

GAHC010067502022



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

Case No. : WP(C)/2769/2022

DEBASISH GHOSH AND ANR
S/O-LATE CHITTARANJAN GHOSH
R/O- TANGLA WARD NO-4
P.O AND P.S- TANGLA
DIST- UDALGURI (BTR), ASSAM

2: DEBARUP GHOSH
S/O-DEBASHISH GHOSH
R/O- TANGLA WARD NO-4
P.O AND P.S- TANGLA
DIST- UDALGURI (BTR)
ASSA

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, SASTRI BHAWAN, NEW DELHI- 110001.

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

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

4:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
ASSAM

1ST FLOOR
ACHYUT PLAZA
G.S ROAD.
BHANGAGARH
GUWAHATI-05
DIST- KAMRUP (M)

5:THE DEPUTY COMMISSIONER
CUM-DISTRICT ELECTION OFFICER CUM ELECTORAL REGISTRATION
OFFICER
UDALGURI
P.O AND P.S- UDALGURI
DIST- UDALGURI
ASSAM
PIN-784509

6:THE SUPERINTENDENT OF POLICE (B)
UDALGURI
P.O AND P.S- UDALGURI
DIST- UDALGURI
ASSAM
PIN-78450

For the Petitioners : Mr. R.S. Chauhan, Advocate.

For the Respondents : Mr. R.K. Deb Choudhury, SC, NRC (R-4).
Ms. M. Barman, Advocate (R- 3, 5 & 6).
Mr. Imtiaz Ali, Advocate.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
ORDER

26.07.2023

Both the Writ Petitioners herein have approached this Court by filing the present writ petition being aggrieved by non-inclusion of their name in the NRC.

2. From a perusal of the writ petition, it transpires that the Petitioners claim to be Indian citizens, however, the Respondent Authorities, more particularly the

Respondent No. 4 had illegally and arbitrarily not included the names of the Petitioners in the NRC. This Court had issued notice on 29.04.2022 on the interim prayer making it returnable in four weeks.

3. The Deputy Commissioner –cum- District Election Officer-cum- Electoral Registration Officer, Udalguri had filed an affidavit-in-opposition. In the said affidavit-in-opposition, the various claims so made by the Petitioners in the writ petition have been refuted. Be that as it may, it is however relevant to take note of that it was mentioned in the Affidavit-in-Opposition that the Petitioners were asked by the NRC authorities to appear before them in various locations. The Petitioners were duly heard. It was further mentioned that the case of the Petitioners claiming that their names to be included in the NRC is yet to be decided by the authorities. It is mentioned that if the claim of the Petitioners are decided against the Petitioners, rejection slip would be issued by the authorities concerned and thereupon the Petitioners would have a right under Rule 8 of The Citizenship (Registrations of Citizens and Issue of National Identity Card) Rules, 2003 (for short 'the Rules of 2003') to prefer to appear before the authorities. It has also been stated in the said affidavit-in-opposition that the said authorities have also not decided the issue pertaining to the inclusion of the names of the Petitioners on account of the matter pertaining to the NRC being pending before the Supreme Court.

4. Upon perusal of the said affidavit-in-opposition and taking into account the materials on record and hearing the learned counsel for the parties, this Court is of the opinion that as the matter pertaining to the inclusion of the names of the Petitioners in the NRC is presently pending before the authorities and the said authorities have not taken any decision on the matter on account of the matter pending before the Supreme Court, the reliefs which have been sought for in

the writ petition cannot be granted at this stage.

5. It is however, observed that if the application of the Petitioners seeking inclusion of their names in the NRC is rejected, the Petitioners can very well challenge the same in terms with Rule 8 of the Rules of 2003. This Court also finds it relevant to observe that as the matter pertaining to the inclusion of the names of the Petitioners in the NRC is subjudice before the authorities, no pre-judicial steps be taken against the Petitioners on account of their names not included in the NRC.

6. With the above, the petition stands disposed off.

JUDGE

Comparing Assistant