

BEFORE THE FOREIGNERS' TRIBUNAL, NO.1 BONGAIGAON, ASSAMBNGN/FT/4184/2009(REF IM(D)T CASE NO. 1327/2004)P R E S E N TSHRI DULAL SAHA, MEMBERFOREIGNERS' TRIBUNAL BONGAIGAON NO.1STATE OF ASSAMPETITIONER-VRS-SMTI. SEJE BALA GHOSH.W/O- AMULYA CH. GHOSH.APPEARANCEADVOCATE FOR THE STATE- MR.DEBABRATA DAS (A.G.P.).ADVOCATE FOR THE O.P.-D.A.RAHIM & SAHIDUR RAHMAN.DATE OF EVIDENCE-13-03-23,03-05-23DATE OF ARGUMENT-07-10-23.DATE OF ORDER -04-11-23.O R D E R

This is a reference made Under Rule 2(1) of the Foreigners (Tribunal) Order 1964, for rendering opinion as to whether Seje Bala Ghosh, W/O- Lt. Amulya Ch.Ghosh, D/O-Lt. Digendra Ch. Ghosh is a foreigner from specified territory, who entered in the state of Assam after 25th March 1971 or not.

In compliance with the notice, O/P appeared and contested the case by filing written statements, evidence-in-chief in the form of an Affidavit and relying upon certain documents.

The gist of the written statement is that, O/P was born in the year 1951 at village-Balogara,P.S. Mangaldoi, Dist-Darrang, Assam. Digendra Ch.Ghosh is her father & Barada Bala Ghosh is her mother. Parents died long back. O/P are two brothers & four sisters viz-Sri Manik Ghosh,Hari Bhakta Ghosh, Bada Rani Ghosh, Seje Bala Ghosh @ Sejo Bala Ghosh, Suniti Ghosh & Mira Ghosh. O/P has three sons and two daughters viz- Dipali Ghosh, Sujit Ghosh,Biswajeet Ghosh,Gobinda Ghosh & Mitali Ghosh. Her father came from the then East Pakistan along with family members in the year 1947 due to religious persecution & settled at Bongaigaon. For the purpose of business her father shifted to Village-Balogara, Mangaldoi, where from a certificate of Registration is issued in his name. A passport was issued in the name of her father in the year 1954 when he was residing at Village-Balogara,P.S. Mangaldoi. Her father's name has been recorded in the voter list of 1958 at Village-Balogara under Dolgaon L.A.C. Her mother donated a sum of Rs.5/- in the National Defense Fund in the year 1962.The name of Manik Ghosh & Barada Bala Ghosh recorded in the voter list of 1966 at Village-Balogara under 72 No. Mangaldoi L.A.C. O/P got married with one Amulya Ch. Ghosh of Bongaigaon Town, Ward No.4 in the year 1970. After marriage, her name enrolled in the voter list of 1989,1997,2005,2011 & 2020 under Bongaigaon L.A.C. together with the family of her husband.

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A relationship Certificate was issued by the Chairman of Bongaigaon Municipality and counter signed by the Circle Officer of Bongaigaon Rev. Circle dt. 11-04-1994. O/P is a holder of Special Family Identity Card/ Ration Card issued by Inspector F.C.S & C.A. Bongaigaon. O/P belongs to O.B.C. category and hence an O.B.C Certificate is issued in her name dt. 18-02-21. Hence she claims to be a citizen of India by birth and prayed to absolve her from the allegation leveled against her.

For the purpose of discharging burden as required U/S. 9 of the foreigners Act,1946,to prove that, she is not a foreigner, as many as **16(sixteen)** documents exhibited by her O/P also examined herself as D.W.1 & one Kishore Basumatary (Inspector of Food & Civil Supply) examined as D.W.2. Both witnesses are cross examined by the state. The particulars of documents may be noticed as under :-

Ext- A is the Refugee Registration Certificate in the name of Digendra Ch. Ghosh.

Ext-B is the NRC Details.

Ext- C is the Certificate of Registration in the name of Digendra Ch. Ghosh.

Ext- D is the Passport in the name of Digendra Ch. Ghosh.

Ext-E is the certified copy of voter list for the year 1958 at village- Balogara, under Dolgaon L.A.C. which contains the name of Digendra, S/O Jatindra in Sl.No. 170 & House No.65.

Ext -F is the Donation receipt donated by Barada Bala Ghosh.

Ext -G is the certified copy of voter list for the year 1966 at village- Balogara, under 72 No. Mangaldoi L.A.C. which contains the name of Manik Ghosh, S/O- Digendra, Boroda Bala Ghosh, W/O-Digendra in the Sl.No. 224 & 225 House No.73.

Ext -H is the copy of RTI.

Ext- I is the certified copy of voter list for the year 1989 at village- Bongaigaon Town, Ward 4 under 32 No.Bongaigaon L.A.C. which contains the name of Amulya Ghosh, Seja Bala Ghosh & Dipali in the Sl.No. 548 to 550 House No.246.

Ext-J is the certified copy of voter list for the year 1997 at village- Bongaigaon Town, Ward 4 under 32 No.Bongaigaon L.A.C. which contains the name of Amulya Ghosh, Seje Bala Ghosh , Dipali Ghosh & Sujit Ghosh in the Sl.No. 151 to 154 House No.3033.

Ext-K is the certified copy of voter list for the year 2005 at village- Bongaigaon Town, Ward 4 under 32 No.Bongaigaon L.A.C. which contains the name of Amulya Ghosh, Seje Bala Ghosh , Dipali Ghosh , Sujit Ghosh, Biswajit Ghosh & Gobinda Ghosh in the Sl.No. 139 to 144 House No.3033.

Ext-L is the certified copy of voter list for the year 2011 at village- Bongaigaon Town, Ward 4 under 32 No. Bongaigaon L.A.C. which contains the name of Amulya Ch. Ghosh, Seje Bala Ghosh , Dipali Ghosh , Sujit Ghosh, Biswajit Ghosh, Gobinda Ghosh & Mitali Ghosh in the Sl.No. 167 to 173 House No.3033.

Ext-M is the certified copy of voter list for the year 2020 at village- Bongaigaon Town, Ward 4 under 32 No. Bongaigaon L.A.C. which contains the name of Jhunu Das Ghosh, Mitali Ghosh, Seje Bala Ghosh , Dipali Ghosh , Biswajit Ghosh, Mona Rani Ghosh & Gobinda Ghosh in the Sl.No. 180 to 186 House No.3033.

Ext-N – is the OBC certificate issued by the President of All Assam OBC Association dtd. 31.12.2020.

Ext-O– Relationship certificate issued by the Chairman of Bongaigaon Municipality & counter signed by Circle Officer of Bongaigaon Revenue Circle dtd. 11.4.94.

Ext-P- is the Ration card, in the name of Sejabala Ghosh W/O- Lt. Amulya Ch. Ghosh.

As indicated above, the proceedee claimed one Digendra Ch. Ghosh as her father & Barada Bala Ghosh as her mother. The name of father is recorded in the Refugee Registration certificate, Passport, Voter list of 1958, NRC of 1951 & Certificate of Registration. Mother name is recorded in the Donation Slip of 1962, voter list of 1966 at village Balogora under 72 No. Mangaldoi L.A.C.

Voter list with the name of the O/P are 1989,1997,2005,2011 & 2020 at village- Bongaigaon, W/No.4 under 32 No. Bongaigaon L.A.C., which however bears no relevance as her relation is shown with her husband not with her father and mother.

Document brought on record for the purpose of establishing her linkage to said Digendra Ch. Ghosh or Barada Bala Ghosh are – Ration Card as Ext-P, Relationship Certificate as Ext-O & O.B.C. certificate as Ext-N.

Ext-P (Ration card) though can't be taken into consideration, to determine one's Citizenship status. Nevertheless, it can be taken into consideration as corroborative evidence to one's relation with his/her father or mother. One Kishore Basumatary, Inspector of Food & Civil supply Department examined as D.W.2. Who in terms of examination submitted one Ration card & Members personal details as Ext-P (i) Which was downloaded from the RCMS portal. This Ext-P(i) contains the information that, Lt. Amulya Ch. Ghosh is shown as her husband, Digendra Ch. Ghosh as her father & Barada Bala Ghosh as her mother. Hence this part of information corroborated the version of O/P the fact that, she is the daughter of Digendra Ghosh & Barada Bala Ghosh.

Ext-O– Relationship certificate issued by the Chairman of Bongaigaon Municipality & counter signed by Circle Officer of Bongaigaon Revenue Circle dtd. 11.4.94. Which contains the information that Seje Bala Ghosh is shown as the daughter of Digendra Ghosh. This certificate is not proved as per law & hence not accepted.

Ext-N – OBC certificate issued by the President of All Assam OBC Association, Bongaigaon counter signed by the Deputy Commissioner of Bongaigaon dtd. 31.12.20. This certificate contains the information that, Smti Seje Bala Ghosh, D/O: Digendra Ghosh & Barada Bala Ghosh of Salbagan, P.S. & Dist. Bongaigaon, Assam belong to 'Goala' community which is recognised as OBC class by the State Govt. of Assam. On being called an authentic report has been submitted by the ADC Bongaigaon bearing No. BMJ/Caste Certificate/90/2022/46 dtd. 27.4.23. The report says that the certificate is genuine. Hence accepted.

From the discussions above, it has been proved that, O/P Seje Bala Ghosh successfully establishes her relation with her Indian Parents and thereby discharged the statutory burden U/S. 9 of the Foreigners' Act. 1946, the fact that, she is not a foreigner, but an Indian Citizen.

Considering the above facts & circumstances stated above, I am of the opinion that, Smti. Seje Bala Ghosh, W/O-Lt. Amulya Chandra Ghosh, D/O- Lt.Digendra Ghosh of village-

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 4th day of November 2023.

Transcribed at my dictation
and corrected by me.

Memo No.BFT/08/07-23/ 254-A Dated 04/11/2023

Copy to:-

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

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

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Foreigners Tribunal No. 1,
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