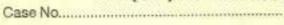




Serial No.	Date	Order (s) with Signature (s)
1	2	3
		BEFORE
		HON'BLE THE CHIEF JUSTICE MR. JUSTICE BARIN GHOSH
		MR. JOSTACE BARAN GITOSII
14.	06.07.2010	Present : Mr. S. K. Sarraf, Advocate for the petitioners.
		Mr. J. B. Pradhan, Public Prosecutor with Mr. Karma Thinlay Namgyal, Addl. Public Prosecutor and Mr. Santosh Kr. Chettri, Assistant Public Prosecutor for the respondent.

		The subject matter of the present writ petition is the
		cancellation of the certificates of identification of the
		petitioners, which have been affected by an order dated 7th
		March, 2008, passed by the Additional District Collector, East
		at Gangtok, Sikkim.
		2. It appears that on 17th September, 2004, a first
		information report, registered as case no.RC-8/2004, was
		registered with the Sikkim Vigilance Police Force S.V.P.S.
15		Branch, where it was alleged that the petitioners obtained
		certificates of identification bearing serial nos. 2927/DC/E
		and 2928/DC/E both dated 27th April, 1989, fraudulently
		from East District Collectorate, Gangtok, claiming to be sons
		of one Shri Man Bahadur Gurung alias Kam Singh Gurung,
		who in fact is the maternal grand father of the petitioners. It
		was alleged in the said first information report that the
		petitioners have thus committed offences punishable under
		various provisions of the Indian Penal Code. The said first
		information report was investigated upon, whereupon the
		investigating officer filed final report dated 18th May, 2006
		under Section 173 of the Criminal Procedure Code. The said
		final report was filed in the Court of the Chief Judicial
	2	Magistrate, East and North Sikkim at Gangtok. In the said
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Serial No.	Date	Order (s) with Signature (s)
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		final report it was stated that the father of the petitioners is one Shri Chandra Bahadur Gurung of Glenburn Tea Estate District Darjeeling, West Bengal, and that Late Man Bahadur Gurung is the maternal grandfather of the petitioners, and as such, the petitioners were not entitled to certificates of identification. It was also stated that in course of investigation it was found that at the time of obtaining the certificates of identification, both the accused persons were minors. It was stated that there is no proof against any other person who helped the petitioners to obtain the certificates of identification in their names due to absence of the process sheet and other documents, i.e., forms verification reports, which could not be traced in the office of the District Collector, East. The final report was submitted for closure of the case. The said final report was accepted by the Chief Judicial Magistrate, East and North at Gangtol in Vigilance Case No.RC-8/2004 and, accordingly, the criminal case registered as Vigilance Case No.RC-8/2004 stood concluded.
	Δ.	3. Subsequently, referring to Vigilance Case No.RC 8/2004, show cause notices were issued calling upon the petitioners as to why certificates of identification issued in their favour should not be cancelled. The petitioner responded to the show causes whereupon their certificates of identification have been cancelled by the order referred to above impugned in the present writ petition. Subsequent thereto, again a show cause has been issued by the employers of the petitioners calling upon them to show cause as to why their services should not be cancelled for the obtained services on the strength of the cancelled certificates of identification.





4. The Vigilance Case No.RC-8/2004 stood closed on September, 2006 when the Chief Judicial Magistrate, E and North at Gangtok accepted the final report, making prayer for closure of the said case. It was unjust a improper to refer to the said Vigilance Case No.RC-8/2004 any subsequent correspondence the authorities had with petitioners. In the show cause notices referred to above well as in the impugned order, Vigilance Case No.RC-8/2004 has not only been referred but the manner in which is same has been referred, suggests that the same might had influenced in issuance of the show causes as well as maked of the impugned order. This should never have had been done, in as much as, before the show causes were issued and the impugned order was passed, the said Vigilance Castood completely closed for all practical purposes. 5. In the circumstances, this writ petition is disposed by declaring that the Vigilance Case No.RC-8/2004 stock closed on 4 th September, 2006 and also by quashing the show cause notices referred to above, as well as the order the Additional District Collector, East at Gangtok, Sikk dated 7 th March, 2008, along with the show cause issued the employers referred to above. This order will not hower prevent the District Collector, East or any other person
September, 2006 when the Chief Judicial Magistrate, E and North at Gangtok accepted the final report, making prayer for closure of the said case. It was unjust a improper to refer to the said Vigilance Case No.RC-8/2004 any subsequent correspondence the authorities had with petitioners. In the show cause notices referred to above well as in the impugned order, Vigilance Case No.RC-8/2004 has not only been referred but the manner in which is same has been referred, suggests that the same might had influenced in issuance of the show causes as well as make of the impugned order. This should never have had been done, in as much as, before the show causes were issued and the impugned order was passed, the said Vigilance Case stood completely closed for all practical purposes. 5. In the circumstances, this writ petition is disposed by declaring that the Vigilance Case No.RC-8/2004 stocked on 4th September, 2006 and also by quashing the show cause notices referred to above, as well as the order the Additional District Collector, East at Gangtok, Sikk dated 7th March, 2008, along with the show cause issued the employers referred to above. This order will not hower
entitled to interfere with the subject certificates identification to take such steps as he or they may advised in relation to the said certificates of identificat after giving appropriate prior notice to the petitioners a after giving them appropriate opportunity of hearing. Of thereupon if it is thought fit, the employers may take suffer steps as they may be advised.