

GAHC010034282019



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

Case No. : WP(C)/1806/2019

LAL BHANU @ LAL BHNAU
W/O- SHAHJAHAN @ SAHAJAN ALI
D/O- LATE MONER UDDIN,
R/O- VILL.- RAMA PARA PAM, P.S.- BAGHBOR, DIST.- BARPETA, ASSAM,
PIN- 781315.

VERSUS

THE UNION OF INDIA AND 6 ORS.
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, SASTRI BHAWAN, NEW DELHI, PIN- 110001.

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

3:THE SUPERINTENDENT OF POLICE (B)
BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301.

4:THE DEPUTY COMMISSIONER
BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301

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

NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI
INDIA
PIN- 110001.

6:THE NATIONAL REGISTER OF CITIZEN

REP. BY THE STATE CO-ORDINATOR
ACHYUT PLAZA
BHANGAGARH
KAMRUP (M)
ASSAM
PIN- 781006.

7:THE OFFICER-IN-CHARGE OF BAGHBOR POLICE STATION

P.O.- BAGHBOR
DIST.- BARPETA
ASSAM
PIN- 781301

Advocate for the Petitioner : MR. M A SHEIKH

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

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

ORDER

22.03.2023

(AM Bujor Barua, J)

Heard Mr. M A Sheikh, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Ms. A Verma, learned Special Standing

Counsel, Foreigners Tribunal for the Home Department, Government of Assam, the Superintendent of Police (B) Barpeta, as well as the Officer-in-Charge of Baghbor Police Station and Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Barpeta.

2. The petitioner, Lal Bhanu@Lal Bhnau, was referred to the Foreigners Tribunal No.4, Barpeta for rendering an opinion as to whether she is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T. Case No.366/2016 corresponding to Ref.IM(D) Case No.7632/1998 wherein an opinion dated 29.11.2018 was rendered declaring the petitioner to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

3. Being aggrieved this writ petition is instituted.

4. To discharge the burden under Section 9 of the Foreigners Act 1946, the petitioner relies upon the voters list of 1966 of village Ramapara Pam, Mouza Baghbor, district Barpeta wherein the name of Moner Uddin, son of Saman appears at Sl.No.259 and that of Santo Nessa, wife of Moner Uddin appears at Sl.No.260, where both of them reside in House No.64. The petitioner also relies upon the voters list of 1997 of village Dharmapur Nonke Rampara Pam, PS Bhagbor, Mouza Baghbor in the Barpeta district wherein the name of Abdul Sattar son of Monoruddin appears at Sl. No. 523, that of Amela Khatun wife of Abdul Sattar appears at Sl. No.524, Samsul Hoque, son of Monoruddin appears at Sl.No.525 and that of Shanti Bedhova, son of Monoruddin appears at

Sl.No.527 and all of them are shown to be residing in the same House No.41.

5. The petitioner adduced the deposition of A Sattar as DW-II wherein he had deposed that Lal Bhanu is his sister who was born and brought up at village Ramapara Pam, Mouza Baghbor, PS: Baghbor in the Barpeta district. In cross examination, DW-II has stated that his name is Abdul Sattar, his age is 62 years, his father's name is Moniruddin and mother's name is Santo Bhano. He has stated that his father died when he was 22/23 years old and his mother died about 30 years ago. He has also stated that they are two brothers and two sisters. His younger brother is Samsul Hoque. His wife name is Amela Khatun. He further states that his grandfather name is Samar Ali and that he has two sisters namely, Lal Bhanu and Rahima Khatun.

6. As the said evidence has been rendered by the DW-II in his cross examination, it appears that the State authorities had failed to demolish the evidence-in-chief of the DW-II that Lal Bhanu is his sister and that he is the son of Moner Uddin and that Lal Bhanu is the daughter of Moner Uddin. The evidence-in-cross of DW-II is further corroborated, *inasmuch as*, the voters list of 1997 of village Dharmapur Nonke Rampara Pam, PS Bhagbor, Mouza Baghbor in the Barpeta district shows the name of Abdul Sattar and Samsul Hoque sons of Monoruddin and Amela Khatun wife of Abdul Sattar and that of Shanti Bedhova, wife of Monoruddin, whose name also appears in the voters list of 1966.

7. Considering the consistency in the evidences as indicated above, the

matter stands remanded back to the Tribunal for examination of the depositions made by the witnesses and to pass a reasoned order thereon.

8. Accordingly, the petitioner shall appear before the Tribunal on 28.04.2023.

9. The Tribunal upon examining the evidences shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 29.11.2018 of the Foreigners Tribunal No.4, Barpeta in F.T. Case No.366/2016 corresponding to Ref.IM(D) Case No.7632/1998 and if it is against the petitioner, consequential action under the law shall follow.

10. Till the reasoned order is passed, no coercive action be taken against the petitioner.

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

JUDGE

JUDGE

Comparing Assistant