

GAHC010128572019



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

Case No. : WP(C)/3823/2019

DINESH CHANDRA BHOWMIK @ DINESH BHOWMIK @ DINESH
CHANDRA BAISHYA
S/O. LT. DEBANDRA CHANDRA BHOWMIK, @ DEBENDRA CHANDRA
BAISHYA, VILL. JARTALUK, P.S. BARAMA, DIST. BAKSA (BTAD), ASSAM,
PIN-781349.

VERSUS

THE UNION OF INDIA AND 5 ORS.
THROUGH- THE MINISTRY OF HOME AFFAIRS GRIHA MANTRALAYA,
NEW DELHI-110001.

2:THE STATE OF ASSAM
THROUGH- THE SECRETARY
TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

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
BAKSA
P.O. AND DIST. BAKSA (BTAD)
ASSAM-781343.

6:THE SUPDT. OF POLICE (B)
P.O. AND DIST. BAKSA (BTAD)
ASSAM
PIN-781343

Advocate for the Petitioner : MR. S C BISWAS

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

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

Date : 27-01-2023

JUDGMENT & ORDER (ORAL)

(A.M. Bujor Barua, J)

Heard Mr. SC Biswas, learned counsel for the petitioner, Mr. B Chakraborty, learned CGC for the respondent No. 1, Ms. A Verma, learned counsel for the respondents No. 2 and 6 being the authorities in the Home Department of the Government of Assam, Mr. A Ali, learned counsel for the respondent No. 3 being the Election Commission of India, Ms. L Devi, learned counsel for the respondent No. 4 being the authorities in the NRC and Ms. U Das, learned counsel for the respondent No. 5 being the Deputy Commissioner, Baksa.

2. The petitioner Dinesh Chandra Bhowmik was referred to the Foreigners Tribunal, Baksa, Tamulpur for an adjudication as to whether he is a person who entered the State of Assam subsequent to 25.03.1971 which resulted in registration of FT Case No. 672/Baksa/2016. Before the Tribunal, the petitioner exhibited the voters list of the year 1965 of village Jartaluk, PS Barama, Mauza Madhyabaksa district Kamrup, wherein at Serial No. 22, the name of Debendra Ch Bhowmik son of Sarat appears. The petitioner also exhibited the voters list of 1970 of village Jartaluk, Mauza Madhyabaksa district Kamrup, wherein at Serial

No. 31, the name of Dinesh Chandar Bhowmik son of Deben appears. The petitioner also exhibited a school certificate purportedly issued by the Headmaster of 1111 No. Jartaluk LP School where the petitioner had studied.

3. The opinion dated 27.02.2019 rendered by the Foreigners Tribunal, Baksa was against the petitioner. Being aggrieved, this writ petition is instituted.

4. In the writ petition, the petitioner refers to certain subsequent voters list of the year 1970 also of village Jartaluk by way of an additional affidavit. A reading of the voters list of 1970 of village Jartaluk prima-facie indicates that the petitioner is a citizen of India provided Dinesh Chandar Bhowmik referred in the said voters list is actually the petitioner. The school certificate exhibited by the petitioner also prima-facie shows that he is the son of Debendra Chandra Bhowmik and he studied at 1111 No. Jartaluk LP School in the year 1953.

5. In view of the aforesaid materials being available on record, we remand the matter back to the Foreigners Tribunal, Baksa for a fresh adjudication by taking note of the voters list of 1966 of village Jartaluk showing the name of Deben Chandra Bhowmik, the voters list of 1970 of village Jartaluk showing the name of the petitioner Dinesh Chandra Bhowmik as well as the school certificate and the subsequent voters list of village Jartaluk. The petitioner may also bring any further evidence from the authorities of the 1111 No. Jartaluk LP School by producing the school records before the Tribunal to establish that the petitioner had attended the school in the year 1953. Upon such material being considered, the Tribunal shall pass a fresh order on the aforesaid issue.

6. Accordingly the earlier opinion rendered by the Foreigners Tribunal, Baksa in FT Case No. 672/Baksa/2016 is set aside and the subsequent opinion that may be rendered by the Tribunal would prevail between the parties.

7. The petitioner shall appear before the Foreigners Tribunal, Baksa, Tamulpur on 01.03.2023.

8. Send back the LCR immediately.

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

JUDGE

JUDGE

Comparing Assistant