

GAHC010070662019



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

Case No. : WP(C)/2192/2019

BINA BALA RAY
W/O- PRADIP KR. RAY, R/O- H NO. 34, VILL- MADHUSOULMARI PART-II,
P.S- GAURIPUR, DIST- DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA AND 8 ORS
REP. BY THE MIN OF HOME AFFAIRS, GOVT OF INDIA, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
DEPTT OF HOME
GUWAHATI- 06
ASSAM

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

4:THE NATIONAL REGISTER OF CITIZENS
OFFICE OF THE COORDINATOR OF NRC
DHUBRI
ASSAM
PIN- 783301

5:THE STATE ELECTION COMMISSION
REP. BY THE STATE ELECTION OFFICER
ASSAM
GUWAHATI
PIN- 781006

6:THE DEPUTY COMMISSIONER
DHUBRI
DIST- DHUBRI
ASSAM
PIN- 783301

7:THE SUB DIVISIONAL OFFICER(CIVIL)
DIST- DHUBRI
ASSAM
PIN- 783301

8:THE SUPERINTENDENT OF POLICE(B)
DIST- DHUBRI
ASSAM
PIN- 783301

9:THE OFFICER IN CHARGE
GAURIPUR POLICE STATION
DIST- DHUBRI
ASSAM
PIN- 78330

Advocate for the Petitioner : MR. M J BARUAH

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

17.02.2023

(A.M. Bujor Barua, J)

Heard Mr. MJ Baruah, learned counsel for the petitioner, Ms. L Devi, learned counsel for the respondents in the Union of India and the authorities in the NRC, Ms. A Verma, learned counsel for the respondents in the Home Department of the Government of Assam, Mr. AI Ali, learned counsel for the respondent in the Election Commission of India and Ms. K Phukan, learned counsel for the Deputy Commissioner, Barpeta.

2. The petitioner Bina Bala Ray was referred to the Foreigners Tribunal No. 5, Dhubri for rendering an opinion as to whether she is a person who entered the State of Assam subsequent to 25.03.1971. Accordingly, FT Case No. 5/GPR/37/2018 was registered.

3. Before the Tribunal, amongst others, the petitioner relies on a voters list of the year 1993 of village 421 Barkashua under Gossaigaon Sub Division, which contains the name of Gotan Chandra Ray son of Mohim Chandra Ray at serial No. 43 House No. 21 and that of Bina Bala Ray at serial No. 46 House No. 21. Bina Bala Ray, the petitioner proceedee states that Gotan Chandra Ray of serial No. 43 of the said voters list is her father. The petitioner also relies upon the voters list of 1970. In the English translation of the voters list of 1970, the name of the village is stated as 421 Barkashua, police station Gossaigaon, wherein the name of Goten Chandra Ray son of Mohim Chandra Ray appears at serial No. 95.

4. As the name of Goten Chandra Ray, the father of the petitioner did appear in the voters list of 1970 of village 421 Barkashua and the name of Goten Chandra Ray also appears along with the proceedee the petitioner Bina Bala Ray in the voters list of 1993 of village 421 Barkashua, a prima-facie indication is available that the petitioner may not be a person who entered the State of Assam subsequent to 25.03.1971.

5. Accordingly, the matter is remanded back to the Tribunal to examine the aforesaid aspect as to whether the petitioner is the daughter of Goten Chandr Ray, whose name appears in the voters list of 1970 of village 421 Barkashua.

6. But we have noticed a disturbing factor in this writ petition. Page 27 Annexure-E is the English translation of the voters list of 1970 and the name of

the village is stated as 421 Barkashua and the name of the voting centre is stated to be 180 Barkashua under police station Gossaigaon. On perusal of the voters list in vernacular which is available at page 28, it reveals the name and number of the village as No. 180 Barkashua and there is nothing indicated in the vernacular regarding voting centre and number to be 180 Barkashua as well as the village to be 421 Barkashua.

7. If the village is actually 421 Barkashua in respect of the voters list of 1970, which is also 421 Barkashua in respect of the voters list of 1993, clearly the legal right is established. But it appears that the English translation had incorrectly added the name of the village to be 421 Barkashua at page 27 in respect of 1970 voters list whereas the original in vernacular does not contain so and the name is shown to be 180 Barkashua. It is also possible that the two villages indicated above may be one and the same, but that is another aspect. But as regards to the voters list of 1993 that is relied upon where the name of the village is shown to be 421 Barkashua and the voters list in vernacular of 1970 does not show the name to be 421 Barkashua, but incorrectly added in the English translation presented before the Court, a prima facie case of an attempt by the petitioner to mislead the Court is writ large.

8. As the petition has been filed through the learned counsel namely Mr. M.J Baruah, without referring the matter any further to the Bar Council of India, we impose a cost of Rs. 3000/- (rupees three thousand) to be paid by Mr.M.J Barua, learned counsel before the District Legal Services Authority, Dhubri and also provide that such kind of incorrect translation which may lead to the existence of a legal right, which otherwise may not be available without such incorrect translation, should not be resorted to in filing of a writ petition.

9. The petitioner shall appear before the Foreigners Tribunal No. 5, Dhubri on

29.03.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner. Any reasoned order that may be passed if it is in favour of the petitioner, the same shall prevail over the earlier opinion rendered by the Tribunal and if the same is against the petitioner, consequence under the law may follow.

10. Send back the LCR forthwith.

The writ petition is allowed to the extent as indicated above.

JUDGE

JUDGE

Comparing Assistant