

GAHC010133382017



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

Case No. : WP(C)/3940/2017

SARASWATI RAY
W/O SUDHIR CH. RAY R/O JHAPUSABARI PART-I, P.S. AGOMONI
PREVIOUSLY GOLAKGANJ DIST. DHUBRI, ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.
REP. BY ITS SECRETARY, MINISTRY OF HOME AFFAIRS, NEW DELHI.

2:THE STATE OF ASSAM
REP. 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 DEPUTY COMMISSIONER

DHUBRI DISTRICT
DHUBRI

5:THE SUPERINTENDENT OF POLICE B

DHUBRI
ASSA

Advocate for the Petitioner : MS.K DAS

Advocate for the Respondent :

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

ORDER

27.03.2023

(AM Bujor Barua, J)

Heard Ms. K Devi, 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. 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 Ms. K Phukan, learned Government Advocate for the Deputy Commissioner, Dhubri.

2. The petitioner, Saraswati Ray, was referred to the Foreigners Tribunal 10th Dhubri, for rendering an opinion as to whether she is a person who had entered the State of Assam on or after 25.03.1971 resulting in the registration of F.T. (10)/AGM/184/2016 wherein an opinion dated 22.05.2017 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 a Ration Card bearing M.R. No.3783461 in respect of Chhaya Das who the petitioner claims to be her mother. In the ration card, the Head of the family is shown to be Prabhat Das of village Saudpara. The petitioner also relies upon the school certificate issued by the District Primary School Sansad, Jalpaiguri wherein the information provided is that Saraswati Das is the daughter of Pravat Ch. Das of village Saudpara in the Alipurduar district of West Bengal. It is also stated that Saraswati Das upon her marriage is now known as Saraswati Ray. If the information contained in the ration card and the school certificate are correct and acceptable and after marriage the petitioner is known as Saraswati Ray, perhaps, a *prima facie* case has been made out by the petitioner establishing that she is a citizen of India. Accordingly, the matter stands remanded back to the Tribunal to enable the petitioner to render the evidence of the Teacher-in-Charge of Saudpara BFP School along with the school records which may show that the information that Saraswati Das is the daughter of Pravat Ch. Das of village Saudpara in the Alipurduar district of West Bengal. The petitioner may produce any further material which may show that after her marriage Saraswati Das daughter of Pravat Ch. Das is known as Saraswati Ray.

5. Accordingly, the petitioner shall appear before the Tribunal on 04.05.2023.

6. The Tribunal after examining the evidences and materials 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 22.05.2017 of the Foreigners Tribunal 10th Dhubri in F.T.(10)/AGM/184/2016 and if it is against the petitioner,

consequential action under the law shall follow.

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

8. Send back the LCR.

9. Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant