

GAHC010038872019



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

Case No. : WP(C)/1454/2019

JAGABANDHU MAZUMDER AND 4 ORS.
S/O- LT SHIRISH MAZUMDER, R/O- GHUNUSHA RAILWAY LINE, P.S.
JAGIROAD, DIST- MORIGAON, ASSAM

2: KAUSHALYA MAZUMDER
W/O- SRI JAGABANDHU MAZUMDER
R/O- GHUNUSHA RAILWAY LINE
P.S. JAGIROAD
DIST- MORIGAON
ASSAM

3: LAKHI MAZUMDER @ LAKHI BALA
W/O- LT SHIRISH MAZUMDER
R/O- GHUNUSHA RAILWAY LINE
P.S. JAGIROAD
DIST- MORIGAON
ASSAM

4: JYOTI MAZUMDER
D/O- SRI JAGABANDHU MAZUMDER
R/O- GHUNUSHA RAILWAY LINE
P.S. JAGIROAD
DIST- MORIGAON
ASSAM

5: JHUNU MAZUMDER
D/O- SRI JAGABANDHU MAZUMDER
R/O- GHUNUSHA RAILWAY LINE
P.S. JAGIROAD
DIST- MORIGAON
ASSA

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA, NEW
DELHI- 110001

2:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSIONER
NEW DELHI- 110001

3:THE STATE OF ASSAM
REP. BY THE SECY./ COMM.
DEPTT. OF HOME
GOVT. OF ASSAM
DISPUR
GHY-6

4:THE STATE CO-ORDINATOR OF NATIONAL REGISTRAR OF CITIZENS
(NRC)
GOVT. OF ASSAM
DISPUR
GHY-6

5:THE SUPERINTENDENT OF POLICE
MORIGAON DISTRICT
MORIGAON
PIN- 782105

6:THE DY. COMMISSIONER AND DIST. ELECTION OFFICER
MORIGAON
PIN- 78210

Advocate for the Petitioner : MR B K KAR

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

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

JUDGMENT

Date : 17-03-2023

(AM Bujor Barua, J)

Heard Mr. B.K. Kar, learned counsel for the petitioners. Also heard Ms. L. Devi, learned

counsel for the respondent No.1 being the Union of India and learned counsel for the respondent No.4 being the authorities under the NRC, Mr. G. Sarma, learned Counsel appearing for the Home Department of Government Assam being the respondent No.3 and 5, Mr. A.I. Ali, learned counsel for the respondent No.2 being the Election Commission of India, and Ms. U. Das, learned Government Advocate for the respondent No.6 being the Deputy Commissioner, Goalpara.

2. The petitioners, namely, petitioner No.1 Jagabandhu Mazumdar and other family members were referred to the Foreigners' Tribunal No.1, Morigaon 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, resulting in registration of F.T. Case No.362/2008.

3. On 08.10.2018, the Foreigners' Tribunal No.1, Morigaon rendered an opinion in F.T. Case No.362/2008, which was against them and being aggrieved by the said opinion, this Writ Petition was instituted by the petitioners.

4. In the Writ Proceeding, for the purpose of petitioner No.1 Jagabandhu Mazumdar, reliance is placed upon the Voters List of 1965/66 of Village Satkhapori Doloni under Police Station Morigaon, Mouza Mayong in the present Morigaon District, which contains the name of Nabin Ch. Mazumdar, son of Kandus at Sl. No.185 and that of Shirish, son of Nabin at Sl. No.188, both bearing the Household No.48. Reference is also made to the Voters List of 1971 of Village Satkhapori Doloni, Police Station Morigaon, Mouza Mayong which contains the name of Lakhi Bala Mazumdar at Sl. No.235, who also resides in the Household No.48. Lakhi Bala Mazumdar is shown to be the wife of Shirish. As both of them are residing in the Household No.48, it can be accepted that Lakhi Bala Mazumdar is the wife of Shirish. Petitioners also refers to the Voters List of 2015 of Village Satkhapori, wherein at Sl. No.153 appears the name of Lakhi Bala Mazumdar, wife of Shirish Mazumdar, Household No.38 and that of Jagabandhu Mazumdar, son of Shirish Mazumdar at Sl. No.154, also of Household No.38. Accordingly the petitioner No.1 seeks to establish that he is the son of Shirish

Mazumdar, whose name appeared in the Voters List of 1965-66 of Village Satkhapori Doloni under Police Station Morigaon, Mouza Mayong in the present Morigaon District.

5. From the aforesaid documents, it can be established that Jagabandhu Mazumdar, son of Shirish Mazumdar of Village Satkhapori Doloni is the citizen of India. But the petitioner before the Court is Jagabandhu Mazumdar, son of Shirish Mazumdar, resident of Village Ghunusha, under Police Station Jagiroad, District Morigaon.

6. In the circumstance, the matter is remanded back to the Tribunal to enable the petitioners to bring any further material that Jagabandhu Mazumdar, son of Shirish Mazumdar of Ghunusha Village and Jagabandhu Mazumdar, son of Shirish Mazumdar of Village Satkhapori Doloni is one and the same person. The same would also apply in respect of the petitioner No.3, Lakhi Bala Mazumdar, wife of Shirish Mazumdar.

7. Consequent upon the opinion that may be rendered in respect of the petitioner No.1 Jagabandhu Mazumdar, the citizenship of his children, namely, petitioner No.4, Smti Jyoti Mazumdar and Petitioner No.5, Smti Jhunu Mazumdar may also be declared. But in respect of petitioner No.2 Smti Kaushalya Mazumdar, who is the wife of Jagabandhu Mazumdar, the said petitioner may render her own individual materials before the Tribunal to establish that she is also a citizen of India, establishing her linkage through her father.

8. The petitioners to appear before the Tribunal on 21.04.2023. In the event, a reasoned order is passed in favour of the petitioners, the respective orders in respect of the different petitioners would prevail over the order dated 08.10.2018, passed by the Foreigners' Tribunal No.1, Morigaon in F.T. Case No.362/2008 and if it is against them, the implications under the law may follow.

9. Till the reasoned order is passed no coercive action be taken against the

petitioners.

10. The petition stands allowed as indicated above.

11. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant