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03.01.2025	10.01.2025	10.01.2025	10.01.2025	10.01.2025

**BEFORE THE MEMBER,
FOREIGNERS TRIBUNAL -10TH DHUBRI**

Case No. FT-10/AGM/2504/2020.

{F.T. Case No. 2706/GKJ/11 (old)}.

Reference: IM(D)T Case No. 253/98.

IM(D)T Case No. 2063/D/98.

State of Assam

..... Referral Authority

-Versus-

Matleb Ali @ Motleb Ali

Son of Kasem

..... Opposite Party

Date of Order

: 09/12/2024

Appearance:

For the Referral Authority : Ms. Sangita Koeri, Asstt. Govt. Pleader.

For the opposite party : Mr. Iskandar Azad,
Mr. A. D. Z. Hussain, Advocates.

PRESENT:

Rafiqul Islam, Member

ORDER

09/12/2024

1) This is a reference made in the year 1998 by the SuperIntendent of Police (B), Dhubri on the basis of the report of the Electoral Registration Officer, 25 No. Golakganj Legislative Assembly Constituency against the opposite party Matleb Ali @ Motleb Ali, Son of Kasem,

District:-Dhubri (Assam) and to render an opinion as regards the citizenship of the opposite party. Initially the reference was made to the IM(D)T, Dhubri and subsequently It was transferred to the Foreigners Tribunal No.2, Dhubri and again the reference was transferred to this Tribunal to render opinion in terms of the Forelgners Act, 1946 and the Foreigners (Tribunals) Order, 1964, as amended.

2) The reference is that the name of the opposite party was included in the

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draft electoral roll of 1997 at Village:-Ramraikuti Part-I at the time of house-to-house enumeration during the period from 16/01/1997 to 15/04/1997 and the Electoral Registration Officer, 25 No. Golakganj Legislative Assembly Constituency having doubt about the citizenship of the opposite party got the matter verified by an on-the-spot local verification and on consideration of the report of such verification, the Electoral Registration Officer had the reasonable doubt that the opposite party is not a citizen of India. Accordingly the matter was forwarded to the Competent Authority for deciding the question whether the opposite party is a citizen of India or not and thereafter the reference was made by the Superintendent of Police (B), Dhubri for opinion of the Tribunal.

3) Notice issued to the opposite party was duly served and on receipt of the notice, the opposite party entered appearance and filed written statement along with certain documents claiming to be a bonafide citizen of India and denying the allegations brought against him.

4) Opposite party filed written statement inter-alia stating that he was born on 01/03/1981 at Village:-Ramraikuti Part-I, P.S:-Agomani, District:-Dhubri (Assam) and brought up thereon. His father's name is Kasem Ali @ Abdul Kasem Sk. @ Kasem (since deceased), mother's name is Moslema Bewa, grandfather's name is Sonaula Sk. and grandmother's name is Kosimon Bewa. His father had altogether 2 brother and sister viz, i) Sonabhan Nessa, ii) kasem Ali @ Abdul Kasem Sk. @ Kasem (opposite party's father). He has 3 brothers and sister including him viz, i) Kohlur Bibi, ii) Mottaleb Ali @ Motleb Ali (opposite party) and iii) Saiful Islam. He got married with one Amina Bibi, D/o-Hazrat Ali of Village:-Maragadadhar Char, P.S:-Tamarhat, District:-Dhubri (Assam) and during their conjugal life 2 children were born out of their wedlock viz, i) Farhana Yasmin and ii) Al Imran Ansary. In the year 1997, he appeared in the H.S.L.C. examination under Board of Secondary Education, Assam. His parents and grandparents were the original inhabitants of Village:-Ramraikuti, P.S:-Agomani, District:-Dhubri (Assam). After the death of his father, his mother along with her children shifted to Village:-Sonakhuli Part-II from Village:-Ramraikuti in the year 1997. In the year 1962, his father owned and possessed a plot of land measuring 1B-1K-7L covered by Dag No. 186, 187, 251 and 259 situated at Village:-Ramraikuti Part-I vide Khatian No. 64. His grandparents' names entered in the voter lists of 1966, 1970 and 1977 (along with his father) at Village:-Ramraikuti Part-I. His mother's name entered in the voter list of 1979 at Village:-Ramraikuti Part-I and also entered in the voter list of 1985 along with his grandparents at Village:-Ramraikuti. His name entered in the voter list of 1997 at Village:-Ramraikuti Part-I along with his mother and also entered in the voter lists of 2008 (along with his mother and brother Saiful Islam) and 2023 (along with his mother, wife, sister-in-law Sajida Khatun and brother Saiful Islam) at Village:-

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Sonakhuli Part-II. He and his mother, brother Saiful Islam and sister Moni Nessa are the owner and possessor of a plot of land situated at Village:-Ramraikuti Part-I land measuring 1B-0K-7L covered by Dag No. 254 and 280, K.M Patta No. 8.

5) Now, the main point for determination in the reference is whether the opposite party is a foreigner within the meaning of the expression 'foreigner' as defined in the Foreigners Act, 1946?

6) Opposite party examined himself as DW-1, mother of the opposite party as D.W-2 and the official witness as D.W-3 and exhibited some documents in support of his claim. None was examined for the Referral Authority.

7) Heard the arguments advanced on behalf of the parties. I have gone through the materials on record as submitted by the Referral Authority at the time of making the reference and the written statement as well as the oral and documentary evidence of the opposite party.

8) Opposite party as DW-1 filed evidence-in-chief on affidavit stating more or less the same thing as narrated in the written statement and exhibited certain documents in support of his Indian citizenship and opposite party was subjected to cross examination. In his cross-examination he deposed that he has been casting his vote regularly at Village:-Sonakhuli Part-II and he examined his mother in the case.

9) Opposite party exhibited the following documents in support of his Indian citizenship:

- 1) Copy of Admit Card of H.S.L.C. examination, 1997 Issued from Board of Secondary Education, Assam in the name of opposite party as Ext:A (proved in original).
- 2) Copy of School Certificate dated 12/02/2000 Issued by the Principal, Agomani Govt. Higher Secondary School in the name of opposite party as Ext:B (proved in original).
- 3) Copy of shifting certificate dated 17/08/2023 Issued by the Secretary, Satrasal Gaon Panchayat in the name of opposite party as Ext:C (proved in original).
- 4) Copy of residential certificate dated 29/09/2023 Issued by the President, Sonakhuli Gaon Panchayat in the name of opposite party as Ext:D (proved in original).
- 5) Certified copy of final Khatian dated 30/03/1962 Issued in the name of Abul Kasem Sk. as Ext:E.

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- 6) Certified copy of voter list of 1966 of Sonaulya Sheikh and Kasiman Bibi under 35 No. Golakganj Legislative Assembly Constituency at Village:- Ramraikuti Part-I as Ext:F.
- 7) Certified copy of voter list of 1970 of Sonaulya Sheikh and Kachimon Bibi under 35 No. Golakganj Legislative Assembly Constituency at Village:- Ramraikuti Part-I as Ext:G.
- 8) Certified copy of voter list of 1977 of Sonaulya Sheikh, Kasiman Bibi and Kasem Ali under 25 No. Golakganj Legislative Assembly Constituency at Village:-Ramraikuti Part-I as Ext:H.
- 9) Certified copy of voter list of 1985 of Sonaulya Sheikh, Kasiman Bibi and Moslema Bewa under 25 No. Golakganj Legislative Assembly Constituency at Village:-Ramraikuti as Ext:I.
- 10) Certified copy of voter list of 1997 of the opposite party along with Mosle Bewa under 25 No. Golakganj Legislative Assembly Constituency at Village:-Ramraikuti Part-I as Ext:J.
- 11) Certified copy of voter list of 2008 of the opposite party along with Moslema Bewa and Saiful Islam under 25 No. Golakganj Legislative Assembly Constituency at Village:-Sonakhuli Part-II as Ext:K.
- 12) Copy of Elector Photo Identity Card No. _____ in the name of opposite party as Ext:L (proved in original).
- 13) Copy of Periodic Khiraj Patta No. 8 in the name of opposite party as Ext:M (proved in original).

Now let us appreciate the evidences of DWs including the documents exhibited in the case to determine the nationality status of the opposite party. From the evidence of the opposite party it has been found that the opposite party has claimed that he was born and brought up at Village:-Ramraikuti Part-I, P.S:-Agomani, District:-Dhubri (Assam) and his father's name is Kasem Ali @ Abdul Kasem Sk. @ Kasem (since deceased), mother's name is Moslema Bewa, grandfather's name is Sonaula Sk. and grandmother's name is Kosimon Bewa. It appears from Ext:A admit card that the name of father of opposite party is Kasem Ali and the opposite party appeared in the HSLC Examination in the year 1997 under Board of Secondary Education, Assam and the date of birth of opposite party is 01/03/1981. To prove Ext:A admit card, on the prayer of the opposite party, summon was issued to the Controller of Examinations, SEBA. In response to summon, the Secretary, Board of Secondary Examinations, Assam vide his letter dated 18/07/2024 has sent the verification report of the admit card to the effect that the admit card was verified with the record and found to be genuine. Therefore Ext:A admit card is accepted to be trustworthy piece of document and accepted to be linkage document. From Ext:B certificate it appears that the Principal, Agomani Govt. Higher Secondary School issued the certificate

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dated 12/02/2000 to the effect that opposite party passed the HSLC examination, 1997 from the school being Roll N7-005, No.0041. It appears from Ext:B that opposite party is the son of Kasem Ali of Village:-Sonakhuli, Police Station:-Golakganj and that the date of birth of opposite party is 01/03/1981. Ext:C and Ext:D certificates being the certificates of Panchayat Authority have no evidentiary value in absence of proof and hence no reliance can be placed on Ext:C and Ext:D. It appears from Ext:E certified copy of Khatian that a Khatian being No.64 was issued in the name of Abul Kasem Sk., S/o-Sonamullah of Village:-Ramraikuti Part-I, whom the opposite party has claimed to be his father, for a plot of land situated at Village:-Ramraikuti Part-I. To prove Ext:E opposite party examined DW-3, who in his evidence deposed that the khatian was issued on 30/03/1962 and produced the original khatian book in which Khatian No. 64 has been recorded. He deposed that the name of Abul Kasem Sk., S/o-Sonamullah was mutated as per order dated 19/10/1970 of S.D.C. and accordingly the record was corrected. He further deposed that Ext:E is the certified copy of Khatian No. 64 and Ext:10 is the exact copy of Khatian No. 64 as has been recorded in the Khatian book. Ext:E is therefore proved and accepted to be trustworthy piece of documentary evidence. It appears from Ext:F and Ext:G certified copies of voter lists that the names of Sonaulya Sheikh and Kasiman Bibi, whom the opposite party has claimed to be his grandparents, were entered in the voter lists of 1966 and 1970 under 35 No. Golakganj Legislative Assembly Constituency at Village:-Ramraikuti Part-I. From Ext:H certified copy of voter list it appears that the names of Sonaulya Sheikh, Kasiman Bibi and Kasem Ali, whom the opposite party has claimed to be his grandfather, grandmother and father respectively, were entered in the voter lists of 1977 under 25 No. Golakganj Legislative Assembly Constituency at Village:-Ramraikuti Part-I. It appears from Ext:I certified copy of voter list that the names of Sonaulya Sheikh, Kasiman Bibi and Moslema Bewa, whom the opposite party has claimed to be his grandfather, grandmother and mother respectively, were entered in the voter list of 1985 under 25 No. Golakganj Legislative Assembly Constituency at Village:-Ramraikuti Part-I. From Ext:J certified copy of voter list it appears that the name of opposite party was entered in the voter list of 1997 with Mosle Bewa, whom the opposite party has claimed to be his mother, under 25 No. Golakganj Legislative Assembly Constituency at Village:-Ramraikuti Part-I. It is the case of the opposite party that after the death of his father his mother shifted to Village:-Sonakhuli Part-I from Village:-Ramraikuti Part-I with her sons and daughters including him and settled at Village:-Sonakhuli Part-I. It appears from Ext:K certified copy of voter list that the name of opposite party was entered in the voter list of 2008 at Village:-Sonakhuli Part-I under 25 No. Golakganj Legislative Assembly Constituency with Moslema Bewa and Saiful Islam, whom opposite party has claimed to be his mother and brother. It appears from Ext:L that Elector Photo Identity Card No. GJF6141588 was issued in the name of opposite party in the year 2013 being the voter of Village:-Sonakhuli Part-I. From Ext:M it appears

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that Periodic Kheraj Patta was issued in the name of opposite party for a plot of land situated at Village:-Ramraikuti Part-I with Saiful Islam, Mani Nesa and Moslema Bewa, whom the opposite party has claimed to be his brother, sister and mother respectively. To prove the certified copies of exhibited voter lists, on the prayer of the opposite party, summon was issued to the Election Officer, Dhubri. In response to summon, the Election Officer, Dhubri vide his letter dated 08/10/2024 has sent the authenticated report of the exhibited voter lists duly signed by him. Therefore Ext:F, Ext:G, Ext:H, Ext:I, Ext:J and Ext:K certified copies of voter lists are accepted to be genuine and secondary evidence. Opposite party examined his mother as DW-2 and in her evidence she has supported and corroborated the evidence of opposite party (DW-1). It appears that the name of DW-2 has been entered in the voter lists with the opposite party and therefore there is no reason to disbelieve the testimony of DW-2.

11) From the evidence on record and finding no rebuttal evidence, there is no reason to disbelieve the testimony of the opposite party and documents exhibited by the opposite party in support of his testimony. Since the names of grandparents of opposite party were entered in the voter lists of 1966 and 1970 (Ext:F and Ext:G) at Village:-Ramraikuti Part-I, names of grandparents and father of opposite party were entered in the voter lists of 1977 at Village:-Ramraikuti Part-I (Ext:H), names of grandparents and mother of opposite party were entered in the voter lists of 1985 at Village:-Ramraikuti Part-I (Ext:I), name of mother of opposite party was entered in the voter list of 1997 at Village:-Ramraikuti Part-I (Ext:J) with opposite party, father of the opposite party was residing in Assam having landed property (Ext:E), the evidence of opposite party are sufficient enough to prove that the grandparents and father of opposite party were citizens of India and that mother of opposite party is a citizen of India. As the father of the opposite party was residing in India (Assam) prior to the year 1966 and the parents of opposite party were residing in Assam at the time of birth of the opposite party and the opposite party was born to Indian parents in Indian soil, being the descendent of citizens of India, the opposite party is a citizen of India by birth. It appears that the name of opposite party has been entered in the voter list of 1997 with his mother at Village:-Ramraikuti Part-I (Ext:J), in the voter list of 2008 with his mother and brother at Village:-Sonakhuli Part-I (Ext:K) and the opposite party is a regular voter. The linkage with the father of opposite party has been established from Ext:A (admit card) and the linkage with the mother has been established from Ext:J and Ext:K (voter lists). Moreover, though the State cross examined both DW-1 and DW-2, the State could not demolish the evidences that grandparents of opposite party were not citizens of India and therefore the opposite party cannot be termed as a foreigner as suspected by the referral authority.

12) For the aforesaid reasons and discussions, the evidence and documents examined by opposite party in support of the case are found to be sufficient and trustworthy to prove that the opposite party is not a foreigner.

13) Considering the entire materials on record and the discussions above, I am of the considered opinion that the opposite party Matleb Ali @ Motleb Ali, Son of Kasem, Village:-Ramraikuti Part-I, P.S:-Agomani (earlier Golakganj), District:-Dhubri (Assam) is not a foreigner.

14) The reference is answered in negative.

15) Intimate the Superintendent of Police (Border), Dhubri, the District Magistrate, Dhubri and the Election Officer, Dhubri along with a copy of the order.

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