

GAHC010280812019



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

Case No. : WP(C)/1073/2020

NAMITA GHOSH
D/O LATE MOHAN LAL GHOSH, W/O SRI GOPAL GHOSH, R/O VILL-
CHAKITUP, P.S.-SAMAGURI, DIST-NAGAON, ASSAM

VERSUS

THE UNION OF INDIA AND 7 ORS.
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, SHASTRI BHAWAN, NEW DELHI-110001

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

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

4:THE STATE COORDIANTOR
NATIONAL REGISTER OF CITIZENS
ASSAM
1ST FLOOR
ACHYUT PLAZA
G.S. ROAD
BHANGAGARH
GUWAHATI
ASSAM
PIN-781005

5:THE FOREIGNERS TRIBUNAL NO. 2
NAGAON
ASSAM
DIST-NAGAON
PIN-782001

6:THE DEPUTY COMMISSIONER
NAGAON
P.O. AND P.S.-NAGAON
ASSAM
PIN-782001

7:THE SUPERINTENDENT OF POLICE (B)
NAGAON
DIST-NAGAON
ASSAM
PIN-782001

8:THE OFFICER-IN-CHARGE OF SAMAGURI POLICE STATION
P.O.-SAMAGURI
DIST-NAGAON
ASSAM
PIN-78214

Advocate for the Petitioner : MR. M AHMED

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

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

ORDER

11.05.2023

[A.M.Bujor Barua, J.]

Heard Ms. D. Ghosh, learned counsel for the petitioner. Also heard Ms. L. Devi, learned counsel for the respondent nos. 1 and 4; Mr. G. Sarma, learned counsel for the respondent nos. 2 and 5; Mr. A.I. Ali, learned counsel for the respondent no. 3; and Ms. U. Das, learned counsel for the respondent no. 6.

2. The petitioner Namita Ghosh had been referred to the Foreigners' Tribunal, No. 2, Nagaon for rendering an opinion as to whether she is a person who entered the State of Assam from the specified territory on or after 25.03.1971 resulting in registration of FT Case No. 2065/2011, wherein an opinion dated 25.06.2019 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 1959 of village Goreshwar in the Kamrup district, which contains the name of Mohan Lal Ghosh, son of Baikunth at serial no. 735. The petitioner also relies upon the Voters' List of 1971 of village Goreswar, which contains the name of Mohan Pal Ghosh, son of Baikuntah at serial no. 1869 and that of Usharani Ghosh wife of Mohan at serial no. 1870.

4. It is claimed that Mohan Lal Ghosh is the father of the petitioner and Usharani Ghosh is the mother. Usharani Ghosh deposed before the Tribunal as DW2, wherein it has been specifically stated that she married Mohan Lal Ghosh in the year 1950 and out of their wedlock eight children namely, Arun Kumar Ghosh; Anita Ghosh; Namita Rani Ghosh; Sabita Ghosh; Ajay Kumar Ghosh; Rita Ghosh; Arjun Kumar Ghosh; and Rinku Ghosh were born. The evidence has also been rendered by Arun Kumar Ghosh and he is also an employee in the Intelligence Bureau as well as by Ajay Kumar Ghosh that Namita Ghosh is their sister.

5. The State authorities through the Home Department had cross-examined DW2, wherein also the same deposition had been rendered that Namita Ghosh is the daughter of Usharani Ghosh and in the cross the respondents could not rebut the evidence led by DW2 in her chief that Namita Ghosh is the daughter of Usharani Ghosh. All other statements made by DW2 in her deposition corroborates with the other materials that are available on record.

6. In the circumstance, we have no reason to disbelieve the evidence of DW2 that Namita Ghosh is the Daughter of Usharani Ghosh and as Usharani Ghosh

herself stated that she is the wife of Mohan Lal Ghosh of village Goreswar, whose name appears in the Voters' List of 1966, the citizenship of Usharani Ghosh is also proved.

7. Accordingly, the opinion dated 25.06.2019 in the FT Case No. 2065/2011 is set aside and we declare the petitioner to be a citizen of India and also that he will be entitled to all such rights and privileges as the Indian citizen.

Writ petition stands allowed in the above terms.

JUDGE

JUDGE

Comparing Assistant