

GAHC010184042022



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

Case No. : WP(C)/6334/2022

CHINTAMONI BISWAS @ CHINTAMONI NAMASUDRA
D/O- LT. RAMANI RAM NAMASUDRA @ RAMANI NAMASUDRA, W/O- SRI
SUDHAN BISWAS, R/O- VILL- RAJABARI PANIKHETI, P.S.
PRAGJYOTISHPUR, DIST.- KAMRUP (M), ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS.
REP. BY THE SECY. MINISTRY OF HOME AFFAIRS, GOVT. OF INDIA,
SHASTRI BHAWAN, NEW DELHI- 110001

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

3:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION
NIRVACHAN SADAN
ASHOKA ROAD
NEW DELHI- 110001

4:THE STATE COORDINATOR
NATIONAL REGISTRATION OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S.ROAD
BHANGAGARH
GHY
ASSAM

PIN- 781005

5:THE DY. COMMISSIONER
KAMRUP (M)
P.O. PAN BAZAR
DIST.- KAMRUP (M)
ASSAM
PIN- 781001

6:THE FOREIGNERS TRIBUNAL NO. 4
KAMRUP (M)
GHY
DIST.- KAMRUP (M)
ASSAM
PIN- 781007

7:THE DY. COMMISSIONER OF POLICE (B)
GUWAHATI CITY
KAMRUP (M)
P.O. PAN BAZAR
DIST.- KAMRUP (M)
ASSAM
PIN- 781001

8:THE OFFICER-IN-CHARGE OF PRAGJYOTISHPUR P.S.
P.O. CHANDRAPUR
DIST.- KAMRUP (M)
ASSAM
PIN- 78115

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

ORDER

Date : 03.04.2023
(A.M. Bujor Barua, J)

Heard Ms. D. Ghosh, learned counsel for the petitioner and Ms. L. Devi,
learned counsel for the respondents No. 1 and 4, being the Union of India and

the State Co-ordinator of NRC, respectively. Also heard Mr. J. Payeng, learned counsel for the respondents No. 2, 6, 7 and 8, being the authorities in the Home Department; Mr. T. Pegu, learned counsel for the respondent No. 3, being authorities in the Election Commission of India and Ms. U. Das, learned counsel for the respondent No. 5, being the Deputy Commissioner, Kamrup(M).

2. The petitioner Chintamoni Biswas @ Chintamoni Namasudra was referred to the Foreigners' Tribunal No. 4, Kamrup(M) for rendering an opinion as to whether she 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(K(M)-4) 1319/2017 was registered. The Tribunal rendered its opinion dated 25.03.2022 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 a Relief and Rehabilitation Certificate issued from the office of the Deputy Commissioner, United K. & J. Hills, Shillong which contains the information that Shri Ramane Rani Namasudra son of Shri Gopal Ram Namasudra of village Dattapar, P.O. Dewan Bazar, P.S. Balaganj, Dist. Sylhet had entered India on 06.09.1964 without valid papers and that he was accompanied by three dependents namely his wife Niroda Namasudra, aged about 35 years; son Rajendra Namasudra, aged about 11 years and daughter Chintu Namasudra; aged about 6 years.

4. A perusal of the Relief and Rehabilitation Certificate prima facie gives the impression that it is an old document. The petitioner claims that thereupon she got married to Sudhan Biswas son of Sandey Biswas of Rajabari in the Guwahati City and after that her name has been entered in the voters' list of Rajabari since the year 1985 and she has been casting her votes.

5. Shri Rajendra Namasudra son of late Ramani Ram Namasudra had rendered evidence as DW2 that his father Ramani Ram Namasudra along with his mother Niroda Namasudra, he himself and his sister Chintamoni came to India from village Duttapur, under Balaganj Police Station in the Sylhet district erstwhile East Pakistan in the year 1964 due to civil and communal disturbances and thereafter had settled in village Rajabari under Pragjyotishpur Police Station in the Kamrup district. He also deposed that they had entered Assam in the year 1964 through Dawki Check Post and at the time of entering India they had been issued migration certificate by the Officer-in-charge of Dawki Check Post.

6. In cross-examination, DW2 Shri Rajendra Namasudra stated that Chintamoni is his younger sister and at the time of entering India in the year 1964, he was aged about 10-11 years and that they are two brothers and sisters namely Rajendra Namasudra and Chintamoni Biswas. The Relief and Rehabilitation Certificate of the year 1964 contains the name of Chintu Namasudra, which is clarified to be Chintamoni Namasudra the present proceedee as well as the evidence rendered by DW2 Shri Rajendra Namasudra son of late Ramani Ram Namasudra in whose favour the Relief and Rehabilitation Certificate was issued makes it explicit that the petitioner is a person who had entered the State of Assam along with her father Ramani Ram Namasudra in the year 1964 and therefore cannot be declared to be a person who had entered the State of Assam from the specified territory on or after 25.03.1971.

7. Mr. J. Payeng, learned counsel for the respondents in the Home Department has made a submission that the matter be remanded back for further examination.

8. However, considering the materials on record, we do not find the

necessity of any further examination and as the materials produced before the Court are explicit enough, which the Home Department of the Government of Assam could not controvert in any manner, and accordingly we see no reason to remand the matter back for further proceeding.

9. In the circumstance, we declare the petitioner Chintamoni Biswas @ Chintamoni Namasudra, daughter of late Ramani Ram Namasudra to be a citizen of India and further that she would be entitled to all such entitlements as may be entitled to a citizen under the Constitution of India.

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