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

BNGN/FT/2772/07

(REF P.E. CASE NO.70/07.

P R E S E N T

SHRI DULAL SAHA, MEMBER

FOREIGNERS' TRIBUNAL BONGAIGAON NO.1

STATE OF ASSAM

PETITIONER

-VRS-

MD. SHER ALI.

APPEARANCE

ADVOCATE FOR THE STATE- MR.DEBABRATA DAS

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

DATE OF EVIDENCE-25/10/22, 09/12/22 & 30/01/23

DATE OF ARGUMENT-16/03/23

DATE OF ORDER -05/04/2023


ORDER

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

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

The gist of the written statements as well as additional written statements of the O/P is that, he is an Indian Citizen by birth. O/P was born out of

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the wedlock of Jahadali Sheikh and Ahiman Khatun @ Ahiman Bewa around the year 1964 at village Kawadi, P.S. the then Bijni presently Manikpur. That, Ahiman Khatun @ Ahiman Bewa is the natural mother of the O/P and Jamila Khatun is/was the step mother. O/P were ten brothers and sisters. That, O/P's grandfather's name was Bahar Sheikh @ Bahar. That, the actual and correct name of the father of O/P was Jahad Ali Sheikh, due to clerical mistake his father's name has been recorded as 'Jhadali Sheikh' 'Jahad Ali Sheikh' 'Jahad Ali' 'Jahadali Sheikh'. The name of the father of the O/P appeared in the voter list of 1966, 1970 along with the step mother and mother in the village Kawadi No. 2 (Sonaikhola) under 41 Bijni L.A.C. That, the name of the father of O/P appeared in the voter list of 1979 Kawadi No. 2 (Sonaikhola) under 41 Bijni L.A.C. That, O/P got married in the year 1986 with Jamila Khatun @ Jamila Bibi of village Balarpur under Abhayapuri P.S. The name of O/P appeared in the voter list of 1989, 2020 at Kawadi No. 2 (Sonaikhola) under 41 Bijni L.A.C. That O/P also casted his vote along with his brothers namely Anar Ali and Rahij Ali in the year 2010 and 2015 under 41 Bijni L.A.C. The father of O/P along with his brother Md. Mofedali Sheikh and grandsons of Mafedali Sheikh was absolute owner and possessor of a plot of land measuring 1 B, 1 K, 19 L vide Dag No. 125, Patta No. 79. O/P obtained an Elector Photo Identity Card and a Ration Card. He also obtained a Panchayat Certificate issued by the Secretary of Alukhunda G.P. Kushlaiguri.


O/P submitted his evidence in chief in the form of an affidavit 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 Lt. Jahad Ali @ Jahadali Sheikh @ Jahad Ali Sheikh & who was citizen of India.

O/P exhibited the following documents:-

**Ext-A** is the NRC Details (under objection) in the name of Jahad Ali Sk son of Bahar.

**Ext-B** is the certified copy of 1966 voter list in respect of 41 No. Bijni L.A.C. Here O/P Jahadali Sheikh son of Lt. Bahar Sk, O/P's step mother Jamila Khatun wife of Jahad Ali and O/P's natural mother Ahiman Khatun wife of Jahadali have been recorded as voters.



**Ext-C** is the certified copy of 1970 voter list in respect of 41 No. Bijni L.A.C. Here O/P Jahad Ali Sheikh son of Lt. Bahat and O/P's natural mother Ahiman Khatun wife of Jahad have been recorded as voters.

**Ext-D** is the certified copy of 1979 voter list in respect of 33 No. Bijni L.A.C. Here O/P's father Jahad Ali son of Rahet has been recorded as a voter.

**Ext- E** is the certified copy of 1989 voter list in respect of 33 No. Bijni L.A.C. Here O/P's mother Ahemon Bewa wife of Jahadali, Hajaral Ali son of Jahadali and O/P Sher Ali son of Jahadali have been recorded as voters.

**Ext-F** is the certified copy of 2020 voter list in respect of 33 No. Bijni L.A.C. Here sole name Sher Ali has been recorded as a voter.

**Ext-G** is the copy of Jamabandi of village 2 No. Kawadi, Sonaikhola under Bijni Revenue Circle in the name of O/P's father Jahad Ali Sk along with his brother Md. Mofedali Sheikh and 6 others names have been recorded as pattders.

**Ext-H** is the computerized certified copy of 2010 Electoral Roll in respect of 33 No. Bijni L.A.C. Here Anar Ali son of Jahad Ali and Shaher Ali son of Jahad Ali have been recorded as voters.

**Ext-H(i)** is the computerized certified copy of 2010 Electoral Roll in respect of 33 No. Bijni L.A.C. Here Jomela Bibi wife of Sher Ali has been recorded as a voter.

**Ext-I** is the computerized certified copy of 2015 Electoral Roll under 33 No. Bijni L.A.C. Here Rahij Ali, Shasher Ali and Anar Ali sons of Jahad Ali have been recorded as voters.

**Ext-I(i)** is the another computerized certified copy of 2015 Electoral Roll under 33 No. Bijni L.A.C. Here Jamela Bibi wife of Sher Ali has been recorded as a voter.





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**Ext-J** is the Elector Photo Identity Card in the name of Saher Ali son of Jahad Ali.

**Ext-K** is the Ration Card in the name of Jamela Bibi wife of Sher Ali of village 2 No. Kawadi under Bongaigaon Dist.

**Ext-L** is the Panchayat Certificate issued by the Secretary of 11 No. Alukhunda Gaon Panchayat, Kushlaiguri vide dtd. 27/9/22 in favour of Saher Ali son of Jahad Ali of village No. 2 Kawadi under Bijni P.S. in the Dist. of Bongaigaon.

**Ext-M** is the computerized certified copy of 2022 Electoral Roll under 33 No. Bijni L.A.C. Here O/P Sher Ali along with his brother's names Anar Ali and Rahij Ali and four others names have been recorded.

**Ext-N** is the Elector Photo Identity Card in the name of Anar Ali son of Jahad Ali.

I have perused carefully all exhibited documents in this case. It is found that, **Ext-E** which is the voter list of 1989. Here O/P casted vote with Ahemon Bewa W/O- Jahadali, who is the mother of O/P. This document establishes the linkage of O/P with Ahemon Bewa. On the other hand **Ext-B** (voter list of 1966) establishes that Ahemon Bewa is the wife of Jahadali Sheikh .Hence it is proved that O/P is the son of Jahadali Sheikh & Ahemon Bewa. Again, **Ext-B** (voter list of 1966), establishes the existence of Jahadali Sheikh & Ahemon Bewa on the Indian Soil since 1966 & the O/P claims that said Jahadali Sheikh was his father. O/P being their son can't be treated foreigner of any stream.

Moreover, Food and Civil Supply Officer who was examined as D.W. 2, submitted documents in connection with the Ration Card vide **Ext-K(ii)**. Here the name of parents of the O/P recorded as Lt. Jahad Ali & Ahimon Bewa. This document corroborated the versions of O/P. Hence, from the above

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discussions, it can be easily said that O/P successfully discharged his statutory burden U/S 9 of the Foreigners Act, 1946, the fact that, he is not a foreigner but a citizen of India.

That apart, one Anar Ali examined as D.W. 3 who claimed to be the younger brother of present O/P. This witness corroborated the versions of O/P.

Accordingly, O/P Sher Ali son of Lt. Jahad Ali @ Jahadali Sheikh  
Dist. , Bongaigaon **is hereby declared not a 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 5th day of  
April, 2023.

Transcribed at my dictation  
and corrected by me.

Member,  
Foreigners Tribunal No.1,  
Bongaigaon.

Memo No.BFT/08/07-23/82 - A

Dated 05/04/2023

Copy to:-

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

Member,  
Foreigners Tribunal No.1,  
Bongaigaon.