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BEFORE THE FOREIGNERS' TRIBUNAL, NO. 1 BONGAIGAON, ASSAM

BNGN/FT/476/08

(REF B/FTC/88/1251)

P R E S E N T

SHRI DULAL SAHA ,MEMBER

FOREIGNERS' TRIBUNAL BONGAIGAON NO.1

STATE OF ASSAM

-VRS-

LAKHAN CHANDRA DAS @ LAKHAN DAS.

S/O- LT. KALA CHAN DAS @ KALA CHAND DAS.

PETITIONER

APPEARANCE

ADVOCATE FOR THE STATE- MR.DEBABRATA DAS

ADVOCATE FOR THE O.P.- D.A. RAHIM AND A. ROY.

DATE OF EVIDENCE-18/05/22

DATE OF ARGUMENT-18/07/22

DATE OF ORDER -01/08/2022

O R D E R

This is a reference made Under Rule 2(1) of the Foreigners (Tribunal) Order 1964, for opinion as to whether Lakhan Chandra Das , S/O- Lt. Kala Chand Das is a foreigner from Bangladesh, who entered into India after 25<sup>th</sup> March 1971 or not.

Upon perusal of the notice, O.P appeared and contested the case by filing written statement, evidence-in-chief in the form of an Affidavit and relying on documents.

The gist of the written statements of the O/P is that, he is an Indian Citizen by birth. O/P was born out of the wedlock of Kala Chan Das @ Kala Chand Das and Binada Sundari in the year 1952 at village Nasatra under Barpeta dist.(Assam). O/P are four brothers and one sister namely Ram Chandra @ Ram Chandra Das, Saru Das, Akhay Das, Lakhan Chandra Das and Sitanath Das. O/P has two sons and one daughter namely viz- Subal Chandra Das, Sukumar Das, Anjali Das and Jyotsna Das. The father of the O/P migrated to the village Balar Char under the then North Salmara P.S. from the village Nasatra before the year 1962 and again his father migrated to the village Jamdoha No. 2 in the last of year 1975 alongwith his family members due to erosion of river. O/P got married with Sundari Bala Das @ Sundari Das .O/P's correct and actual name is Lakhan Chandra Das .O/P's father is a holder and possessed of a plot of land as Rayati of village Balar Char Part 3 under Srijangram Revenue Circle Bijni Estate in the year 1962. Two notices in the name of Kala Chan Das issued by Revenue officer, Goalpara & Bakijai officer, Goalpara, respectively dt. 15.05.1961 & 18.08.1961 respectively in connection with objection/case and M.B. Case No. (7) 6162 respectively. O/P's father also obtained a Challan Form dtd. 26-03-1964 issued from Circle Officer Srijangram Revenue Circle. O/P also obtained a Form of Ticket

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Member  
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on dated 11-03-1983 issued by the Relief Officer. O/P also obtained a Caste certificate countersigned by the Deputy Commissioner Kokrajhar dtd. 27.12.83. O/P has been casting his regular votes for the years 1989, 1997, 2011, 2016 and 2021 respectively under 34 No. Abhayapuri North L.A.C. O/P also Ration Card and Elector Photo Identity Card holder.

O/P submitted *his* evidence in chief in the form of affidavits where *he* narrated more or less same versions as *he* stated in *his* W/S.

From the above, what is discernible is that, O/P is the son of Kala Chan Das & who was citizen of India.

O/P exhibited the following documents:-

**Ext-A (NRC)** issued by Inspector of Police (B), Barpeta Border Zone dtd. 2.5.87. containing the names of Kala Chan Das son of Srimanta Das, Akhaya Das son of Kala Chan, Ram Chandra S/O- Kala Chan, Saru Das D/O- Kala Chan and Binnoda Sarkar wife of Kala Chan have been recorded.

**Ext-B** is a final Khatian of village Balar Char Pt. 3 under Srijangram Revenue Circle, Bijni Estate in the year 1962. Here the name of Kala Chand Das S/O Lt. Srimanta Das recorded as a possessor.

**Ext-C & Ext-D** are the notices in the name of Kala Chan Das issued by Revenue officer, Goalpara & Bakijai officer, Goalpara, respectively dt. 15.05.1961 & 18.08.1961 respectively.

**Ext- E** is the Challan Form dtd. 26-03-1964 in the name of Kala Chan issued from Circle Officer Srijangram Revenue Circle.

**Ext-F** is the Form of Ticket. Here it is seen that the Relief Officer issued a Form of Ticket on dated 11-03-1983 in the name of Lakhan Ch. Das when he was in relief camp due to Assam Movement 1983.

**Ext-G** is a Caste certificate in the name of Lakhan Ch. Das countersigned by the Deputy Commissioner Kokrajhar dtd. 27.12.83.

**Ext-H & Ext-I** are the certified copies of 1989 and 1997 voter lists in respect of 34 No. Abhayapuri North L.A.C. Here Lakhan Das son of Kala Chan Das and Sundari Das wife of Lakhan Das have been recorded.

**Ext-J, Ext-K and Ext-L** are the certified copies of 2011, 2016 and 2021 in respect of 34 No. Abhayapuri North L.A.C. Here Lakhan Das son of Kala Chan Das and Sundari Das wife of Lakhan Das and his other family members' names have been recorded.

**Ext-M** is the Elector Photo Identity Card in the name of Lakhan Chandra Das son of Kalachan Das.

**Ext-N** is the Ration Card vide No. 0865806 in the name of Sundari Das wife of Lakhan

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Das.

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Foreigners Tribunal No. 1  
Bongaigaon (Assam)



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I have gone through all documents, exhibited in this case. Amongst them Ext. A (NRC) issued by Inspector of Police (B), Barpeta Border Zone dt. 02.05.87. This NRC can't be treated as valid piece because NRC of 1951 was prepared under Indian Census Act, 1948. As per Section 15 of the Census Act, 1948, record of census are not open to inspection and thus not admissible in evidence. Therefore, In **Bhanbhasa Sheikh Vs. Union of India, 1970 Assam LR 206**, a single Bench of this Court categorically held that NRC extracts produced to prove domicile in India is not admissible in evidence for any purpose. so there is no evidentiary value and hence Ext-A is rejected.

Ext. A (i) (NRC Details) computerized, can't be treated as valid piece of evidence & hence rejected.

Ext. B is a final Khatian is the name of Kala Chand Das S/O Lt. Srimanta Das. This document is very old but no date found/visible on this document & hence can't be taken into consideration.

Ext. C & D are two notices issued by Revenue officer & Bakijai officer, Goalpara, respectively dt. 09.05.1961 & 18.08.1961 respectively. Hence Ext. C & D establishes the existence of Kalachand Das S/O Srimanta Das on the Indian Soil since before 1961.

On the other hand Ext. G Caste certificate issued by the Deputy Commissioner dt. 27.12.83, establishes the linkage of O/P with his father namely Kalachand Das, as Ext.-G has been authenticated by the Deputy Commissioner vide its letter dtd. 14/06/22

Other documents like Ext. H, I, J, K & L voter lists of 1989, 1997, 2011, 2016 & 2021 establishes the fact that, O/P Lakhon Ch. Das & his family members are permanently residing at village Jamdoha Part-2 by casting their votes.

From the above discussions it has be establishes that O/P successfully discharged *his* statutory burden U/S. 9 of Foreigners Act, 1946, the fact that *he* is not a foreigner but an Indian Citizen.

Accordingly, O/P Lakhon Das @ Lakhon Ch. Das son of Lt. Kala Chand Das of village 2 No. Jamdoha under Manikpur P.S. and Dist. Bongaigaon is hereby declared not foreigner.

Inform S.P. (B), Bongaigaon and Deputy Commissioner, Bongaigaon for N/A.  
A free copy of this order be furnished to the O.P.  
Given under my hand and seal of the Tribunal on 1st day of August, 2022.

Transcribed at my dictation  
and corrected by me.

Member  
Foreigners Tribunal No. 1  
(Assam)  
Memo No. BFT/08/07-22/202 - A  
Copy to:

1. The Deputy Commissioner, Bongaigaon.
2. The Superintendent of Police (B), Bongaigaon for N/A.

Member  
Foreigners Tribunal No. 1  
Bongaigaon (Assam)  
Foreigners Tribunal, No. 1,  
Bongaigaon.  
Dated 02/08/2022

Member,  
Foreigners Tribunal, No. 1,  
Bongaigaon (Assam)