

GAHC010209132019



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

Case No. : WP(C)/7024/2019

PRAHLAD DAS @ PRAHLAD CH. DAS AND 3 ORS.
S/O- LT. PRABHAT CH. DAS, R/O- VILL. AND P.O. AZARBARI, P.S. LANKA,
DIST. HOJAI (EARLIER NAGAON), ASSAM, PIN- 782442.

2: PRAMATHA DAS @ PRAMUD DAS
S/O- SRI PRAHLAD DAS
R/O- VILL. AND P.O. AZARBARI
P.S. LANKA
DIST. HOJAI (EARLIER NAGAON)
ASSAM
PIN- 782442.

3: BABUL DAS @ BABUL CH. DAS
S/O- LT. PRABHAT CH. DAS
R/O- VILL. AND P.O. AZARBARI
P.S. LANKA
DIST. HOJAI (EARLIER NAGAON)
ASSAM
PIN- 782442.

4: BIDHAN DAS
S/O- SRI PRATAP DAS
R/O- VILL. AND P.O. AZARBARI
P.S. LANKA
DIST. HOJAI (EARLIER NAGAON)
ASSAM
PIN- 782442

VERSUS

UNION OF INDIA AND 4 ORS.
THROUGH THE SECRETARY, MINISTRY OF HOME AFFAIRS, GOVT. OF
INDIA, NEW DELHI- 110001.

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

3:THE DEPUTY COMMISSIONER
DIST. HOJAI (EARLIER NAGAON)
PO AND PS- HOJAI
(ASSAM)
PIN- 782435.

4:SUPERINTENDENT OF POLICE (B)
HOJAI
DIST. HOJAI (EARLIER NAGAON)
PO AND PS HOJAI
(ASSAM)
PIN- 782435.

5:OFFICER-IN-CHARGE
LANKA P.S.
PO- LANKA
DIST. HOJAI (ERSTWHILE NAGAON)
PIN- 782446

Advocate for the Petitioner : MR G P BHOWMIK

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

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

ORDER

31.05.2023

[A.M.Bujor Barua, J.]

Heard Mr. S.K. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent no. 1; Mr. G. Sarma, learned counsel for the respondent Nos. 2, 4 and 5; and Ms. U. Das, learned counsel for the respondent no. 3.

2. The petitioner Prahlad Das had been referred to the Foreigners' Tribunal, No. 7, at Lanka in the Nagaon district 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 Case No. FT/L/752/2016, wherein an opinion dated 27.06.2018 had been rendered declaring the petitioner to be a foreigner. Being aggrieved this writ petition is instituted.

3. In the writ proceeding, the petitioner relies upon the Voters' List of 1966 of village Ejarbari, P.S. Lanka presently in the Hojai district, which contains the name of Pratap Ch. Das, son of Munuk Ram at serial no. 73 and that of Kiran wife of Pravat at serial no. 74 and both are shown to be residing in the same house no. 15. It is stated that Pratap Ch. Das had been misspelled and actually it ought to be Pravat Ch. Das, which explanation also can be accepted because Kiran is shown to be the wife of Pravat and not Pratap. The petitioner also relies upon the Voters' List of 1971 of village Ejarbari which contains the name of Prahlad, son of Pravat at serial no. 776 and it is stated that Prahlad of the 1971 Voters' List is the petitioner himself. The petitioner also relies upon the Voters' List of 1985 of village Ejarbari which contains the name of Kiranbala Das, wife of Pravat and that of Prahlad Das, son of Pravat. Considering that the names of Kiranbala Das and Prahlad Das appear in the same Voters' List where Kiranbala Das is the wife of Pravat than Prahlad Das is the son of Pravat, consistency is noticed in the projected Voters' List of 1966, 1971 and 1985 of village Ejarbari to enable the petitioner to discharge the burden under section 9 of the Foreigners' Act, 1946 that he is a citizen.

4. In the circumstance, the matter is remanded back to the Foreigners' Tribunal, No. 7 at Lanka presently in the Hojai district to examine the aforesaid

three Voters' List and pass a reasoned order.

5. We have noticed that the opinion of the Tribunal is a joint opinion in three other reference cases being Case No. FT/L/750/2016; FT/L/753/2016; and FT/L/779/2016 pertaining to Pramatha Das; Babul Das; and Bidhan Das where it is stated that Pramatha Das and Babul Das are the sons of Pravat Das and Bidhan Das is the grandson of Prahlad Das.

6. In our view, it is always unsafe to pass a common opinion in respect of more than one reference case and from such point of view the opinion rendered in respect of Case No. FT/L/750/2016; FT/L/753/2016; and FT/L/779/2016 are set aside and remanded back to the Tribunal to pass individual opinions on the same.

7. In doing so the Tribunal to also take note of the reasoned order that may be passed in the case of Prahlad Das which is remanded back to the Tribunal for fresh consideration as indicated above.

8. The petitioner to appear before the Tribunal on 05.07.2023.

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

Writ petition stands disposed of in the above terms.

Send back the LCR immediately.

JUDGE

JUDGE

Comparing Assistant