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

Case No. : WP(C)/5123/2026

HACHEN ALI MULLA
S/O HAKIM UDDIN MULLA, R/O VILLAGE-KATOLA, P.O.-KUROBAHA, P.S.-PAKA, DISTRICT-BARPETA, ASSAM, PIN-781352.

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, SHASTRI BHAWAN, TILAK MARG, NEW DELHI-01.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE HOME DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE ELECTION COMMISSION OF INDIA
NEW DELHI 110001

4:THE CHIEF ELECTION OFFICER
ASSAM
HOUSEFED COMPLEX
BELTOLA ROAD
GUWAHATI- 06

5:THE DISTRICT COMMISSIONER
BARPETA
P.O AND DIST- BARPETA
ASSAM PIN- 781301

6:THE ELECTION OFFICER

BARPETA
P.O AND DIST- BARPETA
ASSAM PIN- 781301

7:THE SUPERINTENDENT OF POLICE (B)
BARPETA
P.O AND DIST- BARPETA
ASSAM PIN- 781301

8:THE ELECTORAL REGISTRATION OFFICER
25 NO PAKABETBARI LEGISLATIVE ASSEMBLY CONSTITUENCY
DIST- BARPETA
ASSA

Advocate for the Petitioner : MD A ALI, MR. M HOQUE

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

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

23.09.2026

Heard Shri A.I. Ali, learned counsel for the petitioner. Also heard Shri K. Gogoi, learned CGC whereas Shri G. Bokolial, learned State Counsel and Ms. S. Katakey, learned Standing Counsel, ECI.

2. The grievance of the petitioner is the action of the authorities in marking 'D' against the name of the petitioner in the voter list of Village – Katola under 25 Pakabetbari LAC. It is the case of the petitioner that such marking was without any notice or intimation or even verification of any documents. It is stated that the petitioner is a permanent resident of the village -Katola, PS-Paka. He has further claimed that he is presently residing at Village – Katola under Pakabetbari LAC in the district of Barpeta. It is the case of the petitioner that due to the action of marking 'D' against her name, he is suffering immense difficulty and prejudice. The petitioner accordingly prays for a direction for

consideration of his case and direct the appropriate authority for removal of the 'D' from his name.

3. On the other hand, Ms. Katakey, learned Standing Counsel, ECI and the learned counsel for the other respondents have submitted that a procedure had been laid down to adjudicate the matter where the persons are aggrieved by marking 'D' against their names in the voter list and the present case can also be dealt with by the same procedure.

4. Ms. Katakey, the learned Standing Counsel, ECI has placed before this Court an order dated 18.01.2022 passed by this Court in WP(C)/267/2022 by which a case of similar nature has been disposed of. By the said order, this Court had observed that the issue involved would require factual determination and the appropriate forum would be the concerned Foreigners Tribunal, as a Writ Court in exercise of its powers under Article 226 of the Constitution of India may not have adequate means and expertise to decide the questions of fact which are disputed. It was further directed that the Superintendent of Police (Border) of the concerned district would verify the case of the petitioner and thereafter refer the matter to the concerned Foreigners Tribunal which will deal with the matter in accordance with law.

5. Following the aforesaid order, the present case is also disposed of by directing Superintendent of Police (Border), Barpeta to examine and verify the case of the petitioner and if on such verification it is found that the case of the petitioner is yet to be referred to the concerned Foreigners Tribunal, to immediately refer the case to the concerned Tribunal which in turn would examine the claim of the petitioner.

6. In view of the prayer made for removal of marking 'D' in the voter list from

the concerned No. 25 Pakabetbari LAC/voter list of 2026, reference, if not made till now, 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 claim before the Tribunal.

7. The writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant