

GAHC010126872019



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

Case No. : WP(C)/3784/2019

SATYA @ SATYENDRA MANDAL AND 3 ORS.
S/O- LT SRIBASI @ BASI MANDAL, R/O- VILL- SINGIMARI, P.S.
MORIGAON, DIST- MORIGAON, ASSAM, PIN- 782121

2: BIMALA @ BIMOLA MANDAL
W/O- SATYA @ SATYENDRA MANDAL
R/O- VILL- SINGIMARI
P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782121

3: PABITRA @ PROBITA MANDAL
S/O- SATYA @ SATYENDRA MANDAL
R/O- VILL- SINGIMARI
P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782121

4: SUBRATA @ SUBORTA MANDAL
S/O- SATYA @ SATYENDRA MANDAL
R/O- VILL- SINGIMARI
P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 78212

VERSUS

UNION OF INDIA AND 5 ORS.
REP. BY MINISTRY OF HOME AFFAIRS, NEW DELHI

2:STATE OF ASSAM

REP. BY THE MINISTRY OF HOME
DISPUR
GHY-6

3: SUPERINTENDENT OF POLICE (B)
MORIGAON

4: DY. COMMISSIONER (ELECTION)
MORIGAON

5: NATIONAL REGISTRATION OF CITIZENS
REP. BY ITS STATE COORDINATOR
ACHYUT PLAZA
BHANGAGARH
GHY-5

6: ELECTION COMMISSION OF INDIA
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 11000

Advocate for the Petitioner : MS F AHMED

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

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

ORDER

Date : 17.02.2023
(A.M. Bujor Barua, J)

Heard Mr. S.K. Ghosh, learned counsel for the petitioners and Ms. L. Devi, learned counsel for the respondents No. 1 and 5, being the Union of India and the State Co-ordinator of NRC. Also heard Ms. A. Verma, learned counsel for the respondents No. 2 and 3, being the authorities in the Home Department and Ms. K. Phukan, learned counsel for the respondent No. 4, being the Deputy Commissioner, Morigaon. None appears for the respondent No. 6, Election Commission of India.

2. The petitioner No. 1 Sri Satya @ Satyendra Mandal along with his wife the petitioner No. 2 Smt. Bimala @ Bimola Mandal, son the petitioner No. 3 Sri Pabitra @ Pobitra Mandal and another son the petitioner No. 4 Sri Subrata @ Suborta Mandal were all referred to the Foreigners' Tribunal No. 3 at Morigaon for an opinion as to whether they are persons who had entered the State of Assam from the specified territory subsequent to 25.03.1971 and accordingly F.T. Case No. 107/2010 was registered. Before the Tribunal, the petitioner No. 1 took the stand that he is the son of Sribasi Mandal son of Krishta whose name appeared in the voters' list of 1966 of village Barali Mari Beel, P.S. Laharighat in the Nagaon district at Sl. No. 145. The petitioner No. 1 also referred to the voters' list of 1979 of village Barali Mari Beel, P.S. Laharighat wherein at Sl. No. 265 the name of Satya appears showing his father to be Sribasi and the name of Bimala appears at Sl. No. 266 showing her husband to be Satya.

3. If in the voters' list of 1970, there is a minor discrepancy that the name of the father of the petitioner No. 1 instead of Sribasi is shown as Sri Basi and if the information contained in the voters' list of 1966 and 1979 of village Barali Mari Beel is correct, the petitioner prima facie establishes his linkage as well as that he is a citizen of India and not a person who had entered the State of Assam subsequent to 25.03.1971.

4. For the purpose, we remand the matter back to the Tribunal to examine the implications and the contents of the voters' list of 1966 and 1979 of village Barali Mari Beel as to whether it shows that the petitioner No. 1 is a citizen of India. If the information in any manner is incorrect, the respondents in the Home Department may also present their material evidence if any, if so advised. The petitioners to appear before the Tribunal on 22.03.2023. If the reasoned order to be passed by the Tribunal is in favour of the petitioners, it shall prevail

over the earlier opinion dated 30.01.2019 in F.T. Case No. 107/2010. In the event the reasoned to be passed is against the petitioners, implications accordingly may follow.

5. In respect of the petitioner No. 2 Smt. Bimala @ Bimola Mandal, it is stated that she had also produced the document related to her father namely Upendra Biswas whose name appears in the voters' list of 1970 of village Haybar Pathar, P.S. Laharighat in the Nagaon district. The Tribunal to also take note of the same in respect of its opinion that may be rendered in respect of the petitioner No. 2. Till the reasoned order is passed, no coercive action be taken against the petitioners.

Writ petition stands disposed of as indicated above.

J U D G E

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Comparing Assistant