

GAHC010012602017



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

Case No. : WP(C)/840/2017

UPENDRA CH. DAS @ UPENDRA RAJBONGSHI
S/O LT. MOHAN RAJBONGSHI @ MOHAN VILL- BALAVITA P.S. SORBHOG,
DIST. BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA and 4 ORS.
REP. BY THE SECRETARY OF THE MINISTRY OF HOME AFFAIRS, GOV.T OF
INDIA, NEW DELHI-1.

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

3:THE DEPUTY COMMISSIONER
BARPETA
DIST. BARPETA
ASSAM.

4:THE SUPERINTENDENT OF POLICE B
BARPETA
DIST. BARPETA
ASSAM

5:THE OFFICER-IN-CHARGE
SORBHOG POLICE STATION
DIST. BARPETA
ASSAM

Advocate for the Petitioner : MR.A DAS

Advocate for the Respondent : GA, ASSAM

BEFORE

**HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN**

O R D E R

11.04.2023

(A.M. Bujor Barua, J)

Heard Mr. MU Mahmud, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of respondents in the Union of India as well as for the authorities in the NRC, Mr. G Sarma, learned counsel for the State respondents in the Home Department of Government of Assam, Mr. T Pegu, learned counsel for the Election Commission of India and Mr. NK Das, learned counsel for the Deputy Commissioner, Barpeta.

2. The petitioner Upendra Chandra Das @ Upendra Rajbongshi had been referred to the Foreigners Tribunal No. 11, Barpeta for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of FT Case No. 114/2016, wherein an opinion dated 19.11.2016 was given that the petitioner is a foreigner. Being aggrieved, this writ petition is instituted.

3. In the writ proceeding, although many other documents are sought to be relied upon including a Katcha Patta dated 18.09.1961 in the name of Mohan Rajbongshi, who is the father of the petitioner, in order to establish that the petitioner is a citizen of India, we also take note that there is a voters list of the year 1970 of village Jania under Barpeta police station in the Barpeta district, which contains the name of Upendra Rajbongshi son of Mohan at serial No. 525.

4. If the petitioner proceedee Upendra Chandra Das @ Upendra Rajbongshi

and the Upendra Rajbongshi of the voters list of 1970 of village Jania are one and the same person, the petitioner need not discharge any further burden to prove that he is a citizen of India. But, however, the said material is not available before the Court.

5. In view of the above, the matter is remanded back to the Tribunal to examine the voters list of 1970 of village Jania containing the name of Upendra Rajbongshi. We also direct the Superintendent of Police (Border) Barpeta to make a verification and find out as to whether Upendra Rajbongshi of the voters list of 1970 of village Jania and the petitioner proceedee Upendra Chandra Das @ Upendra Rajbongshi of village Balavita are one and the same person and submit the report before the Tribunal and thereafter the Tribunal may pass a reasoned order thereon.

6. If the reasoned order is in favour of the petitioner, the same shall prevail over the earlier opinion dated 19.11.2016 and if it goes against the petitioner, consequence as per law shall follow.

7. The petitioner shall appear before the Foreigners Tribunal No. 11, Barpeta on 29.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

8. The writ petition is allowed as indicated above.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant