

GAHC010033962018



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

Case No. : WP(C)/1017/2018

JADAB BISWAS @ JADAB CHANDRA BISWAS
S/O. LT. KIRTAN BISWAS @ KIRTAN CHANDRA BISWAS, R/O. TOWN
BARPETA ROAD, WARD NO. 8, P.S. BARPETA ROAD, DIST. BARPETA,
ASSAM, PIN-781315

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
DEPTT., NEW DELHI.

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

3:SUPERINTENDENT OF POLICE (B)
BARPETA
P.O. AND P.S. BARPETA
DIST. BARPETA
ASSAM
PIN-781315

4:THE DEPUTY COMMISSIONER
BARPETA
DIST. BARPETA
ASSAM
PIN-781315

5:ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER

NEW DELHI-1.

6:STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS (NRC)
ASSAM
ACHYUT PLAZA
BHARALUPAR
BHANGAGARH
GUWAHATI-78100

Advocate for the Petitioner : MR. S ALIM

Advocate for the Respondent : ASSTT.S.G.I.

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

Date : 06-02-2023

JUDGMENT & ORDER (ORAL)

(AM Bujor Barua, J)

Heard Mr. S Alim, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC appearing on behalf of the respondents in the Union of India as well as for the authorities under the NRC, Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Barpeta, Mr. AI Ali learned counsel for the Election Commission of India, Ms. A Verma, learned Special Counsel Foreigners Tribunal for the authorities under the Home Department, Government of Assam as well as the Superintendent of Police (B) Barpeta.

2. The petitioner Jadab Biswas was referred to the Foreigners Tribunal 2nd Barpeta for an opinion as to whether he is a person who had entered the State of Assam subsequent to 25.03.1971 resulting in registration of FT (2nd Tribunal) Case No.160/16 in the Foreigners Tribunal, 2nd Barpeta.

3. The petitioner is aggrieved by the order dated 17.01.2018 passed by the Foreigners Tribunal 2nd Barpeta in FT (2nd Tribunal) Case No.160/16 whereby the Tribunal had opined that the petitioner could not establish that he is a *bona fide* citizen of India and that he had not entered India after the cutoff date i.e. 25.03.1971.

4. Before the Tribunal, the petitioner exhibited the voters list of 1989 of village Barpeta Road Ward No.8 which contains the name of Kirtan Biswash at Sl.No.366 son of Bharob and at Sl.367 contains the name of Parbati Biswash wife of Kirtan. The petitioner claims that he is the son of Kirtan Biswash whose name appears in the voters list of 1989 of village Barpeta Road Ward No.8.

5. The petitioner also refers to a school certificate of 712 No.Athiabari Rajatram Nimna Buniyadi Bidyalaya, Barpeta Road, District Barpeta, which shows that Jadab Chandra Biswas is the son of Kirtan Chandra Biswas of village Barpeta Road. As per law, a school certificate is required to be supported by the evidence of the school authorities by exhibiting the original records of the school which may contain the information therein.

6. The petitioner also refers to a sale deed of a land of the year 1967 where the purchaser is shown to be Kirtan Chandra Biswas son of Bhairab Chandra Biswas of village Dakhin Barpeta Road. Accordingly the petitioner contends that as Kirtan Chandra Biswas has purchased the land in the year 1967, therefore, he is not a person who had entered the State of Assam subsequent to 25.03.1971. Further the school certificate indicating that he is the son of Kirtan Chandra Biswas of village Barpeta Road establishes that he is also not a person who had entered the State of Assam subsequent to 25.03.1971. But, however, as the school certificate is not supported by the evidence of the school authorities, the matter stands remanded back to allow the petitioner to adduce evidence of the school authorities of 712 No.Athiabari Rajatram Nimna Buniyadi Bidyalaya, Barpeta Road, District Barpeta to authenticate the information contained therein. The petitioner may also rely upon the sale deed of the year 1967 and may call for the records related to the said sale deed to establish that he is the son of Kirtan Chandra Biswas of village Barpeta Road and that Kirtan Chandra Biswas is not a person who had entered the State of Assam subsequent to 25.03.1971.

7. The petitioner to appear before the Foreigners Tribunal 2nd Barpeta on 13.03.2023. Any order that the Tribunal may pass upon hearing the petitioner shall prevail over the earlier order dated 17.01.2018 passed in FT (2nd Tribunal) Case No.160/16.

8. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant