

GAHC010104902019



2026:GAU-AS:3852

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

Case No. : WP(C)/3126/2019

TAPAN NAG
S/O- LT. SURESH CH. NAG, R/O- VILL- DAGAON, P.O. AND P.S.
THELAMARA, DIST.- SONITPUR, ASSAM.

VERSUS

THE UNION OF INDIA AND 7 ORS.
REPRESENTED BY THE SECRETARY, HOME AFFAIRS, NEW DELHI, DELHI-01.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE ELECTION COMMISSION OF INDIA
NEW DELHI-01.

4:THE SPECIAL COUNSEL OF NRC
GOVT. OF ASSAM.

5:THE SPECIAL COUNSEL OF FOREIGNERS TRIBUNAL
GOVT. OF ASSAM.

6:THE SUPERINTENDENT OF POLICE
BORDER

SONITPUR
ASSAM. PIN- 784001.

7:OFFICER-IN-CHARGE
THELAMARA POLICE STATION
SONITPUR
ASSAM
PIN- 784001.

8:THE DEPUTY COMMISSIONER

DISTRICT- SONITPUR
ASSAM. PIN- 784001

Advocate for the Petitioner : MR. R C DAS, MR S C DAS,MR P BURAGOHAIN

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

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 16.03.2026
(K.R. Surana, J)

Heard Mr. S.C. Das, learned counsel for the petitioner. Also heard Mr. G. Pegu, learned CGC; Mr. N. Kalita, on behalf of Mr. A.I. Ali, learned standing counsel for the ECI; Mr. G. Sharma, learned standing counsel for the FT matters and NRC; and Mr. P. Sarmah, learned Additional Senior Govt. Advocate for respondent.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has assailed the impugned opinion dated 25.02.2019, passed by the learned Member, Foreigners' Tribunal No.8, Tezpur, in F.T. (8) Case No. 3639/18, arising out of Ref.TZP(B) F.T. Case No.03/18, by which the petitioner was declared as foreigner who had entered India (Assam) illegally after 25.03.1971 and is liable to deported.

3. In view of the nature of the order which is proposed to be passed, the pleadings and evidence on record have been not referred.

4. It would suffice to mention that on receipt of notice of the proceedings, the petitioner entered appearance before the learned Tribunal and apart from filing his written statement, also filed his evidence-on-affidavit and exhibited 10 (ten) documents, which are as follows:-

- i. Ext.A, School Certificate.
- ii. Ext.B, is the Certificate of Registration.
- iii. Ext.C, Periodic Khiraj Patta.
- iv. Ext.D, Voters list of 1989.
- v. Ext.E, Voters list of 1977
- vi. Ext.F, Voters list of 1989.
- vii. Ext.G, voter list of 1997.
- viii. Ext.H, Voters list of 1997.
- ix. Ext.I, Voters ID.
- x. Ext.K, Voters ID.

5. The petitioner had also examined his projected mother, Maloti Nag as DW-2 and Shyamal Nag, projected uncle of the petitioner as DW-3.

6. The document which was exhibited as Ext.D is a certificate of registration in the name of Suresh Ch. Nag, whose father's name is Late Mahim Ch. Nag, who was then aged 31 years, the place of birth being village-Saltia, P.S.-Gaffargaon, District- Mymensingh (East Pakistan) and his present address is village-Oubari, P.S.-Dhekiajuli, District-Darrang, Assam. The said Certificate of Registration (Ext.D) was issued under Section 5 (1) (a)/ (d) of the Citizenship Act, 1955. The said evidence was discarded by the learned Tribunal on the ground that at the top of the certificate, the column regarding the name of registering authority and place was shown blank. Accordingly, it was held that it was essential for the petitioner to prove the contents of Ext.D

with primary evidence. Accordingly, on the ground that Ext.D, being unproved, also suffered from great doubt towards its genuineness, thereby rendering the same unreliable.

7. In the considered opinion of the Court, the Certificate of Registration (Ext.D) would constitute primary proof of registration as it is certificate in original and given to the person who was registered as a citizen of India by registration, which is permissible under Section 5 (1) (a)/ (d) of the Citizenship Act, 1955. The absence of the name and place of the Registering Authority in the present case in hand, is not found to be fatal as the rubber stamp of the concerned office, i.e., Addl. Deputy Commissioner, Darrang, Mangaldai, with a round seal of the Office of the Deputy Commissioner, Darrang, though faded, is clearly visible. Accordingly, by an order dated 25.02.2026, the Court had requested the Additional Senior Govt. Advocate to obtain instructions and the Court had also directed the learned counsel for the petitioner to provide a photocopy of the said document as well as a hard and soft copy of the writ petition to him so as to enable the learned Additional Senior Govt. Advocate to obtain instructions.

8. Today, when the matter was called, the learned Additional Senior Govt. Advocate has produced a copy of written instructions under Memo No.MJ-22/4/2026-MAG-SON/191, dated 09.03.2026. It is deemed appropriate to quote the said letter to make it a part of the order.

*GOVERNMENT OF ASSAM
OFFICE OF THE DISTRICT MAGISTRATE:: SONITPUR:: TEZPUR
(MAGISTRACY BRANCH)*

NO. MJ-22/4/2026-MAG-SON/191,

Dated Tezpur the 9th March, 2026

To,

The Addl. Sr. Govt. Advocate, Assam

Gauhati High Court, Guwahati

Sub: Forwarding of letter in connection with W.P.(C) No. 3126/2019 (Tapan Nag-vs-The Union of India & Ors.)

Ref:Your.ASGA/PS/2026/2013-2014 dated 02.3.2026

Sir,

With reference to the subjected cited above, I have the hounour to inform you that, in connection with W.P.(C) NO. 3126/2019 (Tapan Naga-vs- The Union of India & Ors.), the matter has been examined in this office with regard to the Certificate of Registration issued under Section 5(1)(a)/(d) of the Citizenship Act, 1955.

Upon examination of records, it has been found that the Certificate of Registration bearing no. 80569 dated 05.08.1967 was issued from this office in the name of the following person:

Name: Shri Suresh Ch. Nag,

Name of Father: Late Mahim Ch. Nag

Place of Birth:Village Saltia, P.S. Gaffargaon, District Mymensing (E.P)

Age:31 years

Present Address: Village Oubari, P.S. Dhekiajuli, District Darrang, Assam

Occupation: Cultivation

This is four your kind information and necessary action.

Yours faithfully,

*Addl. District Magistrate,
Sonitpur, Tezpur*

Memo No.MJ-22/4/2026-MAG-SON/191-A Dated Tezpur the 9th March, 2026

Copy to:

The Dy. Superintendent of Police (B), Darrang, Mangaldai for information and necessary action.

Yours faithfully,

*Addl. District Magistrate,
Sonitpur, Tezpur*

9. In the further opinion of the Court, if a person has been duly

registered by invoking Section 5 (1) (a)/ (d) of the Citizenship Act, 1955, the person who is registered becomes a citizen of India by virtue of registration.

10. Therefore, as the petitioner has been able to demonstrate that his projected father, when alive, was registered as a citizen by virtue of Certificate of Registration bearing no. 80596, dated 05.08.1967 (Ext.D) which is found to be matching with the records available in the Office the Addl. District Magistrate, Sonitpur, Tezpur, the Court is of the considered opinion that the ground on which said Ext.D was rejected is not sustainable.

11. Accordingly, the impugned opinion is found vitiated due to error in appreciation of Ext.D.

12. Accordingly, the Court is inclined to pass the following orders:-

i. The impugned opinion dated 25.02.2019, passed by the learned Member, Foreigners' Tribunal No.8, Tezpur, in F.T. (8) Case No. 3639/18, arising out of Ref.TZP(B) F.T. Case No.03/18, is hereby set aside.

ii. The petitioner, namely, Tapan Nag, who is duly represented by his learned counsel, is directed to appear before the said learned Tribunal on or before 30.04.2026 and by producing a certified copy of the order, and the original certificate of registration (Ext.D) and await for further directions of the said learned Tribunal so as to re-hear the matter again.

iii. It is made clear that if the petitioner does not appear before the said learned Tribunal on the date fixed, the said learned

Tribunal shall have the liberty to treat the petitioner as absent on call and pass such order as may be deem fit and proper.

13. With directions as referred above the writ petition is partly allowed to the extent as indicated above.

14. The Registry shall send back the records expeditiously to the said learned Tribunal.

15. There shall be no order as to cost.

JUDGE

JUDGE

Comparing Assistant