

ITEM NO.301

COURT NO.1

SECTION PIL-W/X/XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(S). 274/2009

ASSAM PUBLIC WORKS

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(I.A.NO.125532/2018-APPROPRIATE ORDERS/DIRECTIONS
 IA NO.105327/2018-APPROPRIATE ORDERS/DIRECTIONS
 IA NO.86040/2018-CLARIFICATION/DIRECTION
 IA NO.86036/2018-CLARIFICATION/DIRECTION
 IA NO. 105666/2018-EXEMPTION FROM FILING O.T.
 IA NO.125538/2018- EXEMPTION FROM FILING O.T.
 IA NO. 10/2013-INTERVENTION APPLICATION
 IA NO. 121861/2018-INTERVENTION APPLICATION
 IA NO. 103961/2018-INTERVENTION APPLICATION
 IA NO. 125524/2018-INTERVENTION/IMPLEADMENT)

WITH

W.P.(C) NO. 562/2012 (X) (301.1)
 IA NO.1/2012-STAY APPLICATION
 IA NO.24/2017
 IA NO.25/2017
 IA NO.41036/2017-INTERVENTION/IMPLEADMENT APPLICATION
 IA NO.92739/2018-INTERVENTION APPLICATION

W.P.(C) NO.916/2014 (PIL-W) (301.2)
 IA 2/2015 FOR [PERMISSION TO FILE ANNEXURES]
 IA 3/2015 FOR EXEMPTION FROM FILING O.T. AND
 IA NO.119677/2017-IMPLEADING PARTY)
 IA NO.1/2014-STAY APPLICATION

W.P.(C) NO.876/2014 (X) (301.3)
 [IA NO.1/2014-STAY APPLICATION]

W.P.(C) NO.311/2015 (X)(301.4)
 (IA 2/2015
 IA NO.1/2015-SEEKING LEAVE TO FILE WRITTEN ARGUMENTS)

W.P.(C) NO.449/2015 (X) (301.5)
 (FOR ON IA 1/2015)

W.P.(C) NO.450/2015 (X) (301.6)
(IA 1/2015)

W.P.(C) NO.68/2016 (PIL-W) (301.7)
IA NO.1/2017-INTERVENTION APPLICATION

W.P.(C) NO.470/2018 (X) (301.8)
(FOR ADMISSION AND I.R. AND IA NO.69948/2018-EXEMPTION FROM FILING O.T.)

DIARY NO.20944/2018 (XIV) (301.9)
(FOR ADMISSION AND I.R. AND IA NO.80351/2018-CONDONATION OF DELAY IN FILING AND IA NO.80352/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA NO.80350/2018-PERMISSION TO FILE SLP/TP)

DIARY NO.21214/2018 (XIV) (301.10)
(IA NO.84178/2018-CONDONATION OF DELAY IN FILING)

DIARY NO.21368/2018 (XIV) (301.11)
(FOR ADMISSION AND I.R. AND IA NO.82085/2018-CONDONATION OF DELAY IN FILING AND IA NO.82087/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA NO.82088/2018-INTERVENTION/IMPLEADMENT AND IA NO.82084/2018-PERMISSION TO FILE SLP/TP AND IA NO.82086/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

DIARY NO.21377/2018 (XIV) (301.12)
(FOR ADMISSION AND I.R. AND IA NO.92415/2018-CONDONATION OF DELAY IN FILING AND IA NO.92417/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA NO.92411/2018-PERMISSION TO FILE SLP/TP AND IA NO.92419/2018-CONDONATION OF DELAY IN REFILING)

DIARY NO.21959/2018 (XIV) (301.13)
(FOR ADMISSION AND I.R. AND IA NO.82961/2018-CONDONATION OF DELAY IN FILING AND IA NO.82962/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA NO.82959/2018-PERMISSION TO FILE SLP/TP)

W.P.© NO.1047/2018 (X) (301.14)
(FOR ADMISSION and IA No.125802/2018-EXEMPTION FROM FILING O.T.)

Date : 01-11-2018 These matters were called on for hearing today.

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UPON hearing the counsel the Court made the following
O R D E R

We have heard the learned counsels for all the contesting stake holders. We have also heard Shri Prateek Hajela, learned State Coordinator, NRC, Assam, Shri K.K. Venuogopal, learned Attorney General for India and Shri Tushar Mehta, learned Solicitor General of India.

The issue for consideration for the day is whether the following five documents can/should be allowed to be introduced on behalf of the claimants for inclusion of

their claims in the NRC in the on-going process of filing of claims and objections to the final draft NRC published on 30th July, 2018.

- (i) Names in NRC, 1951;
- (ii) Names in Electoral Roll upto 24th March, 1971;
- (iii) Citizenship Certificate; and Refugee Registration Certificate;
- (iv) Certified copies of pre-1971 Electoral Roll, particularly, those issued from the State of Tripura; and
- (v) Ration Card

At the request of the Court Shri Hajela had submitted a report dated 4th October, 2018 wherein he has objected to the introduction of any one of the five documents, as stated above. We have considered the said objections.

Insofar as the documents listed at Serial Nos. (iii), (iv) and (v) are concerned, the primary thrust of the objections of Shri Hajela is that in the process of verification for inclusion of names in the draft NRC large number of forged documents belonging to the said three categories mentioned at serial Nos. (iii), (iv) and (v) above had been filed. The number of such forged documents has also been mentioned.

It is our considered view that the mere possibility of filing of forged documents or that such documents were filed in the earlier exercise cannot be a ground to exclude the same from the impending process of filing of claims and objections. Needless to say, all such documents must be subjected to a thorough process of verification and would be accepted only after due and complete satisfaction of the genuineness of the same.

So far as the other two documents i.e. (i) names in NRC, 1951; and (ii) names in Electoral Roll upto 24th March, 1971 are concerned, we find it convenient to reproduce herein below the precise objection of Shri Hajela:

"A. Multiple legacy data availability: Even if the Legacy Person is frozen, it is possible that misuse of the Legacy data may be done by some persons. This will happen by using unused LDCs of the same Legacy Person as multiple Legacy Data Codes are available for the same Legacy Person. Multiple Legacy Data Code availability means that one person's name appears in multiple pre 1971 records, for example, a person's name may appear in 1951 NRC and also in 1966 Electoral Rolls and also in 1971 Electoral roll. For each of these three appearances, the person will have a different Legacy Data Code. It may be argued that one way of handling this would be by calling again all the descendants of that Legacy Person who were called earlier during the Family Tree hearings held. By calling these persons, it might be possible

to identify impostors. However, the deponent humbly feels that even this may not be sufficient to prevent misuse at reading of legacy Codes can still happen. Further, it will not be possible for the NRC authorities to catch such impostors. This is clarified through the following examples :

a. Legacy Data of one Shri NILAKANTA BARMAN, S/o Gunaram. He has Legacy Data Codes (LDCs) of three years - 1951, 1966 and 1971. For example, an imposter used the LDC of 1966 (copy of the actual Electoral Roll of 1966 is at Annexure 1) with Legacy Data Code and got caught when the real descendants of NILAKANTA BARMAN refused to identify him during Family Tree Investigation hearings. This imposter can now use the 1951 LDC of NILAKANT BARMAN (copy of actual NRC 1951 is at Annexure 2) which has not been used by the real descendants. First problem in catching this mis-use will arise as the computer will not be able to identify the other users of this Legacy Data as the Legacy Data Code will change from 370-4015-3609 (1966 LDC) to 370-0007-4848 (1951 LDC). However, this problem can be overcome as those descendants can still be called by the NRC authorities as they were called for the said imposter's Family Tree Investigation hearing earlier. However, now it will be possible for the imposter to bribe the real descendants who can now say that NILAKANTA BARMAN of 1951 NRC is actually a different person. The NRC authorities will never be able to suspect because names of all the other family members and even neighbours displayed in 1951 NRC are different. This way without change in name of the Legacy Person, Legacy Data can be misused.

b. Legacy Data of one Shri RAMESH TALUKDAR, S/O Madhuram. He has two LDCs - one of 1951 NRC (300-0011-5405) and another of Electoral Roll of 1970 (300-3216-9400). LDC of 1951 NRC (copy of 1951 NRC is at

Annexure 3) is of Village No.132, District Tinsukia, while LDC of Electoral Roll of 1970 (copy of Electoral Roll is at Annexure 4) is for Village Hijuguri, District Tinsukia. In 1951 NRC, names of only the father and son appear, while in the 1970 Electoral Roll, names of only the son and his wife appear without father. If an impostor had earlier submitted LDC of 1970 showing his Legacy Person to be RAMESH TALUKDAR and got caught due to non-recognition as sibling by the real descendants, now he can use the other LDC of 1951 of RAMESH TALUKDAR. He may bribe the genuine descendants of RAMESH TALUKDAR who will now say that RAMESH TALUKDAR in 1951 NRC is actually a different person than RAMESH TALUKDAR of 1970 Electoral Roll. The NRC authorities will not be able to suspect as the names of other family members and neighbours shown with RAMESH TALUKDAR are different.

c. Legacy Data of one Shri DILIP BORA, S/o Bishnuram Bora of Jorhat appears twice - once in 1951 NRC (LDC - 330-0007-8376) and once in Electoral Roll of 1966 (LDC-330-4020-8899). Whereas in the 1951 NRC (copy of 1951 NRC is at Annexure 5) he appears along with his entire family located in Chengali Gaon of Jorhat district, but in 1966 Electoral Roll (copy of 1966 Electoral Roll is at Annexure 6), he appears alone in ward no 1, South Block, Jorhat district and as such even his neighbours are also different in both these images. It is learnt that whereas in 1951 NRC DILIP BORA was enumerated in his permanent residence located at chengali gaon, in the Electoral Roll of 1966 he was enumerated in his business establishment located in a market area of South Block of the same district. In this case if any impostor had used DILIP BORA as the Legacy Person by using his 1951 NRC (which was also used by the real descendants of Dilip Bora and therefore he had got caught), it will be possible now for that impostor to pick the unused 1966

Electoral Roll LDC of DILIP BORA. Even if the NRC authorities are to call the real descendants, it is possible that by taking bribe such real descendants might declare DILIP BORA of 1966 to be another person. The NRC authorities will also not be able to suspect as the names of other family members and neighbours shown with DILIP BORA in both the LDCs are different.”

We have taken note of the said objections and the response thereto filed by all the stake holders, particularly, the State of Assam and the Union of India.

The State of Assam has sought to answer the above objections by stating that the apprehensions expressed by Shri Hajela, as extracted above, can be taken care of by adopting different means including:

“the applicants to declare/disclose all the LDCs (LDC series) of their claimed Legacy Person. The SCNR in his report has himself stated that the LDCs of their Legacy Person would be known to the genuine Family Members.”

Insofar as the Union of India is concerned, while expressing an opinion similar to that of the State of Assam, the Union of India has also drawn the attention of the Court to a communication dated 24th April, 2018 written by Shri Hajela himself to the Registrar General wherein he had suggested adoption of a vigorous process of verification consisting of two layers.

Having considered the matter we are of the view that objection of Shri Hajela to the five (05) documents in question and specifically with regard to the documents listed at Serial Nos. (i) and (ii) i.e. names in NRC, 1951; and names in Electoral Roll upto 24th March, 1971 is based entirely on a possibility of abuse which, however, strong, cannot be an acceptable reason in law to exclude the documents from consideration. It would, undoubtedly, be the duty and obligation of Shri Hajela to ensure a thorough verification of the claims that would now be made for which purpose we would be suitably framing the time schedule for consideration of the claims that may be filed.

In this regard, we permit Shri Hajela to undertake through his team a vigorous process of verification and have additional layers of such verification to ensure that only and only eligible persons are included in the final NRC.

Our above view would now require us to re-frame the schedule and to approve the Standard Operating Procedure (S.O.P.) filed along with the affidavit of the Deputy Secretary to the Government of India, Ministry of Home Affairs dated 13th August, 2018 as modified on 17th

September, 2018 which we hereby do. The time schedule for filing of claims and objections and consideration thereof would now be as follows:

1.	Last date of filing of Claims	:	15 th December, 2018
2.	The time for issuing notice after digitization and completion of all formalities and requirements	:	15 th January, 2019
3.	Commencement of the verification process	:	1 st February, 2019

Further details of the time schedule including the time for completion of verification/enquiry of the claims which will now be allowed will follow at the appropriate time.

We request Shri Hajela to file a report to this Court after the last date fixed for filing of claims/objections i.e. 15th December, 2018 whereafter further orders, if required, will follow.

There is another matter i.e. with regard to the documents filed by persons belonging to the States other than the State of Assam for inclusion of the names in the NRC which we may conveniently deal at this stage. Such documents including the certificates may be accepted

subject to back-end verification and on satisfaction of authenticity of such certificates.

[VINOD LAKHINA]
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