

GAHC010195482017



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

Case No. : WP(C)/2379/2017

RANJIT CHOUDHURY
S/O. LT. BRAJENDRA BHUSAN CHOUDHURY, R/O. LANKA TOWN, WARD
NO.-8, P.S. LANKA, DIST. HOJAI, ASSAM.

VERSUS

THE UNION OF INDIA and 3 ORS.
REP. BY THE SECRETARY TO THE MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, NEW DELHI-01.

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

3:THE SUPDT. OF POLICE B

HOJAI
P.O. and DIST. MORIGAON
ASSAM
PIN-782105.

4:THE DEPUTY COMMISSIONER

HOJAI
P.O. and DIST. HOJAI
ASSAM
PIN-782105

Advocate for the Petitioner : MR.A R SIKDAR

Advocate for the Respondent : GA, ASSAMR-2-4

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

ORDER

Date : 03.05.2023
(AM Bujor Barua, J)

Heard Mr. AR Sikdar, learned counsel for the petitioner. Also heard Ms. L Devi, learned counsel for the respondents no. 1 and 4 being the authorities under the Union of India and NRC respectively, Mr. G Sarma, learned counsel for the respondents no. 2 and 3 being the authorities under the Home Department of the Government of Assam and Ms. M Dutta, learned counsel for the respondent no. 4 being the Deputy Commissioner, Hojai.

2. The petitioner Ranjit Choudhury had been referred to the Foreigners' Tribunal No. 7, Nagaon at Lanka for rendering an opinion as to whether he is a person who entered the State of Assam from the specified territory on or after 25.03.1971, resulting in registration of F.T./L/Case No. 255/2015. Initially an order dated 24.02.2016 was passed by the Tribunal declaring the petitioner to be a foreigner. Being aggrieved a review in the form of Misc Case No. 12/2016 was instituted wherein an order dated 08.02.2017 was passed retaining the earlier order and rejecting the review.

3. Being aggrieved, this writ petition is instituted.

4. In the writ petition the petitioner relies on the certificate of registration bearing No. 9297/DM/CRO/CRC/ 56 dated 28.12.1956 which was issued in the name of Brajendra Bhusan Choudhury, S/O Late Pradip Choudhury by providing

that he had entered from the specified territory as on the said date. The petitioner also relies on the voters' list of 1993 of village Ranipukhuri in the present Hojai district which contains the name of Shanti Choudhury, W/O Brajendra and that of Brajendra, S/O Pradip respectively at Sl. No. 565 and 567. Sl. No. 566 of the said voters' list contains the name of Ranjit Choudhury, S/O Brajendra. Accordingly, the petitioner claims that he has discharged the burden under Section 9 of the Foreigners' Act, 1946 that he is a citizen of India.

5. The voters' list of 1993 of village Ranipukhuri clearly indicates that Ranjit is the son of Brajendra who again is the son of Pradip but a further aspect would remain as to whether Brajendra, S/O Pradip of the voters' list of 1993 of Ranipukhuri village and Brajendra Bhusan Choudhury, S/O Late Pradip Choudhury of the certificate of registration dated 28.12.1956 are one and the same person. For the purpose, we remand the matter back to the Tribunal to enable the petitioner to produce any relevant material as may be available to show that Brajendra Bhusan Choudhury of the certificate of registration dated 28.12.1956 and Brajendra, S/O Pradip of the voters' list of 1993 of village Ranipukhuri are one and the same person. The respondents in the Home Department may also make their own verification as regards the aforesaid aspect. Upon doing the needful, the Tribunal to pass a reasoned order.

6. The petitioner to appear before the Tribunal on 14.06.2023.

7. If the reasoned order is in favour of the petitioner, the same shall prevail over the opinion dated 24.02.2016 passed in F.T./L/Case No. 255/2015 and if against, consequence under the law is applicable to the petitioner.

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

Send back the LCR.

Writ petition stands disposed of in the above terms.

JUDGE

JUDGE

Comparing Assistant