

GAHC010043982019



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

Case No. : WP(C)/1715/2019

RAMLAL MANDAL AND 3 ORS.
S/O- SUDHANNA MANDAL, R/O- VILL- BARUNGURI BEEL, P.O.
DUNGARPAR, P.S. BHURAGAON, MOUZA- BOKANI, DIST- MORIGAON,
ASSAM, PIN- 782121

2: RAJUBALA MANDAL
W/O- RAMLAL MANDAL
R/O- VILL- BARUNGURI BEEL
P.O. DUNGARPAR
P.S. BHURAGAON
MOUZA- BOKANI
DIST- MORIGAON
ASSAM
PIN- 782121

3: JAYLAL MANDAL
S/O- RAMLAL MANDAL
R/O- VILL- BARUNGURI BEEL
P.O. DUNGARPAR
P.S. BHURAGAON
MOUZA- BOKANI
DIST- MORIGAON
ASSAM
PIN- 782121

4: MRINAL MANDAL
S/O- RAMLAL MANDAL
R/O- VILL- BARUNGURI BEEL
P.O. DUNGARPAR
P.S. BHURAGAON
MOUZA- BOKANI
DIST- MORIGAON
ASSAM
PIN- 78212

VERSUS

UNION OF INDIA AND 5 ORS.
REP. BY MINISTRY OF HOME AFFAIRS, NEW DELHI

2:STATE OF ASSAM
REP. BY THE MINISTRY OF HOME
DISPUR
GHY-6

3:SUPERINTENDENT OF POLICE (B)
MORIGAON
PIN- 782105

4:DY. COMMISSIONER (ELECTION)
MORIGAON
PIN- 782105

5:NATIONAL REGISTRATION OF CITIZENS
782105
REP. BY ITS STATE COORDINATOR
ACHYUT PLAZA
BHANGAGARH
GHY-5

6:ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 11000

Advocate for the Petitioner : MS F AHMED

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

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

ORDER

Date : 02.06.2023
(AM Bujor Barua, J)

Heard Mr. SK Ghosh, learned counsel for the petitioner. Also heard Ms. L

Devi, learned counsel for the respondents no. 1 and 5 being the authorities under the Union of India and NRC respectively, Ms. A Verma, learned counsel for the respondents no. 2 and 3 being the authorities under the Home Department of Government of Assam, Ms. K Phukan, learned counsel for the respondent no. 4 being the Deputy Commissioner, Morigaon and Mr. T Pegu, learned counsel for the respondent no. 6 being the authorities under the Election Commission of India.

2. The petitioner no. 1 Ramlal Mandal, S/O Sudhania Mandal of village Barunguri Police Station Bhurgaon of Morigaon district had been referred and noticed by the Foreigners' Tribunal No. 2, Morigaon in Case No. F.T. 2193/2012. The Tribunal rendered an opinion dated 13.12.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved, this writ petition is instituted.

4. In the writ proceeding the petitioner relies upon the voters' list of 1971 of Police Station Laharighat in the erstwhile Nagaon district and presently in the Morigaon district which contains the name of Ramlal Mandal at Sl. No. 271. Reliance is also placed on the voters' list of 1966 of village Barunguri Beel which contains the name of Sudhanna Mandal, S/O Radhalal at Sl. No. 154. It is stated that Sudhanna Mandal is the father of the petitioner no. 1 and Ramlal Mandal of the 1971 voters' list of village Barunguri Beel is the petitioner himself.

5. To verify the authenticity of the entry in the voters' list of 1971, we also required the petitioner to produce the complete voters' list of 1971 of village Barunguri Beel. The complete voters' list of 1971 of village Barunguri Beel has been filed along with the additional affidavit of the petitioner. A perusal of the complete voters' list of 1971 makes it discernable that it contains the name of

Ramlal Mandal, S/O Sudhanna Mandal at Sl. No. 271.

6. As the name of Ramlal Mandal, S/O Sudhanna Mandal appears in the voters' list of 1971 of village Barunguri Beel itself, it cannot be understood that he would be a person who entered the State of Assam on or after 25.03.1971. The notice of the Tribunal is also in the name of Ramlal Mandal, S/O Sudhanna Mandal of village Barunguri of the present Morigaon district.

7. In view of the above, the petitioner no. 1 Ramlal Mandal is declared to be a citizen of India and further he shall be entitled to all such rights and liberties as may be entitled to an Indian citizen.

8. The petitioners no. 3 and 4 are respectively sons of Ramlal Mandal and as Ramlal Mandal has been declared to be Indian citizen, consequently his sons also have to be understood as Indian citizens and accordingly, it is declared. In respect of the petitioner no. 2 Rajubala Mandal who is the wife of Ramlal Mandal, a question may remain as to whether she is a citizen or not. If the respondents after verification is of the view that the citizenship of Rajubala Mandal cannot be determined, appropriate reference may be made to the Tribunal but without undertaking such process, Rajubala Mandal should not be construed to be a foreigner and acted upon in any manner.

Send back the LCR.

Writ petition stands allowed in the above terms.

JUDGE

JUDGE

Comparing Assistant