

GAHC010056842017



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

Case No. : WP(C)/7761/2017

BAKUL RANI SAHA
W/O NABA KUMAR SAHA R/O BARPETA ROAD, WARD NO. 3, P.S. and P.O.
BARPETA ROAD, DIST. BARPETA, ASSAM, PIN - 781315.

VERSUS

THE UNION OF INDIA and 3 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SHASTRI BHAWAN, TRILOK MARK, NEW DELHI-110001.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER OF BARPETA

P.O. and P.S. BARPETA DIST. BARPETA
ASSAM
PIN - 781301.

4:THE SUPERINTENDENT OF POLICE B

BARPETA
P.O.
P.S. and DIST. BARPETA
ASSA

Advocate for the Petitioner : MD.A HUSSAIN

Advocate for the Respondent : ASSTT.S.G.I.R1

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

Date : 16-05-2023

JUDGMENT & ORDER (ORAL)

(AM Bujor Barua, J)

Heard Mr. A Hussain, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India, Mr. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam, as well as the Superintendent of Police (B) Barpeta and Mr. TR Gogoi, learned Government Advocate for the Deputy Commissioner, Barpeta.

2. The petitioner, namely, Bakul Rani Saha was referred to the Foreigners Tribunal 9th Barpeta, Assam 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. 9th Case No.409/2015 corresponding to Ref.IM(D)T Case No.6739(A) wherein an opinion dated 09.08.2017 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. In the writ proceeding, the petitioner relies upon the voters list of 1965 of Sahar Barpeta Road Ward No.2 which contains the name of Abhay Charan Saha son of Gobinda at Sl.No.399 and that of Priya Bala Saha wife of Abhay at Sl.No.400 and both of them are shown to be residing in the same House No.122. Reliance is also placed on the voters list of 1997 of village Barpeta Road Ward No.1 which contains the name of Prakash Ch.Saha son of Abhaya at Sl.No.347 and that of Priya Bala Saha wife of Abhaya at Sl.No.351 and both of them are shown to be residing in the same House No.104. Further reliance is placed on the voters list of 2010 of Barpeta Road Ward No.1 which contains the name of Prakash Ch. Saha son of Abhay Chandra Saha at Sl.No.450 and that of Priya Bala Saha wife of Abhay Chandra Saha at Sl.No.454, where also both of them are shown to be residing in the same House No.104.

5. Prakash Ch. Saha had deposed before the Tribunal as DW-2 wherein it is stated that Abhay Chandra Saha @ Chandra Saha was his father and the proceedee/ writ petitioner Bakul Rani Saha is his elder sister being the daughter of Abhay Chandra Saha.

6. A reading of the cross examination by the State authorities does not indicate that the evidence rendered by the DW-2 Prakash Chandra Saha could be rebutted in any manner. If the evidence of DW-2 Prakash Chandra Saha is accepted, it can be established that the petitioner Bakul Rani Saha is his sister and as the name of DW-2 Prakash Chandra Saha appears along with Priya Bala Saha in the voters list of 1997 and 2010 of village Barpeta Road Ward No.1 and the name of Priya Bala Saha wife of Abhay appears in the voters list of 1965 of

village Sahar Barpeta Road Ward No.2, we are of the view that the petitioner has clearly established her case and discharged the burden under Section 9 of the Foreigners Act 1946.

7. In view of such conclusion arrived, the petitioner Bakul Rani Saha is declared to be a citizen of India. Consequently, all such legal rights and privileges that may accrue to the petitioner Bakul Rani Saha upon such declaration that she is a citizen of India be made available to her.

8. Writ petition, accordingly, stands allowed.

9. LCR be sent back.

JUDGE

JUDGE

Comparing Assistant