

GAHC010184772019



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

Case No. : WP(C)/5700/2019

GOPESH CHANDRA GHOSH @ GOPAL GHOSH
S/O- LT. GOBINDA CHANDRA GHOSH, R/O. VILL. LANKA STATION ROAD,
P.O. AND P.S. LANKA, DIST.- HOJAI, ASSAM, PIN- 782446.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, HOME DEPTT., NEW
DELHI-1.

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

3:THE DEPUTY COMMISSIONER
HOJAI
PO- HOJAI
DIST.- HOJAI
ASSAM.

4:THE SUPERINTENDENT OF POLICE (BORDER)
HOJAI
P.O. HOJAI
DIST.- HOJAI
ASSAM.

5:THE DISTRICT ELECTION OFFICER
HOJAI
P.O. HOJAI
DIST.- HOJAI

ASSAM.

6:THE STATE CO-ORDINATOR
N.R.C.
ASSAM
DISPUR
GHY.- 781006
ASSAM

Advocate for the Petitioner : MR. S NATH

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

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

Date : 09-03-2023

JUDGMENT & ORDER (ORAL)

(AM Bujor Barua, J)

Heard Mr. S Nath, learned counsel for the petitioner. Also heard Ms. L Devi, learned CGC for the respondents in the Union of India as well as the authorities under the NRC, Mr. AI Ali, learned counsel for the authorities under the Election Commission of India, Mr. G Sharma, learned Special Standing Counsel, Foreigners Tribunal for the Home Department, Government of Assam as well as the Superintendent of Police (B) Hojai and Ms. M Dutta, learned Government Advocate for the Deputy Commissioner, Hojai.

2. The petitioner, namely, Gopesh Chandra Ghosh @ Gopal Ghosh, son of Gobinda Chandra Ghosh, a resident of Lanka Station Road was referred to the Foreigners Tribunal Nagaon No.7 at Lanka Hojai for rendering an opinion as to

whether he is a person who had entered the State of Assam subsequent to 25.03.1971 resulting in the registration of F.T./L/Case No.809/2016 against him.

3. By the order dated 12.07.2019 of the Foreigners Tribunal Nagaon No.7 at Lanka Hojai, an opinion was rendered that the petitioner is a person who had entered the State of Assam from the specified territory subsequent to 25.03.1971.

4. The petitioner relies upon the Relief Eligibility Certificate issued by the Ministry of Rehabilitation, Government of India dated 25.08.1965 which was issued to Smti Amulya Bala Ghose as the head of the family showing her husband's name to be Gobinda Chandra Ghosh and further providing that she had migrated from village Hilachia under Police Station Bazitpur in the Mymensingh district in the present Bangladesh. The Relief Eligibility Certificate dated 25.08.1965 also includes the name of Sri Gopesh Chandra Ghose showing him to be son of Smti Amulya Bala Ghose. The petitioner also relies upon a Certificate of Registration under Section 5(1)(a)/(d) of the Citizenship Act 1955 bearing CC No.9/79 & Sl.No.123435 issued by the Additional Deputy Commissioner, Nowgong in favour of the petitioner Gopesh Ghose son of Gobinda Chandra Ghosh whose place of birth is shown as village Hilachia in the Mymensingh district in the present Bangladesh.

5. Reading together the Relief Eligibility Certificate dated 25.08.1965 which shows that Smti Amulya Bala Ghose wife Gobinda Chandra Ghosh had migrated from village Hilachia under Police Station Bazitpur in the Mymensingh district in

the present Bangladesh and the Certificate of Registration as citizen issued in favour of the proceedee, Gopesh Ghosh son of Smti. Amulya Bala Ghose wife of Gobinda Chandra Ghosh whose place of birth is shown to be village Hilachia in the Mymensingh district in the present Bangladesh, we are of the view that the petitioner is able to discharge the burden under Section 9 of the Foreigners Act 1946 that he is a citizen of India. Accordingly, the petitioner is accepted to be a citizen of India.

6. Consequently, all such legal rights and privileges that may accrue to the petitioner Gopesh Chandra Ghosh @ Gopal Ghosh upon such declaration that he is a citizen of India be made available to him.

7. Writ petition, accordingly, stands allowed.

8. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant