

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 120 of 2008

Shri Subir Chandra Das,
S/O Late Dinesh Ch. Das,
Resident of Vill-Mashauli,
P.S.- Kumarghat,
District-North Tripura.

..... Petitioner

Versus

1. **State of Tripura**
(To be represented by
The Secretary,
General Administration Deptt.,
Government of Tripura,
Secretariat Complex,
Agartala, West Tripura.)
2. **The District Magistrate & Collector,**
Dhalai District,
Office of the D.M. & Collector,
Dhalai District, Dhalai,
The State of Tripura.
3. **The Sub-Divisional Magistrate,**
Longtharai Valley, Chailengta,
Dhalai District, Dhalai,
The State of Tripura.
4. **The Officer In-Charge,**
Manu Police Station,
Longtharai Valley,
Chailengta, Dhalai District,
The State of Tripura.
5. **The Union of India,**
(to be represented by
The secretary,
Department of Home,
Govt. of India,
New Delhi --1).

..... Respondents

**BEFORE
THE HON'BLE MR. JUSTICE UB SAHA**

For the petitioner	: Mr. P Roy Barman, Advocate
For the respondent – UOI	: Mr. B Majumdar, CGC
For the respondent – State	Mr. TD Majumdar, Govt. Advocate
Date of hearing and delivery of judgment	: 29.05.2015.
Whether fit for reporting	: No.

JUDGMENT AND ORDER (ORAL)

The instant writ petition is filed by the petitioner for quashing and cancelling the memo dated 10.11.2006 issued by the Sub Divisional Magistrate, Longtharai Valley, Chailengta, Dhalai District (Annexure-1 to the writ petition) whereby and whereunder the Citizenship Certificate issued to the petitioner as well as the Death Certificates of his Late father Dinesh Ch. Das and Late mother Prabashini Das and the Survival Certificate dated 31.08.2004 issued in his favour were cancelled.

2. The grievance of the petitioner, in the instant writ petition, is that the petitioner was born on 27.01.1969 at Village Purba Masli, P.S.-Manu, Sub-Division-Longtharai, District Dhalai and studied in Mashauli High School under Kumarghat Police Station, North Tripura District up to Class- IV.

3. On the basis of his application a Citizenship Certificate (Annexure-G to the writ petition) was issued to him by the Sub Divisional Magistrate, Longtharai Valley, Chailengta in his favour. Not only that, after the death of his father as well as his mother their death certificates were also issued and consequent to the death of his father he applied for a survival certificate which was also issued to him. But without providing any opportunity to the petitioner the Sub Divisional Officer, Longtharai Valley, Chailengta cancelled all the aforesaid certificates including the Citizenship Certificate by the impugned Memo dated 10.11.2006. Hence, the writ petition.

4. The respondent Nos. 1, 2 and 3, i.e. the State respondents, by filing their counter affidavit admitted the cancellation of the certificates, as stated supra. It is also stated in the counter affidavit that

on the basis of a complaint lodged by one Gunasindhu Chowdhury, S/O- Gajendra Ranjan Chowdhury of Srirampur an enquiry was made by the Revenue Inspector and the said Inspector made field enquiry and submitted his detailed report. In the report the Revenue Inspector mentioned that Subir Chandra Das was not born at Purba Masli or Purba Kathalcherra under the Longtharai Valley Sub-Division and he was also not the resident of the address given by him at the time of issuance of the certificates.

5. The further case of the respondents is that Lt. Dinesh Ch. Das was not the father of the petitioner and he had sworn false affidavit with a view to defraud the authority in issuing the Death Certificate, Citizenship Certificate as well as Survival Certificates and after enquiry they have cancelled those certificates.

6. The respondent-Union of India did not file any counter affidavit.

7. This court while issuing notice to the respondent-state on 02.05.2008, suspended the impugned memo dated 10.11.2006 and subsequently the aforesaid interim order was made absolute.

8. Mr. Roy Barman while urging for setting aside the impugned memorandum would contend that the petitioner did not commit any wrong while making application either for issuance of citizenship certificate or other certificates. He further submits that the alleged enquiry was made behind the back of the petitioner without providing any opportunity and thus the impugned memorandum is liable to be quashed as the same is issued in violation of the principles of natural justice.

9. He further contends that a citizen is not supposed to reside in a place all along where he took birth and obtain the Citizenship Certificate. Admittedly, some land belonging to the father of the petitioner was acquired and an award was passed.

10. On the other hand, Mr. Dutta Majumder, learned GA submits that before cancellation of the Citizenship Certificate, Death Certificates and Survival Certificate by the impugned order an enquiry was done and a show cause notice was issued to the petitioner wherein the petitioner was asked to appear before the Inquiry Authority.

11. Mr. B. Majumder, learned CGC appearing for the Union respondent submits that it would be proper to set aside the impugned order and remand the matter back to the respondent No. 3 to proceed afresh after following the procedure.

12. This Court has gone through the enquiry report as well as the show cause notice. It appears from the record that though the notice was issued but the same returned without service. The respondents tried to make out a case that the petitioner was not available in the address shown in his Citizenship Certificate.

13. According to this Court, a citizen has a right to live in any place within the territory of India according to his choice. Therefore, it was the duty of the enquiring authority to serve the notice upon the petitioner by way of public notification either in a local newspaper or in any other mode as prescribed under law when such citizen is not available in his given address but admittedly the same was not done.

14. Mr. Dutta Majumder also fairly submits that though the notice was issued but the same was not served upon the petitioner and in view of that it would be proper to cancel the impugned order and remand the matter back to the issuing authority to enquire into the complaint afresh after providing all opportunities to the petitioner.

15. As this court is of the considered opinion that the entire enquiry was done behind the back of the petitioner and he was not provided any opportunity for defending his case, it would be proper to cancel the impugned memorandum dated 10.11.2006 (Annexure-I to the writ petition) whereby and whereunder the issuing authority, respondent no. 3 herein, cancelled the Citizenship Certificate of the petitioner as well as the death certificates and the survival certificate issued on the basis of the prayer of the petitioner.

16. Accordingly, the same is set aside. However, setting aside of the impugned order would not be a bar for the respondents for proceeding afresh with the inquiry and the respondent No. 3, Sub Divisional Magistrate, Longtharai Valley, Chailengta, Dhalai District would be at liberty to proceed with the inquiry after providing all opportunities to the petitioner to defend his case.

17. The petitioner is also directed to appear before the respondent No. 3, Sub Divisional Magistrate, Longtharai Valley, Chailengta, Dhalai District on or before *17th July, 2015*.

18. With the aforesaid order, the instant writ petition is disposed of. No order as to costs.

JUDGE