Rupahihat LAC
9	Voter list 2010 Johuran Nessa Faruk Hussain Sakinur Islam Sufiya Khatun Nurul Hoque	(Ext.8) Late Mofij Uddin Late Mofij Uddin Late Mofij Uddin Faruk Hussain Faruk Hussain	 77 55 35 51 34	Vill. Godaimari 85 Rupahihat LAC
10	Voter list 2014 Faruk Hussain Belayat Hussain Sufiya Khatun Sakinur Islam Nurul Hoque	(Ext.9) Late Mofij Uddin Late Mofij Uddin Faruk Hussain Late Mofij Uddin Faruk Hussain	 59 57 55 39 38	Vill. Godaimari 85 Rupahihat LAC
11	Voter list 2016 Nurul Hoque	(Ext.10) Faruk Hussain	 53	Vill. Paschim Lanka Gaon. 91 Hojai LAC
12	Voter list 2017 Nurul Hoque Asma Khatun	(Ext.11) Faruk Hussain Nurul Hoque	 53 28	Vill. Paschim Lanka Gaon. 91 Hojai LAC

8) Thus, it is seen that the petitioner, in his written statement as well as in his evidence-on- affidavit, has not referred to his relationship with all the voters in the 12 exhibited voter's lists, being Ext.1 to Ext.6, Ext.6(A) and Ext.7 and Ext.11. In the event the petitioner had described the names of his grandparents, parents, siblings of parents, his own siblings and his children and referred to his relationship with all the voters whose names appear in the exhibited voters lists, then discrepancies in the names of one or two voters could have been considered. But in this case, not only the petitioner has not

pleaded about his relationship with the various voters whose name appear in the exhibited voters lists.

9) The learned Tribunal, upon examination of the pleadings and evidence available on record, observed by referring to voter list of 1966 (Ext.1) and voter list of 1970 (Ext.2) that the petitioner had named his second grand-mother as Jairul Nessa, but her name in Ext.1 is Johuran, and the name of both grandmothers were missing in Ext.2. By referring to the voter list of 1979 (Ext.3) and 1985 (Ext.4), it was observed that the name of father of the petitioner appears as Farukul Islam and Faruful, son of Mofij, but the petitioner has named his father as Faruk Hussain. The learned Tribunal took note of the fact that the name of mother of the petitioner was conspicuously missing. By referring to voter list of 1989 (Ext.5), it was observed that the name of the father of the petitioner had become Usman Ali Sarkar and thus, Haji Usman becomes Usman Ali Sarkar and age discrepancy of the grandfather of the petitioner was noted, which was 70 years instead of 66 years. Referring to the voter list of 1997 [Ext.6 and Ext.6(A)], it was observed that the name of the mother of the petitioner appeared for the first time at the age of 39 years and no reason was explained. The voter lists of 2005 to 2017 and Elector Photo Identity Card (Ext.7 to Ext.12) were discarded as those were post 1971 document because he had not been able to establish his citizenship through pre-1971 documents.

10) It may be mentioned that while 15 exhibits were mentioned in the evidence-on-affidavit of DW-1 available in the

Tribunal's record, in the copy of the evidence-on-affidavit annexed to the writ petition, reference has been made to 14 exhibits only. Aadhaar Card (Ext.14) was discarded as it was a proof of identity and not a proof of citizenship.

11) Residence certificate issued by Govt. *Gaonburah* of Dhing Bori Sapori was discarded as the *Gaonburah* had used State Emblem, which he was not authorised to use under the State Emblem (Regulation of Use) Rules 2007, which had made the document inadmissible in evidence. Moreover, the *Gaonburah* did not depose before the Tribunal on the basis of contemporaneous record to prove the certificate and its contents. In respect of the said finding, the Court is of the considered opinion that the same is based on sound legal principle because in the State of Assam, a *Gaonburah* is appointed under the Executive Instructions under Assam Land and Revenue Regulation, 1886. Under the said Executive Instructions as well as under the Land and Revenue Regulation, 1886, a *Gaonburah* is not required to maintain population register of the villages under his charge. In the case of *Basiron Nessa v. Union of India & Ors., 2018 (4) GLT 692*, this Court had held that documentary evidence must be proved from record and not solely by oral testimony when citizenship of a suspect is questionable.

12) Ext.14 was a self-serving affidavit, which is not admissible evidence to prove discrepancies in the names of his projected father.

13) Thus, the rejection of the said exhibits cannot be held to be legally not sustainable.

14) Therefore, the rejection of the evidence of the petitioner in light of the discrepancies in the names of voters cannot be held to be an incorrect finding of fact. This Court, in the case of *Basiron Bibi v. Union of India & Ors., 2018 (1) GLT 372*, had held that when voter list is proved in evidence by the petitioner, she then cannot insist that only that portion of voter list which favours her be read and portions which go against her be over-looked. This is not how a piece of evidence is to be examined. The said ratio has been followed by this Court in a catena of decisions.

15) The Supreme Court of India, in the case of *Sirajul Hoque v. State of Assam & Ors., (2019) 5 SCC 534*, had held that when identity of all members of the family is established including appellant, he cannot be declared a foreigner just because there is a discrepancy in name of his grandfather in some documents.

16) As per the copy of the written statement annexed to this writ petition as Annexure-14, the petitioner has stated in paragraph 3 that was born and brought up at village Samdhora. However, as per the written statement available in the Tribunal's record, the petitioner has stated in paragraph 3 that he was born and brought up at village- Godaimari. The petitioner had not pleaded the date or year of his birth, however, as per his evidence-on-affidavit available in the Tribunal's record, the age of the petitioner was 43 years on 08.05.2018 and thus, the year of his birth would be 1975. The name of voter Mofijuddin son of Haji Usman, age- 47 years, appears as sole voter in the voter list

of 1970, and his village is Samdhora. But the name of Mofij Uddin appears with several other voters in the voter list of 1979 of village- Godaimari. Therefore, it appears that to cover up the place of birth, in the written statement annexed to the writ petition, the place of birth is stated to be Samdhora, in variation to the place of birth available in paragraph 3 of the written statement filed before the learned Tribunal, where it is Godaimari.

17) The copy of the evidence-on-affidavit, which is annexed to the writ petition contains the seal and signature of the Notary Public. However, the evidence-on-affidavit, which is available in the learned Tribunal's records contains signs of use of eraser and over-writing. Thus, on reading of both documents together gives an impression that the evidence-on-affidavit, which is available in the learned Tribunal's record was illegally and unauthorisedly altered after the affidavit was sworn on 08.05.2018. It is a well settled law that an already sworn affidavit cannot be corrected/ altered/ varied. The unauthorised tampering of an already sworn evidence - on affidavit has the effect of discrediting the legality of such affidavit. Such a tampered affidavit is held to be no evidence at all.

18) In this case, an unpardonable practice has been adopted by the petitioner and all his counsel engaged in this writ petition to mislead the Court by filing forged, fabricated and incorrect copy of written statement and evidence-on- affidavit. It must be presumed that the same was done with some ulterior motive, which is specifically aimed to mislead the Court for the reasons best known to them. Such unscrupulous practice itself

constitutes good and sufficient ground to dismiss this writ petition in limine. However, the Court has refrained from doing so because the issue of citizenship of the petitioner had been questioned. Hence, though the petitioner did not deserve examination of the matter on merit, yet, the Court has examined the matter thoroughly and found that the impugned opinion is based on sound appreciation of exhibited documents. The learned Tribunal had not taken into consideration any extraneous materials or misread or misconstrued any pleading or evidence on record.

19) In light of such unscrupulous practice of filing *ex facie* forged, fabricated and incorrect copy of the written statement, and on appreciation of the pleadings and evidence available on record, there is no material to hold that the learned Tribunal had erred in any manner whatsoever, in rendering an opinion that the petitioner is not an Indian but a foreigner.

20) Thus, the finding of the learned Tribunal that the petitioner has failed to discharge his statutory burden to prove that he is not a foreigner but an Indian, which is on the petitioner under Section 9 of the Foreigners Act, 1946, is found to be sustainable on facts and in law.

21) Hence, on all counts, the challenge to the impugned opinion fails. Consequently, in light of the discussions above, this writ petition fails and is thus, dismissed.

22) Interim bail granted to the petitioner, namely, Nurul Hoque, by order dated 16.12.2019, is recalled and revoked.

23) The consequences of the opinion dated 10.10.2018, passed by the learned Member, Foreigners Tribunal, Nagaon 7th at Lanka, Hojai, by which the petitioner has been declared to be a foreigner under Section 2(a) of the Foreigners Act, 1946, who has illegally entered into the territory of India (Assam) after 25.03.1971 without any valid documents, would follow.

24) The Registry shall return back the Tribunal's record along with a copy of this order to be made a part of record by the said learned Tribunal.

25) The Registry shall also make photocopies of the written statement and evidence-on-affidavit, which are available in the writ petition as well as in the Tribunal's record and keep the same in safe custody for future reference.

26) In view of the unscrupulous practice referred above, let a copy of this order be sent by the Registry to the Bar Council of Assam, Nagaland, Mizoram, Arunachal Pradesh etc. along with a photocopy of the vakalatnama on record of this writ petition.

JUDGE **JUDGE**

Munna Kumar

Digitally signed by Munna Kumar
Date: 2026.10.12 18:19:02 +05'30'

Comparing Assistant Private Secretary