



CNR No: SKHC010001862025

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extra Ordinary Jurisdiction)

**SINGLE BENCH: THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE,
CHIEF JUSTICE**

WP (C) No. 67 of 2025

Shri Kishan Kumar Bhujel,
Aged about 55 years,
S/o Lt. Padam Bahadur Bhujel,
R/o Behind Mist Tree Mountain Hotel,
Diesel Power House (D.P.H.) Area,
Gangtok, Sikkim-737101.

... Petitioner

Versus

- 1. Union of India,**
Represented by and through
The Secretary,
Ministry of Home Affairs,
Government of India,
2nd Floor, Major Dhyan Chand National Stadium,
India Gate, New Delhi-110002
- 2. Home Department,**
Represented by and through
The Secretary,
Government of Sikkim,
Tashiling Secretariat,
P.O. Tashiling Secretariat,
Gangtok, Sikkim-737103.
- 3. State of Sikkim,**
Represented by and through
The Chief Secretary,
Government of Sikkim,
Tashiling Secretariat,
P.O. Tashiling Secretariat,
Gangtok, Sikkim-737103.
- 4. District Collector,**
Gangtok District,
District Administrative Centre,
Sichey, Gangtok, Sikkim,
737101.

... Respondents



Appearance:

Ms. Neha Gupta, Advocate for the Petitioner.

Ms. Sangita Pradhan, Deputy Solicitor General of India with Mr. Amit Kumar Sharma, Advocate for Respondent No. 1.

Mr. Aaroahi Bhalla, Additional Advocate General with Mr. Thinlay Dorjee Bhutia, Government Advocate for Respondent Nos. 2 to 4.

Judgment Reserved on : 23.06.2026
Judgment Pronounced on : 10.07.2026
Judgment uploaded on : 10.07.2026

J U D G M E N T

(A. Muhamed Mustaque, C.J.)

This Writ Petition was filed by the descendant of Lt. Padam Bahadur Bhujel. The matter relates to the rejection of a Citizenship Certificate under the provisions of the Sikkim Citizenship (Amendment) Order 1989 and inclusion of their names in the Sikkim Subject Register.

2. The question considered by the competent authority was whether Lt. Padam Bahadur Bhujel was entitled to be treated as a Sikkim Subject as defined under the Sikkim Subjects Regulation, 1961. The scope of the inquiry was confined to the eligibility of Lt. Padam Bahadur Bhujel to be treated as a Sikkim Subject under the said Regulation.

3. The Sikkim Subjects Regulation, 1961, was promulgated in the erstwhile Kingdom of Sikkim by the Chogyal of Sikkim in the year 1961. Thereafter, Sikkim became a part of India in the year 1975.

4. The object of the Regulation was to confer the status of a Sikkim Subject upon certain classes of persons domiciled in the territory of Sikkim immediately before the commencement of the Regulation. There were two primary classes of persons who were eligible to be classified as Sikkim Subjects, as provided under Regulation 3 of 1961. The first



category comprised persons born in the territory of Sikkim and residing therein. The second category comprised persons domiciled in Sikkim who had resided there continuously for not less than fifteen years immediately preceding the commencement of the Regulation. There is no doubt that persons claiming through a lawful marital relationship or a descendants of persons falling within either of these categories, would also become eligible to be classified as Sikkim Subjects.

5. The Rules framed under the Regulation prescribed the procedure for making an application for naturalisation as a Sikkim Subject. Under Regulation 8 of the Sikkim Subjects Regulation, 1961 a person who was a citizen of another country and sought naturalisation as a Sikkim Subject was required to take an oath of allegiance and renounce his or her former nationality. The Rules also mandates the maintenance of the Sikkim Subject Register. A prescribed application form is also provided under the Rules for seeking a Certificate of Naturalisation as a Sikkim Subject.

6. The Petitioner's predecessor, Lt. Padam Bahadur Bhujel passed away in the year 2016, he never submitted an application for naturalisation as a Sikkim Subject. The Petitioner traced his claim to the rights to make such an application as a natural descendant of a person who was allegedly eligible to apply by virtue of the Sikkim (Citizenship) Order, 1975. This Order was issued by the Government of India, Ministry of Home Affairs. The Order provided that every person who immediately before 26.04.1975 was a Sikkim Subject under the Sikkim Subjects Regulation, 1961, shall be deemed to have become a citizen of India on that day. The Regulation of 1961 was also repealed with effect from 26.04.1975.



7. The issue in this case will have a far reaching effect on the rights of the descendants to claim for inclusion of their predecessor in the Register of Sikkim Subject.

8. It appears that representations were submitted before the Union Government and the State Government pointing out that several persons, though otherwise eligible to be entered in the Sikkim Subject Register under the Sikkim Subjects Regulation, 1961, had been omitted. Taking note of such representations, the Ministry of Home Affairs, Government of India issued the Sikkim (Citizenship) Amendment Order, 1989. The said Order amended the Sikkim Citizenship Order, 1975. Under the Amendment Order 1989, any person who was eligible to be entered in the Sikkim Subject Register maintained under the Regulation of 1961 but whose name was not entered due to a genuine omission would be deemed to have become a citizen of India on that day, provided such eligibility was so determined by the Union Government.

9. The Government of India also issued an Order constituting a Committee to invite applications in accordance with the provisions of the Sikkim (Citizenship) Amendment Order, 1989. The Annexure of the Order contains guidelines specifying the categories of persons entitled to submit such applications. It is therefore appropriate to refer to the guidelines contained in the Amended order:

- a. Natural descendants of a person whose names is in the Sikkim Subject Register.*
- b. Person having recorded ownership or tenancy rights on agricultural land or of rural property within Sikkim before 26th April, 1975, and his natural descendants.*



- c. *Persons whose name is included in the earliest available voters-list prior to 26th April, 1975, and his natural descendants.*
- d. *Person holding a regular government job before 26th April, 1975, provided that the appointment has not been made under the 'exception' clause pertaining to non-subjects; and his natural descendants.*
- e. *Holder of a trade license outside notified bazar areas prior to 26th April, 1975 and his natural descendants.*
- f. *He must not have entered the territory of Sikkim on the basis of work-permit.*
- g. *He must not have acquired the citizenship of any other country.*
- h. *He must not be holding the status of refugee on the basis of a registration certificate issued by the competent authority.*

(The criteria laid down from (a) to (e) singly or collectively are by themselves not to be taken as conclusive evidence for granting citizenship, but would have to be scrutinised in the light of those at (f), (g) & (h).

10. As per the above Amendment Order and the guidelines, distinct class of applicants were identified as being entitled to submit applications. This meant that apart from those who were eligible to apply at the time of the promulgation of the Sikkim Subjects Regulation, 1961, certain additional classes of applicants, as specified therein, were also entitled to submit applications subject to fulfilling the conditions prescribed under the Regulation of 1961 for inclusion in the Sikkim Subject Register. Applicants who themselves were not eligible to apply under the Regulation of 1961 at the relevant time were required to



establish that their predecessors had been eligible under the Regulation. The eligibility of the predecessor had necessarily to be determined with reference to the Regulation of 1961, although the class of persons entitled to submit applications under 1989 Amendment Order had been enlarged on the basis of their relationship with such eligible persons.

11. The Petitioner herein submitted application which was rejected by the competent authority after framing the following two issues:

- i. *Where did Shri Padam Bahadur Bhujel lived prior to his entry to Sikkim?*
- ii. *Had he renounced his previous nationality before applying for becoming a Sikkimese subject?*

12. While answering the issues framed, the Union Government found that there was evidence to establish that, prior to permanently residing in Sikkim, Lt. Padam Bahadur Bhujel had been residing in Kalimpong, Darjeeling District, West Bengal before 1952. More importantly, there was no evidence to establish that he had renounced his former nationality, as required under Regulation 8 of 1961.

13. There is substantial evidence before this Court in the present Writ Petition to establish that Lt. Padam Bahadur Bhujel was eligible to apply for naturalisation as a Sikkim Subject. However, the renunciation of his former nationality was a matter of personal choice available exclusively to Lt. Padam Bahadur Bhujel to become eligible to be included in the Register as a Sikkim Subject. He did not exercise that option. Had he exercised that option at the relevant time, his descendants claiming through him, could have relied upon his eligibility to seek inclusion in the Register. However, in the absence of such renunciation, they are not entitled to claim inclusion in the Register merely on the basis that their predecessor was otherwise eligible to apply.



14. The Petitioner's predecessor if had been proved to have been born in Sikkim, no doubt, the issue would have stood on a different footing. However, nobody has a case that Lt. Padam Bahadur Bhujel was born in Sikkim. That being the position, the claim rested solely on the ground of domicile. Although he was otherwise eligible to apply for naturalisation, he failed to renounce his former nationality, as mandatorily required under the Regulation. Accordingly, the descendants cannot claim naturalisation or seek inclusion in the Sikkim Subject Register on the strength of his unexercised eligibility alone.

15. The Sikkim (Citizenship) Order, 1975 and the Sikkim (Citizenship) Amendment Order, 1989 did not create any new substantive rights. Rather, they reaffirmed and gave effect to the rights available under the Regulation of 1961. The scope of the 1989 Amendment Order was merely to enlarge the category of persons who could submit applications after the repeal of the Regulation, so as to rectify genuine omissions from the Register arising during the period between the years 1961 to 1975. The said Amendment Order did not dispense with or dilute, the substantive condition prescribed under the Sikkim Subject Regulation 1961, including the requirement of renunciation of former nationality wherever applicable.

16. Therefore, in the light of the fact that there is absolutely no evidence to establish that Lt. Padam Bahadur Bhujel had renounced his former nationality or that he was born in Sikkim, the Petitioner being his descendant is not entitled to seek inclusion in the Sikkim Subject Register without first establishing that his predecessor had fulfilled the mandatory conditions prescribed that is renouncing the former nationality.



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17. Accordingly, this Court finds no scope for interference in the impugned orders, letters challenged by the Petitioner.

18. Therefore, ***Writ Petition No. 67 of 2025*** being devoid of merit, accordingly fails and is dismissed.

Chief Justice

Approved for Reporting : Yes/~~No~~
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