

GAHC010137572017



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

Case No. : WP(C)/4935/2017

RANJAI BISWAS
S/O LATE RAJANI BISWAS, R/O VILL-OUJARI NO.3, PS KHETRI, DIST.
KAMRUP M, ASSAM

VERSUS

THE UNION OF INDIA and 4 ORS.
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, SHASTRI BHAWAN, NEW DELHI

2:THE STATE OF ASSAM
THROUGH THE SECRETARY TO THE GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-781006

3:THE DEPUTY COMMISSIONER OF POLICE BORDER
KAMRUP
PO and PS KAMRUP
GUWAHATI- 781001

4:THE DEPUTY COMMISSIONER
DEPUTY COMMISSIONER'S OFFICE
MG ROAD
PANBAZAR
KAMRUP METRO
GUWAHATI
PIN-781001

5:OFFICER-IN-CHARGE
KHETRI POLICE STATION
KHETRI
DIST. KAMRUPM
ASSA

Advocate for the Petitioner : MS.D GHOSH

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

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

JUDGMENT

Date : 17-05-2023

(AM Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent No.1 being the Union of India and respondent No.4, Mr. G. Sarma, learned counsel for the Home Department of Government of Assam being the respondent No.2, 3 & 5 and Ms. U. Das, learned Advocate for the respondent No.4 being the Deputy Commissioner, Kamrup.

2. The petitioner, namely, Ranjai Biswas was referred to the Foreigners' Tribunal No.1, Kamrup (Metro) 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, resulting in registration of F.T. D.V. Case No.10489/2011. The Tribunal rendered an opinion dated 24.07.2017, that the petitioner is a foreigner. Being aggrieved this Writ Petition being instituted.

3. In the writ proceeding, the petitioner relies on the Refugee Arrival Coupon issued by the Rehabilitation Department of the Government of Tripura which contains the information that Rajani Namasudra son of Late Mahesh Chandra Namasudra had entered the State of Tripura from East Pakistan on 07.06.1964. It is stated that thereafter Rajani Biswas son of Mahesh settled in village Ouzari Dimoria in the Kamrup (Metro) District and accordingly, his name appears in the Voters List of 1971 of village Ouzari Dimoria at Sl. No.457. Reliance is also placed upon the Voters List of 1985 of village Ouzari, which contains the name of Rajani Biswas, son of Mahesh at Sl. No.161 and that of Ranjai Biswas, son of Rajani at Sl. No.162 and both are shown to be residing in the same House No.129. Accordingly it is claimed that

the burden under Section 9 of the Foreigners Act, 1946 has been discharged, in as much as, as the name of Rajani Biswas appears in the Voters List of 1971 of village Ouzari and the name of Ranjai Biswas appears along with Rajani Biswas in the Voters List of 1985 also of village Ouzari, it is established the Ranjai Biswas being the son of Rajani Biswas is also a citizen of India. Further, the antecedents of Rajani Biswas can also be established from the Refugee Arrival Coupon issued by the Rehabilitation Department of the Government of Tripura.

4. In view of the above, the matter is remanded back to the Tribunal, to examine the Refugee Arrival Coupon issued by the Rehabilitation Department of the Government of Tripura as well as the Voters Lists of 1971 and 1985 of village Ouzari. The petitioner may also produce all the intervening Voters Lists of village Ouzari for examination of the Tribunal. The respondents in the Home Department may also make their own verification and thereafter submit a report before the Tribunal. Upon the needful being done, the reasoned order be passed by the Tribunal.

5. The petitioner to appear before the Tribunal on 01.07.2023. In the event, the reasoned order is in favour of the petitioner, the same would prevail over the order dated 24.07.2017, passed in the F.T. D.V. Case No.10489/2011 and if it is against him, the consequence under the law may follow.

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

7. The petition stands allowed as indicated above. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant