

GAHC010083852019



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

Case No. : WP(C)/2799/2019

SRIBASH DAS
S/O LT ASHIM DAS,
PRESENTLY RESIDING AT VILL NO 1 NAMONIGAON, PS RANGAPARA DIST
SONITPUR, ASSAM
PERMANENT RESIDENT OF VILL TELIPARA, PS KUMARGRAM , DIST
JALPAIGURI, WEST BENGAL

VERSUS

THE UNION OF INDIA AND 5 ORS.
THROUGH THE MINISTRY OF HOME AFFAIRS GRIHA MANTRALAYA, NEW
DELHI

2:THE STATE OF ASSAM
THROUGH THE SECY
TO THE GOVT OF ASSAM
HOME DEPTT
DISPUR
GUWAHATI-6

3:THE ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN ASOKA ROAD
NEW DELHI- 110001

4:THE STATE CO-ORDINATOR
NATIONAL REGISTRATION OF CITIZEN
ASSAM BHANGAGARH GUWAHATI- 781005

5:THE DY COMMISSIONER
SONITPUR
PO TEZPUR
DISTRICT SONITPUR

ASSAM PIN CODE 784001

6:THE SUPERINTENDENT OF POLICE(BORDER)
SONITPUR
PO TEZPUR
DISTRICT SONITPUR
ASSAM PIN CODE 78400

Advocate for the Petitioner : MR. S C BISWAS

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

15.03.2023

[Achintya Malla Bujor Barua, J.]

Heard Mr. S.C. Biswas, learned counsel for the petitioner. Also heard Mr. G. Sarma, learned special counsel, FT, appearing for respondent Nos.2 and 6; Ms. S. Baruah, learned CGC, appearing for respondent No.1; Mr. A.I. Ali, learned standing counsel, ECI, appearing for respondent No.3; Ms. K. Phukan, learned Junior Government Advocate, Assam, appearing for respondent No.5 and Ms. L. Devi, learned standing counsel, NRC, appearing for respondent No.4.

2. The petitioner Sribash Das had been referred to the Foreigners' Tribunal-7th, Tezpur, Sonitpur, for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971 which resulted in registration of Case No.F.T. 687/2016 and opinion dated 20.11.2018 was rendered whereby the petitioner was declared to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the sale deed dated 29.10.1964 registered before the Sub-Registrar, Alipurduar in the State of West Bengal, which was

between Ashwini Kumar Biswas, S/o Late Subal Chandra Biswas, resident of Telipara, P.S. and District Jalpaiguri in the State of West Bengal. The petitioner also refers to a ration card/BPL card issued by the Government of West Bengal bearing No.4246539, which was in the name of Sribash Namadas, S/O Late Ashwini, resident of Telipara. If the information provided in the sale deed dated 29.10.1964 and in the ration card/BPL card bearing No.4246539 are correct, the petitioner may have established that he is the son of Ashwini Kumar Biswas who had executed a sale deed in respect of a land in village Telipara in the State of West Bengal on 29.10.1964 and thereby established his citizenship. But the question would remain as to whether the name of the father recorded as late Ashwini in the ration card/BPL card and the name Sri Ashwini Kumar Biswas in the sale deed are one and the same person would remain open.

4. Accordingly, the matter is remanded back to the Tribunal to examine the aforesaid aspect and also to determine as to whether the name Sri Ashwini Kumar Biswas in the sale deed dated 29.10.1964 and the name Late Ashwini reflected in the ration card/BPL card bearing No.4246539 are one and the same person. The Tribunal upon consideration of the evidence and the materials on record shall pass a reasoned order. In the event, the reasoned order is passed in favour of the petitioner, the same shall prevail over the earlier opinion dated 20.11.2018 and if it is against the petitioner, consequential action shall follow.

5. The petitioner shall accordingly appear before the Tribunal on 18.04.2023. Till the reasoned order is passed, no coercive action shall be taken against the petitioner.

6. The petitioner may adduce any further materials, if so advised.

7. Send back the LCR immediately.

8. Writ petition stands disposed of in the above terms.

Sd/- Robin Phukan
JUDGE

Sd/- Achintya Malla Bujor Barua
JUDGE

Comparing Assistant