

(2023) 02 GAU CK 0065

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 2885 Of 2021

Parimal Rajbongshi

APPELLANT

Vs

Union Of India And 5 Ors

RESPONDENT

Date of Decision : 21-02-2023

Acts Referred:

Citation : (2023) 02 GAU CK 0065

Hon'ble Judges : Achintya Malla Bujor Barua, J; Robin Phukan, J

Bench : Division Bench

Advocate : H Das

Final Decision : Disposed Of

Judgement

1. Heard Mr. B.C. Deka, learned counsel for the petitioner; Ms. L. Devi, learned counsel for the respondent no. 1; Mr. A.I. Ali, learned counsel for the respondent no. 2; Mr. G. Sarma, learned counsel for the respondent nos. 3, 4 and 6; and Ms. K. Phukan, learned counsel for the respondent no. 5.

2. The petitioner, Parimal Rajbongshi had been referred to the Foreigners Tribunal No. 4, Goalpara for rendering an opinion of the Memo no. GLP/B/F.T./2010/6008 dated 28.10.2010 of Superintendent of Police [B] Goalpara, as to whether he is a person who entered the State of Assam from the specified territory between the years 1966-1971. Before the tribunal, the petitioner relied upon the Voters' List of 1959 of village Santoshpur, P.S. Uttar Salmara of Goalpara district which contains the name of Ramesh Chandra Das son of Late Ruhi Das at serial no. 509 and that of Bela Sundari wife of Ramesh at serial no. 510 both bearing house no. 154. The petitioner also relied upon the Voters' List of 1971 of village Paschim Moinbori, P.S. Baghbor district Kamrup which contains the name of Naren Rajbonshi son of Ramesh at serial no. 682. The petitioner thereafter relied upon the Voters' List of 1997 of village No. 53 Rakhoshijhar Part 1 under Goalpara district which contains the name of Naren Rajbongshi son of Ramesh Rajbongshi at serial no. 851 and that of Parimal Rajbongshi son of Naren

Rajbongshi at serial no. 853. The petitioner claims that Ramesh Chandra Das of Voters' List of 1959 of village Santoshpur is the grandfather and Naren Rajbongshi of Voters' List of 1971 of village Paschim Moinbori is the father of the petitioner and the name of the petitioner Parimal Rajbongshi appears along with Naren Rajbongshi in the Voters' List of 1997 of village No. 53 Rakhoshijhar Part 1.

3. The three villages corresponding to the three Voters' Lists of 1959, 1971 and 1997 are clearly in respect of different villages from different districts and no material is available before the court to establish any link between the persons appearing in the three different Voters' Lists. In fact the Voter List of 1959 pertains to Ramesh Chandra Das whereas the Voters' List of 1997 is in respect of Ramesh Rajbongshi for which no material is available that the two persons are one and the same.

4. In the aforesaid circumstance, the Foreigners Tribunal No. 4, Goalpara in FT Case No. 464/2010 had rendered its opinion dated 02.03.2021 that the petitioner is a person who entered the State of Assam from the specified territory subsequent to 25.03.1971. We are otherwise not on the merit of the materials relied upon by the petitioner before the tribunal as well as before this court, but we notice that the reference against the petitioner was for an opinion as to whether he is a person who entered the State of Assam from the specified territory between the years 1966-1971 or whether he had entered the State of Assam subsequent to 25.03.1971. The said infirmity leads to a conclusion that the tribunal had exceeded its jurisdiction in rendering its opinion in the reference made against the petitioner.

5. Accordingly, the opinion dated 02.03.2021 declaring the petitioner to be a person who entered after the date of 25.03.1971 from the specified territory is set aside. However as no materials are produced before the court or before the tribunal by the petitioner that he is not a person who entered the State of Assam between the years 1966-1971, we accordingly answer the reference made against the petitioner by accepting that he is a person who entered the State of Assam between the years 1966-1971.

6. Accordingly the petitioner is required to register himself before the Foreigner Regional Registration Officer, Goalpara as a person who entered the State of Assam between the years 1966-1971 and upon such registration, the provisions of law in respect of such category people will be applicable to the petitioner, meaning thereby that for a period of ten years from the date of registration he would be devoid of his voting rights but after ten years all such rights of the petitioner would be restored back to him.

7. Accordingly the writ petition stands disposed of as indicated above.

8. Send back the LCR.