

GAHC010095682019



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

Case No. : WP(C)/2854/2019

BABLU RAY @ PABITRA RAY
S/O- LT SURENDRNATH RAY, PERMANENT R/O- VILL- BAHAKATI, P.O.
PAGLAHAT, P.S. TAMARHAT (EARLIER GOLAKGANJ), DIST- DHUBRI,
ASSAM, PIN- 783334

VERSUS

UNION OF INDIA AND 5 ORS.
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI- 110001

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPTT.
DISPUR
GHY-6

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

4:THE STATE COORDINATOR
NATIONAL REGISTER OF CITIZENS
BHANGAGARH
GHY
ASSAM
PIN- 781005

5:THE DY. COMMISSIONER
DIST- DHUBRI

P.O. DHUBRI
ASSAM
783301

6:THE SUPERINTENDENT OF POLICE (B)
DIST- DHUBRI
P.O. DHUBRI
ASSAM
78330

Advocate for the Petitioner : MR. S N TAMULI

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

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

Date : 11-04-2023

JUDGMENT & ORDER (ORAL)

(AM Bujor Barua, J)

Heard Mr. SN Tamuli, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as for the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission 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) Dhubri and Mr. P Dowerah, learned Government Advocate for the Deputy Commissioner, Dhubri.

2. The petitioner, namely, Bablu Ray @ Pabitra Ray was referred to the Foreigners Tribunal No.10 Dhubri for rendering an opinion as to whether he is a

person who had entered the State of Assam from the specified territory on or after 25.03.1971 resulting in the registration of F.T. Case No.10/TMH/722/2018 wherein an opinion dated 21.09.2018 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. The petitioner relies upon the voters list of 1966 of village 59 Bahakati, PS Golokganj in the Dhubri district, which contains the name of Surendra Nath Ray, son of Rup Das at Sl.No.166. The petitioner claims Surendra Nath Ray, son of Rup Das to be his father.

5. The petitioner also relies upon a school certificate issued by the Head Pandit of 92, No. JM Adhikari JB School. However, the certificate does not indicate as to in which place the school is located, but contains the information that Pabitra Ray is the son of Sri Surendra Nath Ray of village Bahakati, PO Paglahat, PS Golakganj in the Dhubri district.

6. The law regarding the evidentiary value of a school certificate and the procedure to be adopted for projecting such certificate has been laid down by this Court in WP(C)No.3056/2018 vide judgment and order dated 03.01.2019 that the information contained in the school certificate should be supported by the Headmaster through his deposition before the Tribunal by producing the original school records which may contain such information.

7. As per the law laid down, there is a requirement of the Head Pandit of the school concerned to depose before the Tribunal from the original records of the school including the admission register from where the information contained in the school certificate had been obtained. As the same has not been done in the present case, we remand the matter back to the Tribunal to bring in the evidence of the Head Pandit of 92 No. JM Adhikari JB School along with the original school records including the school admission register which may substantiate the information contained therein. If the said evidence is rendered, the authorities in the Home Department to the Government of Assam through the Superintendent of Police (B) Dhubri shall make a verification as to whether the petitioner proceedee Bablu Ray @ Pabitra Ray and the Pabitra Ray, son of Sri Surendra Nath Ray of village Bahakati, PO Paglahat, PS Golakganj in the Dhubri district referred in the school certificate are one and the same person.

8. Accordingly, the petitioner to appear before the Tribunal on 29.05.2023.

9. The Tribunal upon considering the evidence and materials on record shall pass a reasoned order. In the event, the reasoned order is in favour of the petitioner, the same shall prevail over the order dated 21.09.2018 of the Foreigners Tribunal No.10 Dhubri in F.T. Case No.10/TMH/722/2018 and if it is against the petitioner, consequential action under the law shall follow.

10. Till the reasoned order is passed, no coercive action be taken against the petitioner.

11. Send back the LCR immediately.
12. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant