

GAHC010135232019



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

Case No. : WP(C)/4060/2019

SHARAT BISWAS
S/O- RAMAKANTA BISWAS, R/O- VILL- NIZ LALUK, P.S- LALUK, DIST-
LAKHIMPUR, ASSAM, PIN- 787160

VERSUS

THE UNION OF INDIA AND 5 ORS
THROUGH THE MIN 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
ASHOKA ROAD
NEW DELHI- 110001

4:THE STATE COORDINATOR
NRC
ASSAM
BHANGAGARH
GUWAHATI- 781005

5:THE DEPUTY COMMISSIONER
LAKHIMPUR
DIST- LAKHIMPUR
ASSAM
PIN- 787001

6:THE SUPERINTENDENT OF POLICE (B)
LAKHIMPUR
DIST- LAKHIMPUR
ASSAM
PIN- 78700

Advocate for the Petitioner : MR. S C BISWAS

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

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

01.03.2023

(A.M. Bujor Barua, J)

Heard Mr. FA Hasan, learned counsel for the petitioner, Ms. L Devi, learned counsel for the respondents in the Union of India as well as the authorities in the NRC, Ms. A Verma, learned counsel for the respondents in the Home Department of the Government of Assam, Mr. AI Ali, learned counsel for the respondents in the Election Commission of India and Ms. U Das, learned counsel for the Deputy Commissioner, Lakhimpur.

2. The petitioner Sarat Biswas had been referred to the Foreigners Tribunal No. 1, Lakhimpur for rendering an opinion as to whether he is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971 resulting in registration of LFT Case No. 4972/2012. By the order dated 31.12.2018, the Foreigners Tribunal gave an opinion that the petitioner is a foreign citizen who entered the State of Assam subsequent to 25.03.1971. Being aggrieved, this writ petition is instituted.

3. The petitioner relies upon the voters list of 1965 of village Niz Laluk, police station Bihpuria, district Lakhimpur, wherein at serial No. 306 the name of Ramakanta Biswas son of Rajashree appears and the voters list of 1970 of the same village wherein at serial No. 281 the name of Ramakanta son of Rajasingh appears. The petitioner also refers to the voters list of 1997 of village Niz Laluk police station Bihpuria, district Lakhimpur, wherein at serial No. 716 the name of Sarat son of Ramakanta appears. Accordingly the petitioner claims that he being the son of Ramakanta, whose name appears in the voters list of 1965 and 1970 of village Niz Laluk of Lakhimpur district is a citizen of India.

4. As prima-facie there may be an indication from the voters list of 1965 and 1970 of village Niz Laluk of Lakhimpur district as well as the voters list of 1997 of village Niz Laluk also of Lakhimpur district that the petitioner Sharat Biswas is the son of Ramakanta who is a citizen of India, we remand the matter back to the Tribunal for passing a reasoned order on the claim of the petitioner by confining to the implication of the voters list of 1965, 1970 of village Niz Laluk and the voters list of 1997 of village Niz Laluk and pass a reasoned order thereon. Before the Tribunal, the petitioner may rely upon any other documents or materials to establish his claim. The petitioner before the Tribunal may also produce the complete voters list of 1965 and 1997 of village Niz Laluk.

5. If the reasoned order to be passed is in favour of the petitioner, the same shall prevail over the earlier opinion rendered by the Foreigners Tribunal No. 1, Lakhimpur dated 31.12.2018 in LFT Case No. 4972/2012. If the reasoned order to be passed is against the petitioner, the consequence as per law shall follow.

6. The petitioner shall appear before the Foreigners Tribunal No. 1, Lakhimpur on 04.04.2023. Till such reasoned order is passed, no coercive action be taken against the petitioner.

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

Sent back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant