GAHC010233462026

2026:GAU-AS:15832

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

Case No. : WP(C)/5854/2026

HOSEN ALI @ HOSSEN ALI
S/O HANIF ALI HANIF SHEIKH
RESIDENT OF VILLAGE KHARMUZA HOUSE NO 378 KA PART 118 UNDER 38 NO
GOALPARA WEST LAC
P S GOALPARA
DISTRICT GOALPARA
ASSAM
PIN 783101

VERSUS

THE UNION OF INDIA AND ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS SHASTRI BHAWAN NEW DELHI 01

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM DEPARTMENT OF HOME AND POLITICAL AFFAIRS GOALPARA ASSAM PIN 783101

3:THE ELECTION COMMISSIONER OF INDIA
NEW DELHI 01

4:THE ELECTION OFFICER
GOALPARA P O AND DISTRICT GOALPARA ASSAM PIN 783101

5:THE DISTRICT COMMISSIONER GOALPARA
P O AND DISTRICT GOALPARA ASSAM PIN 783101

6:THE SUPERINTENDENT OF POLICE BORDER

GOALPARA P O AND DISTRICT GOALPARA ASSAM PIN 78310

For the Petitioner(s) : Mr. I. Rafique, Advocate

For the Respondent(s) : Ms. S. Doley, SC, NRC
: Ms. S. Katakey, SC,ECI
: Mr. G. Bokolial, Government Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 15.10.2026

Heard Mr. I. Rafique, the learned counsel appearing on behalf of the Petitioner and Ms. S. Katakey, the learned Standing counsel appearing on behalf of Respondent Nos.1 and 3. I have also heard Mr. G. Bokolial, the learned Government Advocate appearing on behalf of the Respondent Nos. 2 and 5; Ms. S. Doley, the learned Standing counsel appears on behalf of the Respondent Nos. 4 and 6.

2. The case of the Petitioner is that in the voters list of 2013, the name of the Petitioner was marked with the letter "D" and thereupon the Petitioner has approached the concerned Respondent Authorities for removal of the tag "D" in his name from the voters list.

3. As the concerned Respondent Authorities had failed to do so, the Petitioner is before this Court under Article 226 of the

Constitution of India for an appropriate direction that the letter "D" tagged with the name of the Petitioner in the voters list be removed.

4. Mr. I. Rafique, the learned counsel appearing on behalf of the Petitioner, submitted that similar to the Petitioner, against whose name in the electoral roll the mark "D" has been incorporated, the names of the Petitioner's father and mother were also marked with the letter "D" in the electoral roll. Insofar as the Petitioner's father is concerned, he has been declared not to be a foreigner of any stream and to be an Indian national vide an opinion dated 12.07.2019 passed in F.T. Case No. 8198/G/2016. Insofar as the Petitioner's mother is concerned, she has also been declared not to be a foreigner of any stream and to be an Indian national vide the opinion dated 29.08.2019 passed in F.T. Case No. 8192/G/16 by the Foreigners Tribunal No. 1, Goalpara. The learned counsel appearing on behalf of the Petitioner therefore submitted that as the parents of the Petitioner have been declared to be Indian national, the Petitioner cannot be held to be a doubtful voter coming from the specified territory.

5. 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 have the competence to decide such a question which depends on the evidence that may be produced.

6. In the circumstances, this Court therefore directs the Respondent No.6 i.e., the Superintendent of Police (Border), Goalpara 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 said Respondent No.6 to refer the case of the Petitioner as regards the mark "D" in the voters list in respect to 38 No. Goalpara West LAC to a competent Foreigners Tribunal, Goalpara District for an appropriate adjudication as regards the status of the Petitioner as "D" voter in the concerned voters list.

7. 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.

8. 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.

9. With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant