

GAHC010264262018



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

Case No. : WP(C)/198/2019

SHUNATI DAS
WIFE OF LATE RAMEN DAS, RESIDENT OF VILLAGE- DIMORIA, POLICE
STATION- KHETRI, DISTRICT- KAMRUP(METRO), ASSAM, PIN- 782403.

VERSUS

THE UNION OF INDIA AND 8 ORS.
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, GOVERNMENT
OF INDIA, SHASTRI BHAWAN, NEW DELHI- 110001.

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

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
GUWAHATI
ASSAM
PIN- 781005

5:THE FOREIGNERS TRIBUNAL KAMRUP(METRO) NO. 1
AT GUWAHATI
ULUBARI
GUWAHATI-07
DISTRICT- KAMRUP(METRO)
ASSAM.

6:THE DEPUTY COMMISSIONER
KAMRUP(METRO)
POST OFFICE AND POLICE STATION- PANBAZAR
DISTRICT- KAMRUP(METRO)
ASSAM
PIN- 781001.

7:THE SUPERINTENDENT OF POLICE (B)
CITY GUWAHATI
KAMRUP(METRO)
ASSAM
PIN- 781001.

8:THE OFFICER-IN-CHARGE OF KHETRI POLICE STATION
POST OFFICE- KHETRI
DISTRICT- KAMRUP(METRO)
ASSAM
PIN- 782403

Advocate for the Petitioner : MS. D GHOSH

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

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

Date : 26-06-2023

JUDGMENT & ORDER (ORAL)

(AM Bujor Barua, J)

Heard Ms. D Ghosh, 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, the Deputy Commissioner of Police (B) City Guwahati, Kamrup(M), the Superintendent of Police (B) City Guwahati Kamrup(M) as well as the Officer-in-Charge Khetri Police Station and Ms. U Das, learned Government Advocate for the Deputy Commissioner, Kamrup(M).

2. The petitioner, namely, Shunati Das wife of Late Ramen Das was referred to the Foreigners' Tribunal Kamrup(M) No.1 Guwahati for an opinion as to whether she is a foreigner within the meaning of Foreigner Act, 1946 resulting in the registration of FT(D.V) Case No.10262/2011 corresponding to the Police Case No.554/2000. The Tribunal rendered an opinion dated 07.05.2018 declaring the petitioner to be a foreigner.

3. Being aggrieved this writ petition is instituted.

4. In the writ proceeding, the petitioner relies upon the Assam Refugee Certificate No.201 dated 20.02.1963 which states that Raman Das, son of Kantu Das has entered the State of Assam from the district of Sylhet in the erstwhile East Pakistan and is residing at Pub Malaybari. The certificate also provides that Raman Das had entered the State of Assam, amongst others, along with his wife Shunati Bala Das. The petitioner claims that Shunati Bala Das of the refugee certificate referred above is the petitioner herself. Further reference is made to the voters list of 1985 of village Dimoria which contains the name of

Ramani Das, son of Kanto at Sl.No.526 and that of Shuniti wife of Ramani at Sl.No.527 where both are shown to be residing in the same House No.69. The petitioner claims that Shuniti, wife of Ramani of the 1985 voters list of village Dimoria is the petitioner herself.

5. We have noticed that the Tribunal had proceeded against Shunati Das wife of Ramen Das of village Dimoria. From such point of view if Shuniti wife of Ramani Das of the 1985 voters list of village Dimoria is the petitioner herself, the burden has been discharged by the petitioner to prove that she is not a foreigner. We have noticed that in the voters list of 1985 of village Dimoria, the name of Ramen Das, son of Kanto appears at Sl.No.526, whereas the refugee certificate relied upon by the petitioner also contains the name of Raman Das, son of Kantu Das which shows a close proximity between Ramani Das son of Kanto of the 1985 voters list of village Dimoria and Raman Das son of Kantu Das of the refugee certificate dated 20.02.1963. Further the refugee certificate also contains the information that Shunati Bala Das is the wife of Raman Das whereas, the 1985 voters list of village Dimoria also shows Shuniti to be wife of Ramani Das again which is a close proximity. Considering the consistency in the close proximity in the information contained in the refugee certificate dated 20.02.1963 as well as the information contained in the voters list of 1985 of village Dimoria as well as the notice of the Tribunal against whom the proceedings were initiated, we are of the view that the petitioner had discharged the burden under Section 9 of the Foreigners Act 1946 to show her presence in the State of Assam as of the year 1963.

6. In view of the aforesaid materials clinching the issue in favour of the

petitioner, the petitioner deserves a declaration that she is deemed to be a citizen under Section 6 A(2) of the Citizenship Act of 1955 and it is declared accordingly.

7. Consequently, all such legal rights that may accrue to the petitioner Shunati Das upon such declaration be made available to her.

8. Writ petition, accordingly, stands allowed.

9. A copy of this order be furnished to Mr. G Sharma, learned counsel for the Home Department Government of Assam for doing the needful.

10. Send back the LCR.

JUDGE

JUDGE

Comparing Assistant