

GAHC010049342019



2026:GAU-AS:156

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

Case No. : WP(C)/3081/2019

SANDHYA DEY AND 3 ORS.
D/O LT. SATYENDRA DEY, R/O VILL. HATIMARA, P.S BAITHALONGSO,
DIST.-KARBI ANGLONG, ASSAM, PIN-782450

2: SWAPAN DEY
S/O LT SATYENDRA DEY
R/O VILL. HATIMARA P.S. BATHALONGSO
DIST.-KARBI ANGLONG
ASSAM
PIN-782450

3: RAMU DEY
S/O LT SATYENDRA DEY
R/O VILL. HATIMARA P.S. BATHALONGSO
DIST.-KARBI ANGLONG
ASSAM
PIN-782450

4: SHYAMAL DEY
S/O LT SATYENDRA DEY
R/O VILL. HATIMARA P.S. BATHALONGSO
DIST.-KARBI ANGLONG
ASSAM
PIN-78245

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME
AFFAIRS, NEW DELHI-110001

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
DIPHU
DIST.-KARBI ANGLONG
ASSAM

4:THE SUPERINTENDENT OF POLICE (B)
KARBI ANGLONG
ASSAM

5:THE ELECTION COMMISSION OF INDIA
REP. BY THE CHIEF ELECTION COMMISSION OF INDIA
NIRVACHAN ASHOKA ROAD
NEW DELHI

6:THE NATIONAL REGISTER OF CITIZEN
REP. BY THE STATE COORDINATOR
ASYUT PLAZA
BHANGAGARH
GUWAHATI-781005
DIST.-KAMRUP (M)
ASSA

Advocate for the Petitioner : MS. P CHAKRABORTY, MS. R LAHKAR, MS. K KHAN, MS. A DAS

Advocate for the Respondent : ASSTT.S.G.I., SC, NRC, SC, ECI, SC, F.T

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

Date : 05-01-2026
(K.R. Surana, J)

None appears on call for the petitioners.

2. Heard Ms. A. Verma, learned Standing Counsel for the FT matters; Mr. J. Payeng, learned Standing Counsel for the NRC; Mr. P. Sarmah, learned

Additional Senior Government Advocate for the State respondent; Mr. A.K. Dutta, learned CGC and Mr. N. Kalita, learned counsel on behalf of Mr. A.I. Kalita, learned Standing Counsel for the Election Commission of India.

3. By filing this writ petition under Article 226 of the Constitution of India, the petitioners namely Smti Sandhya Dey, Sri Swapan Dey, Sri Ramu Dey and Sri Shyamal Dey, have assailed the *ex parte* opinion dated 15.07.1988 passed by the learned Member, Foreigners Tribunal, Karbi Anglong, Diphu, in F.T. Case No. 394/87 arising out of Reference Police Case No. 394/87. The learned Tribunal held that the notice was duly served upon the proceedees and as the proceeding was not contested, the proceedees were declared to be foreigners under Section 2(a) of the Foreigners Act, 1946 read with Section 3 to 6-A of the Indian Citizenship Act, 1955, holding that their migration was in between 01.01.1966 and 24.03.1971.

4. The learned Standing Counsel for the FT and Border matters has submitted that not only the proceeding against the petitioners was *ex parte*, but even before this Court the petitioners were absent on 19.07.2019 when the matter was previously listed and they are also absent on call today. It has also been submitted that vide the order dated 19.07.2017, it was made clear that if there was no representation on behalf of the petitioners on the next date fixed, the Court would consider the interim protection given to the petitioners which is by way of bail granted to the petitioners vide order dated 24.05.2019.

5. On perusal of the materials available on Tribunal records, it is noticed that the enquiry by the Enquiry Officer was directed against one Satyandra Ch. Dey,

son of Late Upendra Ch. Dey, whose names and particulars are entered at Sl. No. 1 and 2 of the interrogation report. Against Sl. No. 13 of the said interrogation report, the names of the other family members being Srimoti Kumudini Bala Dey (wife), Somiron Dey (son), Sapan Dey (son), Ramu Dey (son) and Saymal Dey (son), are mentioned. The endorsement by the Sub-Inspector (Border) is that the person came into India without any valid documents and so, he may be treated as foreigner of 1966-71. Accordingly, the Superintendent of Police, Karbi Anglong district, Diphu, referred the matter to the Foreigners Tribunal, Diphu, for opinion.

6. However, as per the Tribunal records, notices were issued to the proceedees which includes the petitioners and their father and the notice was duly served on the mother of the petitioners, which appears from back page of page-13 of the Tribunal records, which bears the signature of Kumudini Dey and notice was also served on Satyandra Ch. Dey, which appears from his signature appearing on the back page of the summons available at the back page of page-15 of the Tribunal records.

7. That apart, in the attendance sheet filed by Satyandra Dey before the Foreigners Tribunal, Diphu on 05.01.1988, the same also bears the signature of Satyandra Dey. Therefore, there is no doubt that the notice of the proceeding was duly served on Satyandra Dey. However, the reference appears to have been made only against Satyandra Dey and not against the present petitioners. From the materials available in the Tribunal's record, the learned Standing Counsel for the FT matters could not show reference made against the petitioners.

8. We have also noticed from the statements made in paragraph 7 of the writ petition that Satyandra Ch. Dey had died on 23.08.2008. However, as no death certificate has been brought on record, no comment is made by the Court as to whether the said person is alive or not.

9. In view of the above, as the enquiry was directed against Satyandra Ch. Dey, who is stated to have expired on 23.08.2008, the impugned *ex parte* opinion dated 15.07.1988 could only have been answered against the said proceedee and not against the present four petitioners.

10. Resultantly, in so far as the challenge to the impugned opinion dated 15.07.1988 is concerned, the Court is inclined to hold that the said opinion would only be enforceable against Satyandra Ch. Dey, father of the present petitioners and not against the present petitioners namely Smti Sandhya Dey, Sri Swapan Dey, Sri Ramu Dey and Sri Shyamal Dey.

11. However, the Court is further inclined to provide that this order shall not come in the way of Superintendent of Police (Border), Karbi Anglong, Diphu, to cause enquiry against the petitioners and to take appropriate steps, if so advised.

12. Writ petition stands answered accordingly.

13. The records of the Tribunal be sent back expeditiously.

14. The learned Standing Counsel for the Home and FT matters, shall transmit the downloaded copy of this order to the concerned authorities.

15. Writ petition stands partly allowed to the extent as indicated above.

JUDGE

JUDGE

Comparing Assistant