

GAHC010132412019



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

Case No. : WP(C)/4046/2019

PRIYA BALA DAS
W/O- LATE TAPASHIRAM DAS @ TABASHI DAS, D/O- LATE RAJMOHAN
DAS, VILL- UTTAR LUMDING (DAS PALLY), P.O AND P.S- LUMDING, DIST-
HOJAI, PIN- 782447

VERSUS

THE UNION OF INDIA AND 6 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, DEPTT OF HOME, NEW
DELHI-01

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

3:THE DEPUTY COMMISSIONER
HOJAI
SANKARDEV NAGAR
PIN- 782447

4:THE SUPERINTENDENT OF POLICE (B)
HOJAI SANKARDEV NAGAR
PIN- 782447

5:THE ELECTION COMMISSION
GOVT OF INDIA
NEW DELHI- 01

6:THE STATE COORDINATOR
NRC

ASSAM
GUWAHATI- 32

7:FOREIGNERS TRIBUNAL
HOJAI
SANKARDEV NAGAR
REP. BY THE STANDING COUNSEL
FOREIGNERS TRIBUNAL
PIN- 78244

Advocate for the Petitioner : MR. A ROSHID

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

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

JUDGMENT & ORDER (ORAL)

Date: 03.02.2023

(AM Bujor Barua, J)

Heard Mr. A Roshid, learned counsel for the petitioner. Also heard Ms. A Gayan, learned CGC appearing on behalf of the respondents in the Union of India as well as for the authorities under the NRC, Ms. A Phukan, learned Government Advocate for the Deputy Commissioner, Hojai, Mr. T Pegu learned counsel for the Election Commission of India, Mr. J Payeng, learned Special Counsel Foreigners Tribunal for the authorities under the Home Department, Government of Assam as well as the Superintendent of Police (B) Hojai.

2. The petitioner Priya Bala Das wife of Tapashiram Das, resident of village Uttar Lumding was referred to the Foreigners Tribunal Hojai for an opinion as to

whether she is a person who had entered the State of Assam subsequent to 25.03.1971 which resulted in registration of F.T./H/Case No.1226/2012.

3. Before the Tribunal, the petitioner, amongst others, exhibited the voters list of 1971 of village Uttar Lumding, P.S. Lumding wherein Sl.No.553 shows the name of Tabshiram Das and Sl.No.554 shows the name of Priya Bala Das, wife of Tabshi. The petitioner also exhibited subsequent other voters list of the same village. If the voters list of 1971 of village Uttar Lumding, P.S. Lumding is accepted, it has to be understood that the petitioner Priya Bala Das, resident of village Uttar Lumding, P.S. Lumding is not a person who had entered the State of Assam subsequent to 25.03.1971, *inasmuch as*, if otherwise, her name would not have found place in the voters list of 1971 of the said village. However, the Tribunal noticed certain discrepancies either in the age or in the spelling in the name of the husband of the petitioner in the subsequent voters list and accordingly rejected the legal rights claimed by the petitioner through the voters list of 1971. If the subsequent voters list indicates any discrepancy, the same on its own would not render the evidentiary value of the voters list of 1971 of village Uttar Lumding, P.S. Lumding which clearly established that the petitioner did exist in the State of Assam at least when the voters list of 1971 was prepared.

4. Neither any material is available on record nor any stand is taken by the respondents to contend that the voters list of 1971 of village Uttar Lumding, P.S. Lumding which shows the name of the petitioner is a document which is otherwise unacceptable under the law or it is non-existent in any manner.

5. As the voters list of 1971 establishes that the petitioner did exist in the State of Assam when the voters list itself was prepared, we are of the view that the petitioner deserves a declaration that she is otherwise a citizen of India or she is not a person who had entered the State of Assam subsequent to 25.03.1971 and it is declared accordingly.
6. Consequently, all such legal rights that may accrue to the petitioner Priya Bala Das upon such declaration that she is a citizen of India be made available to her.
7. Return back the LCR.
8. Writ petition, accordingly, stands allowed.

JUDGE

JUDGE

Comparing Assistant