

GAHC010064502021



2024:GAU-

AS:13120-DB

**THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : Review.Pet./59/2021  
in  
WP(C) No. 7320/2017**

ON THE OF DEATH OF DULAL CHANDRA PAUL, HIS SON ASHOK PAUL  
R/O- VILL.-ALISINGA, P.S. DHEKIAJULI, DIST.- SONITPUR, ASSAM, PIN-  
784110.

VERSUS

THE UNION OF INDIA AND 3 ORS.  
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS, NEW DELHI-1.

2:THE STATE OF ASSAM  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
HOME DEPTT.  
DISPUR  
GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER  
SONITPUR  
DIST.- SONITPUR  
ASSAM  
PIN- 784001.

4:THE SUPERINTENDENT OF POLICE  
SONITPUR  
DIST.- SONITPUR  
ASSAM  
PIN- 784001

**Advocate for the Petitioner : MR. R P SARMAH, MS S P CHETRY,MR. P N SHARMA**

**Advocate for the Respondent : ASSTT.S.G.I., GA, ASSAM**

**BEFORE**

**HON'BLE MR. JUSTICE MANASH RANJAN PATHAK  
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

**ORDER**

**22-04-2024**

(M.R.Pathak, J)

Heard Mr. R. P. Sharma, learned Senior Counsel assisted by Mr. P. N. Sarma, learned counsel for the review petitioner. Also heard Mr. G. Sharma, learned Standing Counsel, Home Department, Assam for the respondent No.2 as well as Mr. P. Sharma, learned Additional Senior Government Advocate, Assam for the respondent No.3.

2. This review petition has been filed by one Ashok Paul, son of late Dulal Ch. Paul, resident of Village-Alisinga, Police Station-Dhekiajuli, District-Sonitpur (erstwhile Darrang District), Assam praying for review of the order dated 18.01.2019, by which a Coordinate Bench of this Court dismissed WP(C) No. 7320/2017 (Dulal Ch. Paul Vs. Union of India and 3 others) that was preferred by review petitioner's father, namely, Dulal Ch. Paul, son of late Rajendra Ch. Paul against the order dated 11.08.2017, passed by the learned Foreigners Tribunal No.9, Sonitpur at Dhekiajuli in F.T. (9) Case No. 223/2017 whereby, said Dulal Ch. Paul was declared to be a foreigner/illegal migrant of post 25.03.1971 who had illegally entered into India (Assam) without authority.

3. The Court earlier on 25.04.2022 in this proceeding observed that —*The question, therefore, which arises for consideration at this preliminary stage, is, whether a review petition can be preferred by the descendants of a person, who was declared to be a foreigner by a Foreigners Tribunal. Thereafter, we will proceed to examine the other issues involved in this writ petition.*

4. Brief facts of the case is that in a reference being made by the Superintendent of Police (Border), Sonitpur, Tezpur vide No. TZ(B)/2000/4640 expressing doubt about

the nationality of Dusal Ch. Paul, father of the review petitioner of village-Alisinga, Police Station-Dhekiajuli, District-Sonitpur seeking the opinion as to whether said Dusal Ch. Paul is an illegal migrant or not, a foreigners case being F.T.(9) Case No. 223/2017 was registered before the learned Foreigners Tribunal No.9, Sonitpur at Dhekiajuli. The said Dusal Ch. Paul submitted his written statement before the said Tribunal and also adduced evidence. The Tribunal after hearing the parties, considering the statements he made in his said written statement and the evidence adduced by him, by its Final Order dated 11.08.2017 passed in said F.T.(9) Case No. 223/2017 opined the petitioner to be a foreigner/illegal migrant of post 25.03.1971 who had illegally entered into India (Assam) without any authority.

5. Against the said final order dated 11.08.2017, passed by the learned Foreigners Tribunal No.9, Sonitpur at Dhekiajuli in said F.T.(9) Case No. 223/2017, the said Dusal Ch. Paul on 23.11.2017 filed the connected writ petition, being WP(C) No. 7320/2017.

6. A Coordinate Bench of this Court on perusal of the records of said F.T.(9) Case No. 223/2017 in original and on hearing the parties, by judgment and order dated 18.01.2019 dismissed the said WP(C) No. 7320/2017 with the observation that —

*This accordingly raises the preponderance of probability of entry of the petitioner from a specified territory to India (Assam) only in the year 1990 and not in the year 1965. The appreciation of the evidence by the Tribunal is proper and accordingly, we do not find any merit in the submission of Mr. Sundi, learned counsel for the petitioner and we accordingly dismissed this writ petition. No costs.*

*Send back the LCR.*

7. The review petitioner, son of Dusal Ch. Paul stated that his father Dusal Ch. Paul died in the Gauhati Medical College and Hospital on 13.10.2019 who was in jail since October, 2017 pursuant to the order dated 11.08.2017, passed by the learned Foreigners Tribunal No.9, Sonitpur, Dhekiajuli in said F.T.(9) Case No. 223/2017, on the alleged ground of being a foreigner.

8. Through his counsel a document dated 27.10.1987 in the office of the Superintendent of Police, Sonitpur, Tezpur with the reference as foreigner with regard

to one Rajendra Paul, son of late Ram Kumar Paul, resident of Village-Alisinga, P.S.-Dhekiajuli, District-Sonitpur, Assam as well as an order of the Foreigners Tribunal, Tezpur dated 19.02.1988 could be recovered where the grandfather of the said review petitioner i.e., father of late Dulal Ch. Paul, namely, Rajendra Paul was also found to be proceeded by Foreigners Tribunal, Sonitpur, Tezpur, as a foreign national, who entered into India during 1966 to 25.03.1971 on being referred by the SP(B), Sonitpur, Tezpur in October, 1987.

9. Review petitioner stated that in the said reference said Rajendra Paul was shown to have migrated to Assam vide Migration Certificate No. 147801 dated 23.01.1969.

10. Based on the reference so made by the SP(B), Sonitpur, Tezpur and also the Migration Certificate No. 147801 dated 23.01.1969, the review petitioner stated that the then Foreigners Tribunal, Tezpur by order dated 19.02.1988 opined that said Rajendra Paul was found to be a foreigner who came to Assam after 01.01.1966 and prior to 25.03.1971 and has been residing in Assam from the said period.

11. The review petitioner stated that for the said reason since Dulal Ch. Paul's father, namely Rajendra Paul was found to be a foreigner of the stream of 01.01.1966 to 25.03.1971 and if the impugned judgment dated 18.01.2019 passed in WP(C) No. 7320/2017 is not reviewed or recalled, late father of the review petitioner and other family members will suffer irreparable loss and injury, suffering ignominious life. Therefore, for the ends of justice the Court should review the order dated 18.01.2019, passed in said WP(C) No. 7320/2017 so that late Dulal Ch. Paul would get justice posthumously.

12. On perusal of the connected WP(C) No. 7320/2017, annexures appended thereto including the registered Sale Deed No. 2259 dated 10.09.1965 [Annexure-I of said WP(C) No. 7320/2017] as well as the Final Order dated 11.08.2017 of the learned Foreigners Tribunal No.9, Sonitpur at Dhekiajuli in F.T. (9) Case No. 223/2017, it can

be seen that the contention of said Dulal Ch. Paul, father of the petitioner before the Tribunal was that his father late Rajendra Ch. Paul, who was a son of Ramtanu Paul was a original resident of Village-Saliakanda District-Moimansingh of East Pakistan and that his father with the other family members came to Assam in the year 1965 and that his father Rajendra Ch. Paul, son of Ramtanu Paul with his two brothers purchased a plot of land at Village-Alisinga, P.S.-Dhekiajuli, District-Darrang (now Sonitpur), Assam in the year 1965 and that name of the father of the review petitioner appeared in the Voters Lists of 1993, 1997, 2005, 2009 and 2016 under 72 Borsola Legislative Assembly Constituency as 'D' voter.

13. Case of said Dulal Ch. Paul before the Tribunal as well as this High Court was that name of his father was Rajendra Ch. Paul and name of his grandfather was late Ramtanu Paul. Said father of Dulal Ch. Paul, Rajendra Ch. Paul along with his two brothers, namely, Harendra Ch. Paul and Manindra Ch. Paul, all three sons of late Ramtanu Paul purchased a plot of land at Village-Alisinga, P.S.-Dhekiajuli, District-Sonitpur, Assam by registered Sale Deed No.2259 dated 10.09.1965 before the Senior Sub Registrar at Tezpur.

14. Said Dulal Ch. Paul before the Tribunal also contended that his father entered Assam from East Pakistan before 1965 along with him when he was 18 years old. Excepting the said certified copy of Sale Deed dated 10.09.1965 said Dulal Ch. Paul could not place anything about is projected father Rajendra Ch. Paul, like no voter list upto 1971 or thereafter or any public record in India. Said Dulal Ch. Paul before the Tribunal also stated that his name and name of his father did not figure in any Citizenship Registration Certificate. As said Dulal Ch. Paul failed to place any relevant document of existence of his father Rajendra Ch. Paul son of Ramtanu Paul as well as that of said Dulal Ch. Paul since 1965 to 1993, the Tribunal by the Final Order dated 11.08.2017 passed in F.T. (9) Case No. 223/2017 opined him to be a foreigner of post 25.03.1971 stream that was upheld by the Coordinate Bench vide order dated 18.01.2019, passed in WP(C) No. 7320/2017.

15. But in this review petition, review petitioners case is that his grandfather, i.e., father of Dulal Ch. Paul, namely, Rajendra Ch. Paul son of Ram Kumar Paul (not Ramtanu Paul) stayed in India on the basis of Migration Certificate No. 147801 dated 23.01.1969 from Moimansing of East Pakistan, whereas, before the Tribunal the case of said Dulal Ch. Paul was that he along with his father came to India prior to 1965 and his father Rajendra Ch. Paul son of Ramtanu Paul along with his two brothers purchased land on 10.09.1965 at Village-Alisinga, P.S.-Dhekiajuli, District-Sonitpur.

16. Above facts indicate vast difference of the stand of said Dulal Ch. Paul before the Tribunal in said F.T. (9) Case No. 223/2017 and the High Court in said WP(C) No.7320/2017 and that of the review petitioner Ashok Paul in this review petition.

17. It is also seen that the review petitioner Ashok Paul did not file any petition seeking leave of the Court to file the present review petition being the legal heir of said Dulal Ch. Paul. Though in the body of the review petition, said review petitioner stated that said Dulal Ch. Paul had three sons and a daughter, namely, Asish, Ashok (present review petitioner) and Rohit and a daughter Pushparani, who expired. But said Asish and Rohit son of late Dulal Ch. Paul are not before the Court, nor they authorised the review petitioner Ashok Paul to swear the affidavit or to file this review petition on behalf of their late father Dulal Ch. Paul.

18. For the reasons above, we do not find any valid grounds for review of the order dated 18.01.2019, passed in said WP(C) No. 7320/2017.

19. Accordingly, this review petition being without any merit stands dismissed.

**JUDGE**

**JUDGE**

**Comparing Assistant**