

GAHC010010762017



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

Case No. : WP(C)/355/2017

GOBINDA MONDAL and 3 ORS.
S/O. LT. SAMBHU MONDAL,

2: SMTI. BIBHA RANI MONDAL

W/O. GOBINDA MONDAL

3: SRI SAPAN MONDAL

S/O. GOBINDA MONDAL

4: SRI TAPAN MONDAL

S/O. GOBINDA MONDAL. ALL ARE RESIDENT OF VILL. JYOTINAGAR
P.O. GOALPARA
DIST. GOALPARA
ASSAM

VERSUS

THE UNION OF INDIA and 3 ORS
REP. BY MINISTRY OF HOME AFFAIRS, NEW DELHI-1.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI.

3:DEPUTY COMMISSIONER
GOALPARA.

4:SUPERINTENDENT OF POLICE
BORDER

GOALPARA

Advocate for the Petitioner : MR.U P CHALIHA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 11.04.2023
(A.M. Bujor Barua, J)

Heard Mr. D.P. Chaliha, learned senior counsel for the petitioners and Ms. L. Devi, learned counsel for the respondents No. 1, being the Union of India. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2 and 4, being the authorities in the Home Department and Ms. U. Das, learned counsel for the respondents No. 3, being the Deputy Commissioner, Goalpara.

2. The petitioners Sri Gobinda Mondal, Smt. Bibha Rani Mondal, Sri Sapan Mondal and Sri Tapan Mondal were referred to the Foreigners' Tribunal No. 1, Goalpara for rendering an opinion as to whether they are persons who had entered the State of Assam from the specified territory on or after 25.03.1971 and accordingly F.T. Case No. 3742/G/2011 was registered. The Tribunal rendered its opinion dated 05.12.2016 arriving at its conclusion that the petitioners are foreigners who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner No. 1 relies upon the voters' list of 1966 of village 184 Daranga No. 1, PS Bijni in the Goalpara district which

contains the names of Shambhucharan Mondal son of Tenu Mondal at Sl. No. 178 and Lakshmirani Mondal wife of Shambhucharan Mondal at Sl. No. 179 and both are shown to be residing in the same house No. 48. The petitioner also relies upon the voters' list of 1970 of village 12 Daranga No. 1, PS Bijni in the Goalpara district which contains the name of Gobinda Mondal son of Shambhu Charan at Sl. No. 224. As the name of Gobinda Mondal itself appears in the voters' list of 1970, we have to understand that he is not a person who had entered the State of Assam on or after 25.03.1971.

4. In view of the unrebutted materials on record, we declare the petitioner No. 1 Gobinda Mondal son of Shambhu Charan of village 12 Daranga No. 1 to be a citizen of India. The petitioner No. 1 shall be entitled to all such rights that may be entitled to a citizen of India. As the petitioner No. 1 had been declared to be an Indian citizen, implications of law in respect of his other family members shall also follow. But as regards his wife Smt. Bibha Rani Mondal, if so advised, the respondents in the Home Department may proceed against her so that she may establish her own citizenship through the lineage of her father. Accordingly, the opinion dated 05.12.2016 in F.T. Case No. 3742/G/2011 is set aside.

Writ petition stands allowed as indicated above.

Send back the LCR forthwith.

JUDGE

JUDGE

Comparing Assistant