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

(BNGN/FT CASE NO/1604/2009)

(REF IM(D)T CASE NO. 1273/2003)

P R E S E N T

SHRI DULAL SAHA, MEMBER

FOREIGNERS' TRIBUNAL BONGAIGAON NO.1

PETITIONER

STATE OF ASSAM

-VRS-

SUKUMAR BAISHYA.

APPEARANCE

ADVOCATE FOR THE STATE- MR.DEBABRATA DAS (A.G.P.).

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

DATE OF EVIDENCE-14-10-22,13-04-23,03-06-24 & 21-10-24.

DATE OF ARGUMENT-20-11-2024.

DATE OF ORDER -07-02-2025.

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 Sukumar Baishya, S/O- Lt. Sahadeb Baishya 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 born out of the wedlock of Sahadeb Baishya @ Sahadeb Chandra Baishya and Snehadata Baishya around the year 1963 at village Patkata No. 1, P.S. Manikpur in the Dist. of Bongaigaon (Assam) and brought up at same village. O/P's father expired around the year 1984-85 and mother expired in the year 2005. O/P's grandfather's name is/was Gokul Chandra Baishya @ Gokul Baishya. That there were four sons of Gokul Chandra Baishya @ Gokul Baishya -viz-Judhistir Baishya, Arjun Baishya, Sahadeb Baishya @ Sahadeb Chandra Baishya and Adhar Baishya. O/P were four brothers and sisters viz-Sukumar Baishya, Sri Kumar Baishya, Manindra Baishya and Raja Bala Baishya. O/P blessed with four sons and daughter-viz-Sanjit Baishya, Sima Baishya, Ruma Baishya and Devojit Baishya. That O/P has two wives viz-Renu Bala Baishya and Anjali Bala Baishya. Due to religious persecution the father of O/P migrated from the village Binnati, East Pakistan around the year 1952-53 to the present address at village Patkata, P.S. Manikpur Dist. Bongaigaon and obtained

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Certificate of Registration as Citizen of India. O/P's father's name appears in the voter lists of 1966 and 1971 respectively under 41 No. Bijni L.A.C. O/P's father's actual and correct name is/was Sahadeb Chandra Baishya. The father of O/P executed a Land Sale Deed before the Sub Registrar Bijni on 1-06-1970 of a plot of land vide dag No. 178 at village Patkata No. 1 under Bijni Revenue Circle. That O/P along with his brother Sri Kumar Baishya and Manindra Baishya is absolute owner and possessor of a plot of land vide Dag No. 101, Patta No. 43 situated at village Patkata No. 1 under Bijni Revenue Circle and above said land has mutated as per the Circle of the Circle Officer Bijni Revenue Circle vide order dated 7-7-1988. O/P casted his votes for the years 1997 and 2005 respectively along with his two wives Renu Bala Baishya and Anjali Bala Baishya under 33 No. Bijni L.A.C. He is a holder of a Link certificate. Hence O/P claims to be a citizen of India by birth & prayed to absolve him from the allegation leveled against him.

For the purpose of discharging burden as required U/S. 9 of the Foreigners' Act, 1946, to prove that, he is not a foreigner, as many as **10 (Ten)** documents exhibited by him. O/P also examined himself as D.W.1 & one Dalim Kr. Barman (LRA, Manikpur Rev. Circle) as D.W.2., Manindra Ch. Baishya as D.W.3. All witnesses are cross examined by the state.

Particulars of documents may be noticed as under:-

Ext- A is the Registration Certificate. This certificate contains the information that, Sahadeb Ch. Baishya came from vill. Binnati (Banglaesh) and settled at vill. Patkata, P.S. Bijni registered him as Indian Citizen dtd. 24/12/1956.

Ext-B is the certified copy of 1966 voter list at Village- Patkata No. 1 under 41 No. Bijni L.A.C. Here lone name Sahadeb Baishya son of Gokul has been recorded as a voter.

Ext- C is the voter Details (under objection) in the name of Sahadeb Baishya.

Ext-D is the Sale Deed vide dtd. 2-7-56 in the name of Sahadeb Chandra Baishya son of Gokul Ch. Baishya.

Ext-E is the copy of Jamabandi vide dtd. 29/04/91 contains the information that, a plot of land situated at vill. No. 2 Patkata. Here Sukumar Baishya, Sri Srikumar Baishya and Manindra Baishya son of Sahadeb Baishya along with others names have been recorded as pattadars.

Ext-F is the certified copy of voter list for the year 1997 at village No. 1 Patkata under 33 No. Bijni L.A.C. Here Sukumar Baishya son of Shahadev Baishya, Renu Bala Baishya wife of Sukumar Baishya and Anjali Bala Baishya wife of Sukumar Baishya have been recorded as voters.

Ext- G is the certified copy of voter list for the year 2005 at village No. 1 Patkata under 33 No. Bijni L.A.C. Here Sukumar Baishya son of Shahadev Baishya, Renu Bala Baishya wife of Sukumar Baishya and Anjali Bala Baishya wife of Sukumar Baishya have been recorded as voters.

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Baishya.

Ext -H is the Ration Card in the name of Anjali Baishya wife of Sukumar

Ext -I is the Link Certificate issued by the President of Palengbari Gaon Panchayat vide dtd. 17/01/23 in the name of Sri Sukumar Baishya son of Lt. Sahadeb Baishya.

Ext -J is the copy of Jamabandi contains the information that, a plot of land situated at vill. No. 1 Patkata bearing Dag No. 178 Patta No. 92 mutated in the name of Sri Sukumar Baishya, Sri Srikumar Baishya and Manindra Baishya in place of their deceased father namely Sahadeb Baishya vide order dtd. 7.11.88.

From the above, what is discernible is that, O/P is the son of Sahadeb Baishya & his father is a Citizen of India & O/P being the son of an Indian Citizen, he is also a Citizen of India. Now whether O/P could prove this fact in issues by adducing cogent & reliable evidence or not? Hence O/P is to prove following two issues :-

- (i) Whether Sahadeb Baishya is a Citizen of India, whom O/P claims to be his father? and
- (ii) Whether O/P Sukumar Baishya is the son of Sahadeb Baishya of village Patkata No. 1 ?

I take up the issue No. (ii) first, i.e. O/P Sukumar Baishya is the son of Sahadeb Baishya of village Patkata No. 1, because unless this fact in issue has been proved, it may not necessary to delve into an examination of the Citizenship status of Sahadeb Baishya, whom the O/P claims to be his father.

To prove the issue No. (ii), O/P relied Ext.-E(Jamabandi) ,Ext-H (Ration Card), Ext-J(Jamabandi) and Ext-F(voter list of 1997).

Ext- E & J-This Jamabandi contains the information that, a plot of land situated at vill. No. 1 Patkata bearing Dag No. 178 Patta No. 92 mutated in the name of Sri Sukumar Baishya, Sri Srikumar Baishya and Manindra Baishya in place of their deceased father namely Sahadeb Baishya vide order dtd. 7.11.88.

Ext-H- (Ration card) Ration Card was not proved & hence not accepted.

Ext.F- voter list of 1997 shows that, O/P Sukumar Baishya and wife Renu Bala Baishya casted their votes from the same house number 11.

From above, it has been proved that, O/P is the son of Sahadeb Baishya. Jamabandi is accepted as because it was dully proved by adducing the evidence of D.W. 2, who is the LRA of Manikpur Revenue Circle. In terms of evidence, he submitted original Chitha Register and Jamabandi Register.

Moreover, D.W. 3, Manindra Ch. Baishya come forward and adduced his evidence. In terms of his evidence, he claims to be the younger brother of O/P and corroborated each and every statements of O/P. Hence issue No. (ii) is decided in favour of O/P.

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To prove the issue No. (i) O/P submitted Ext-A -This Certificate of Registration under the provision of Section (5)(1) (a)(d) of the Citizenship Act, 1955 in the name of Sahadeb Chandra Baishya S/O Lt. Gokul Ch. Baishya. This certificate contains the information that, Sahadeb Ch. Baishya come from vill. Binnati (Banglaesh) and settled at vill. Patkata, P.S. Bijni registered him as Indian Citizen dtd. 24/12/1956.

Ext-B voter list of 1966 shows that Sahadeb Baishya son of Gokul aged 56 years vill. Patkata No. 1, P.S. Bijni recorded as a voter under 41 Bijni L.A.C.

Ext-D Original Sale Deed contains the information that a plot of land at vill. Patkata No. 1 registered in the name of Sahadeb Ch. Baishya including others dtd. 2/7/1956.

From the above, it has been proved that, the existence of Sahadeb Baishya on the Indian soil since 1956 and hence issue No. (i) is also decided in favour of the O/P.

Considering the above facts and circumstances stated above, it can be easily said that, O/P successfully discharged the statutory burden as incorporated U/S.9 of the Foreigners' Act.1946, the fact that, O/P is not a foreigner but Citizen of India.

Resultantly, I am of the opinion that, **Sukumar Baishya, S/O- Lt. Sahadeb Baishya** of village-Patkata No. 1, P.S.-Manikpur, Dist Bongaigaon, Assam is not a Foreigner.

Inform S.P. (B), Bongaigaon and District 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 7th day of February, 2025.

Transcribed at my dictation
and corrected by me.

Member,
Foreigners Tribunal, No. 1,
Bongaigaon.

Memo No.BFT/08/07-25/502 -A

Dated 07-02-2025

Copy to:-

1. The District Commissioner, Bongaigaon.

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

Member,
Foreigners Tribunal, No. 1,
Bongaigaon.