

GAHC010129432017



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

Case No. : WP(C)/2962/2017

SHUKUMAR ROY @ SUKUMAR ROY
S/O LT. RAMESH ROY R/O VILL- MOISA PT.I, P.O. and P.S. AGOMONI DIST.
DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA and 3 ORS
REP. BY ITS SECRETARY, MINISTRY OF HOME AFFAIRS, NEW DELHI.

2:THE STATE OF ASSAM
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE SECRETARY TO THE GOVT. OF ASSAM

POLITICAL B DEPARTMENT
DISPUR
GUWAHATI-6.

4:THE SUPERINTENDENT OF POLICE B
DHUBRI
ASSAM

5:THE DEPUTY COMMISSIONER

DHUBRI
DHUBRI

Advocate for the Petitioner : MR.M SARMA

Advocate for the Respondent : GA, ASSAM

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

ORDER

Date : 27.03.2023

(A.M. Bujor Barua, J)

Heard Ms. K. Devi, learned counsel for the petitioner and Ms. L. Devi, learned counsel for the respondents No. 1, being the Union of India. Also heard Mr. G. Sarma, learned counsel for the respondents No. 2, 3 and 4, being the authorities in the Home Department and Ms. K. Phukan, learned counsel for the respondents No. 5, being the Deputy Commissioner, Dhubri.

2. The petitioner Shukumar Roy @ Sukumar Roy 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 and accordingly F.T. Case No. FT(10)/AGM/271/2016 was registered. The Tribunal rendered its opinion dated 05.04.2017 arriving at its conclusion that the petitioner is a foreigner who had entered the State of Assam on or after 25.03.1971. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the voters' list of 1966 of village Balakuti in the Tufanganz LAC wherein at Sl. No. 221 the name of Ray Ramesh son of Binan appears and also the voters' list of 1997 of village Balakuti wherein at Sl. No. 706 the name of Ramesh Ray son of Binay Ray appears. The petitioner further relies upon the certificate of birth issued by the Government of Assam through the Chief Registrar which contains the name of Sukumar Roy to be the son of Ramesh Roy and the date of registration is shown to be

21.02.1987. The petitioner seeks to establish through the birth certificate that he is the son of Ramesh Roy whose name appears in the voters' list of 1966 and 1997 of village Balakuti.

4. In view of the above, we remand the matter back to the Foreigners' Tribunal No. 10, Dhubri for passing a reasoned order as to whether the birth certificate bearing the date of registration 21.02.1987 of Sukumar Roy containing the information that he is the son of Ramesh Roy and the voters' list of 1966 containing the name of Ray Ramesh of village Balakuti establish that the petitioner is a citizen of India. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion dated 05.04.2017 in F.T. Case No. FT(10)/AGM/271/2016 and if it is against the petitioner, consequences under law shall follow. The petitioner to appear before the Tribunal on 04.05.2023. Till the reasoned order is passed, no coercive action be taken against the petitioner.

5. Ms. K. Devi, learned counsel for the petitioner states that the brother of the petitioner was declared to be a foreigner but later on was declared to be a citizen of India. However, the said material would require to be proven further that the said person is the brother of the petitioner. The petitioner to bring any further material that the petitioner may have.

Writ petition stands disposed of as indicated above.

Send back the LCR forthwith.

J U D G E

J U D G E

Comparing Assistant