

**IN THE SUPREME COURT OF INDIA
WRIT JURISDICTION
WRIT PETITION (C) NO. 1481 OF 2019
& OTHER CONNECTED MATTERS**

IN THE MATTER OF :

ALL ASSAM STUDENTS UNION ... PETITIONER

VS.

UNION OF INDIA ... RESPONDENT

INDEX

Sr.	Particulars	Page
1.	Counter Affidavit	1-64
2.	Annexure R – 1 A copy of the Ministry of Home Affairs Affidavit dated 10/04/2015	65-112
3.	Annexure R -2 A copy additional affidavit dated 03/11/2015 filed by the Ministry of Home Affairs	113-120
4.	Annexure R -3 A copy of the affidavit in W.P.(C) No. 562 of 2012 – Assam Sanmilita Mahasangha & Ors. vs. Union of India & Ors and other connected WPs, this Hon’ble Court has framed 13 questions for reference to a Constitution Bench.	121-144
5.	Annexure R –4 A copy of the MHA’s Notification S.O.no. 590 [F.No.4/3/56-(I)F.I] dated 19th April, 1958 and a copy of the Notification S.O.no. 591 [F.No.4/3/56-(I)F.I] dated 19th April, 1958	145
6.	Annexure R - 5. A copy of the notification dated 20.03.1950	146-147
7.	Annexure R-6 A copy of the Immigrants (Expulsion From Assam) Act, 1950	148-149

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**PRELIMINARY COUNTER AFFIDAVIT ON BEHALF OF
THE UNION OF INDIA**

I, Sumant Singh S/o Shri Harinam Singh, aged 47 years presently working as Joint Secretary in the Ministry of Home Affairs, Government of India, do hereby solemnly affirm and state as follows:

1. That in my official capacity I am acquainted with the facts of these cases, I have perused the record and am competent and authorized to swear this affidavit on behalf of the Union of India.
2. I state and submit that large number of petitions has been filed pertaining to direct or indirect challenge to the Citizenship [Amendment] Act, 2019. The Central Government is served with only some of the petitions as on date and remaining petitions are yet to be served, perused and examined.
3. I state and submit that I am filing this preliminary affidavit in reply as is necessary for the purpose of opposing, entertaining and grant

of any interim order. Considering that all petitions filed are yet to be served/perused and due to the paucity of time, it was not possible to file a detailed reply at this juncture dealing with every contention raised in the petitions served so far and dealing with all the petitions parawise. I reserve liberty to file a further and a detailed affidavit hereinafter as and when I am so advised.

4. I state and submit that the present affidavit is being filed in furtherance of the Preliminary Counter Affidavit filed in the W.P. (C) 1470 of 2019 titled ***Indian Union of Muslim League vs. Union of India*** and the averment and the assertions therein must be read as a part and parcel of this Affidavit. The present affidavit will specifically tackle the issues arising out the petitions filed with respect to the Assam and other areas of the North Eastern part of the country.
5. I hereby deny and dispute all the facts stated, contentions raised and grounds urged in all the petitions except those which are specifically and unequivocally admitted in this reply. I state and submit that the non-dealing with the petitions parawise may not be considered as my having admitted the truthfulness or otherwise of any of the contents thereof.

PRELIMINARY SUBMISSIONS

6. At the outset, it is submitted that the Parliament is competent to make laws for the whole or any part of the territory of India as provided in Article 245 (1) of The Constitution of India.

"Citizenship" is a part of the entry number 17 in List-I (Union List) under the Seventh Schedule of the Constitution and under Article 246(1) read with Article 11 of the Constitution of India, the

Parliament has the legislative competence to frame citizenship laws for the country. Therefore, Citizenship Amendment Act, 2019 [hereinafter referred to as the “CAA”] has been enacted by a competent legislature. Further, Article 5 of the Constitution made every person domiciled in India on 26th January, 1950 a citizen provided such person was either born in India or either of whose parents was born in India or he had been ordinarily resident in India for not less than five years preceding 26th January, 1950.

Further, Article 6 of the Constitution deems all migrants in India from Pakistan (including present day Bangladesh) as citizens of India if such persons or their parents or grandparents were born in undivided India (as per provisions of the 1935 Act) or such persons had migrated into India before 19th July, 1948. If such persons had migrated after this date and got registered before a competent officer and had been resident in India for at least six months before the date of registration, then such persons were also deemed to be Indian citizens. It is obvious that the Article 6 deemed a special class of migrants post-partition [which clearly took place on religious lines and resulted in large scale migration on religious lines] as citizens of India due to their very special circumstances.

7. It is submitted that CAA is a benign piece of legislation which seeks to provide a relaxation, in the nature of an amnesty, to specific communities from the specified countries with a clear cut-off date. It is submitted that the CAA is a specific amendment which seeks to tackle a specific problem prevalent in the specified countries i.e. persecution on the ground of religion in light of the undisputable theocratic constitutional position in the specified

countries, the systematic functioning of such States and the perception of fear that may be prevalent amongst minorities as per the de facto situation in the said countries. The Parliament, after taking cognizance of the said issues over the course of the past seven decades and having taken into consideration the acknowledged class of minorities in three specific countries, has enacted the present amendment.

8. It is submitted that from the facts mentioned in the list of dates in the Preliminary Counter Affidavit filed in W.P.(C) 1470 of 2019 titled *Indian Union Muslim League v. Union of India*, it becomes clear that the treatment to be given to the classified communities in the particular neighbouring countries has been attracting the attention of successive governments but no government took any legislative measure and merely acknowledged the problem and took some administrative action through executive instructions regarding entry, stay & citizenship issues of these classified communities.

9. It is submitted that the CAA does not seek to recognize or seek to provide answers to all or any kind of purported persecution that may be taking place across the world or that may have taken place previously anywhere in the world. It is submitted that in that regard, the CAA is a narrowly tailored legislation seeking to address the specific problem which awaited India's attention for a solution since several decades as elaborated hereinabove.

It is respectfully submitted that the constitutionality of such a legislative measure ought to be tested within that legislative domain and cannot be conflated to extend beyond that object and the reasons behind the Parliamentary cognizance of the issue by

which the competent Legislature has, in its wisdom, devised a legislative policy to deal with the acknowledged problem of persecution of the particular communities in the specified countries who are, by their very Constitutions, theocratic countries. The statement of objects and reasons appended to the CAA is reproduced as under :

“The Citizenship Act, 1955 (57 of 1955) was enacted to provide for the acquisition and determination of Indian citizenship.

2. It is a historical fact that trans-border migration of population has been happening continuously between the territories of India and the areas presently comprised in Pakistan, Afghanistan and Bangladesh. Millions of citizens of undivided India belonging to various faiths were staying in the said areas of Pakistan and Bangladesh when India was partitioned in 1947. The constitutions of Pakistan, Afghanistan and Bangladesh provide for a specific state religion. As a result, many persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities have faced persecution on grounds of religion in those countries. Some of them also have fears about such persecution in their day-to-day life where right to practice, profess and propagate their religion has been obstructed and restricted. Many such persons have fled to India to seek shelter and continued to stay in India even if their travel documents have expired or they have incomplete or no documents.

3. Under the existing provisions of the Act, migrants from Hindu, Sikh, Buddhist, Jain, Parsi or Christian communities from Afghanistan, Pakistan or Bangladesh who entered into India without valid travel documents or if the validity of their documents has expired are regarded as illegal migrants and ineligible to apply for Indian citizenship under section 5 or section 6 of the Act.

4. The Central Government exempted the said migrants from the adverse penal consequences of the Passport (Entry into India) Act, 1920 and the Foreigners Act, 1946 and rules or orders made thereunder vide notifications, dated 07.09.2015 and dated 18.07.2016. Subsequently, the Central Government also made them eligible for long term visa to stay in India, vide, orders dated 08.01.2016 and 14.09.2016. **Now, it is proposed to make the said migrants eligible for Indian Citizenship.**

5. The illegal migrants who have entered into India up to the cut of date of 31.12.2014 need a special regime to govern their citizenship matters. For this purpose the Central Government or an authority specified by it, shall grant the certificate of registration or certificate of naturalisation subject to such conditions, restrictions and manner as may be prescribed. Since many of them have entered into India long back, they may be given the citizenship of India from the date of their entry in India if they fulfil conditions for Indian citizenship specified in section 5 or the qualifications for the naturalisation under the provisions of the Third Schedule to the Act.

6. The Bill further seeks to grant immunity to the migrants of the aforesaid Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities so that any proceedings against them in respect of their status of migration or citizenship does not bar them from applying for Indian citizenship. The competent authority, to be prescribed under the Act, shall not take into account any proceedings initiated against such persons regarding their status as illegal migrant or their citizenship matter while considering their application under section 5 or section 6 of the Act, if they fulfil all the conditions for grant of citizenship.

7. Many persons of Indian origin including persons belonging to the said minority communities from the aforesaid countries have been applying for citizenship under section 5 of the Citizenship Act, 1955 but they are

unable to produce proof of their Indian origin. Hence, they are forced to apply for citizenship by naturalisation under section 6 of the said Act, which, inter alia, prescribes twelve years residency as a qualification for naturalisation in terms of the Third Schedule to the Act. This denies them many opportunities and advantages that may accrue only to the citizens of India, even though they are likely to stay in India permanently. Therefore, it is proposed to amend the Third Schedule to the Act to make applicants belonging to the said communities from the aforesaid countries eligible for citizenship by naturalisation if they can establish their residency in India for five years instead of the existing eleven years.

8. Presently, there is no specific provision in section 7D of the Act to cancel the registration of Overseas Citizen of India Cardholder who violates any provisions of the Act or any other law for the time being in force. It is also proposed to amend the said section 7D so as to empower the Central Government to cancel registration as Overseas Citizen of India Cardholder in case of violation of any provisions of the Act or any other law for the time being in force.

9. Since there is no specific provision in the Act at present to provide an opportunity of being heard to the Overseas Citizen of India Cardholder before cancellation of the Overseas Citizen of India Card under section 7D, it is proposed to provide the opportunity of being heard to the Overseas Citizen of India Cardholder before the cancellation of the Overseas Citizen of India Card.

10. The Bill further seeks to protect the constitutional guarantee given to indigenous populations of North Eastern States covered under the Sixth Schedule to the Constitution and the statutory protection given to areas covered under "The Inner Line" system of the Bengal Eastern Frontier Regulation, 1873.

11. The Bill seeks to achieve the above objectives."

10. I submit that the following are the legislative changes carried out by the CAA [the amended portion/additions are underlined]:

“Section 2 – Interpretation-(1)

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(b) "illegal migrant" means a foreigner who has entered into India—

(i) without a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf; or

(ii) with a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf but remains therein beyond the permitted period of time;

Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as illegal migrant for the purposes of this Act;

Section 6 - Citizenship by naturalisation

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Section 6A. Special provisions as to citizenship of persons covered by the Assam Accord.-

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6B. - Special provisions as to citizenship of person covered by proviso to clause (b) of sub-section (1) of section 2.

(1) The Central Government or an authority specified by it in this behalf may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, grant a certificate of registration or certificate of naturalisation to a person referred to in the proviso to clause (b) of sub-section (1) of section 2.

(2) Subject to fulfilment of the conditions specified in section 5 or the qualifications for naturalisation under the provisions of the Third Schedule, a person granted the certificate of registration or certificate of naturalisation under sub-section (1) shall be deemed to be a citizen of India from the date of his entry into India.

(3) On and from the date of commencement of the Citizenship (Amendment) Act, 2019, any proceeding pending against a person under this section in respect of illegal migration or citizenship shall stand abated on conferment of citizenship to him:

Provided that such person shall not be disqualified for making application for citizenship under this section on the ground that the proceeding is pending against him and the Central Government or authority specified by it in this behalf shall not reject his application on that ground if he is otherwise found qualified for grant of citizenship under this section:

Provided further that the person who makes the application for citizenship under this section shall not be deprived of his rights and privileges to which he was entitled on the date of receipt of his application on the ground of making such application.

(4) Nothing in this section shall apply to tribal area of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation, 1873.

7D. – Cancellation of registration as Overseas Citizen of India Cardholders :

The Central Government may, by order, cancel the registration granted under sub-section (1) of section 7A, if it is satisfied that—

(a) the registration as an Overseas Citizen of India Cardholder was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) the Overseas Citizen of India Cardholder has shown disaffection towards the Constitution, as by law established; or

(c) the Overseas Citizen of India Cardholder has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) the Overseas Citizen of India Cardholder has, within five years after registration under sub-section (1) of section 7A, been sentenced to imprisonment for a term of not less than two years; or

(da) the Overseas Citizen of India Cardholder has violated any of the provisions of this Act or provisions of any other law for time being in force as may be specified by the Central Government in the notification published in the Official Gazette; or

(e) it is necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public; or

(f) the marriage of an Overseas Citizen of India Cardholder, who has obtained such Card under clause (d) of sub-section (1) of section 7A,—

(i) has been dissolved by a competent court of law or otherwise; or

(ii) has not been dissolved but, during the subsistence of such marriage, he has solemnised marriage with any other person:

Provided that no order under this section shall be passed unless the Overseas Citizen of India Cardholder has been given a reasonable opportunity of being heard.

Section 18 - Power to make rules

(1) The Central Government may, by notification in the Official Gazette make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for

(a) the registration of anything required or authorised under this Act to be registered, and the conditions and restrictions in regard to such registration;

(aa) the form and manner in which a declaration under sub-section (1) of section 4 shall be made;

(b) the forms to be used and the registers to be maintained under this Act;

(c) the administration and taking of oaths of allegiance under this Act and the time within which and the manner in which, such oaths shall be taken and recorded;

(d) the giving of any notice required or authorised to be given by any person under this Act;

(e) the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Act, and the delivering up of such certificates for those purposes;

(ee) the manner and form in which and the authority to whom declarations referred to in clauses (a) and (b) of sub-section (6) of section 6A shall be submitted and other matters connected with such declarations;

(eei) the conditions, restrictions and manner for granting certificate of registration or certificate of naturalisation under sub-section (1) of section 6B;

(eea) the conditions and the manner subject to which a person may be registered as an Overseas Citizen of India Cardholder under sub-section (1) of section 7A;

(eeb) the manner of making declaration for renunciation of Overseas Citizen of India Card under sub-section (1) of section 7C;

(f) the registration at Indian consulates of the births and deaths of persons of any class or description born or dying outside India;

(g) the levy and collection of fees in respect of applications, registrations, declarations and certificates under this Act, in respect of the

taking of an oath of allegiance, and in respect of the supply of certified or other copies of documents;

(h) the authority to determine the question of acquisition of citizenship of another country, the procedure to be followed by such authority and rules of evidence relating to such cases;

(i) the procedure to be followed by the committees of inquiry appointed under section 10 and the conferment on such committees of any of the powers, rights and privileges of civil courts;

(ia) the procedure to be followed in compulsory registration of the citizens of India under sub-section (5) of section 14A;

(j) the manner in which applications for revision may be made and the procedure to be followed by the Central Government in dealing with such applications; and

(k) any other matter which is to be, or may be, prescribed under the Act.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

Provided that any rule made in respect of a matter specified in clause (ia) of sub-section (2) may provide that a breach thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(4) Every rule made under this section shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of

thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of session, immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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THE THIRD SCHEDULE

(see section 6(1))

QUALIFICATIONS FOR NATURALISATION

The qualifications for naturalisation of a person are—

(a) that he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens of that country by naturalisation;

(b) that, if he is a citizen of any country, he undertakes to renounce the citizenship of that country in the event of his application for Indian citizenship being accepted;

(c) that he has either resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of the application;

Provided that if the Central Government is satisfied that special circumstances exist, it may, after recording the circumstances in writing, relax the period of twelve months up to a maximum of thirty days which may be in different breaks.

(d) that during the fourteen years immediately preceding the said period of twelve months, he has

either resided in India or been in the service of a Government in India, or partly the one and partly the other, for periods amounting in the aggregate to not less than eleven year;

Provided that for the person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community in Afghanistan, Bangladesh or Pakistan, the aggregate period of residence or service of Government in India as required under this clause shall be read as “not less than five years” in place of “not less than eleven years”.

(e) that he is of good character;

(f) that he has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution; and

(g) that in the event of a certificate of naturalisation being granted to him, he intends to reside in India, or to enter into, or continue in, service under a Government in India or under an international organisation of which India is a member or under a society, company or body of persons established in India:

Provided that the Central Government may, if in the special circumstances of any particular case it thinks fit—

(i) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of clause (c) above, as if it had immediately preceded that date;

(ii) allow periods of residence or service earlier than fifteen years before the date of the application to be reckoned in computing the aggregate mentioned in clause (d) above.”

Emphasis supplied

11. I state and submit that the CAA does not impinge upon any existing right that may have existed prior to the enactment of the amendment and further, in no manner whatsoever, seeks to affect the legal, democratic or secular rights of any of the Indian citizens. It is submitted that the existing regime for obtaining citizenship of India by foreigners of any country is untouched by the CAA and remains the same. It is submitted that the legal migration, on the basis of valid documents and visa, continues to be permissible from all countries of the world including from the three specified countries. It is submitted that as per Sections 5 & 6 of the Citizenship Act, 1955 [hereinafter referred to as the “**1955 Act**”], all foreigners [irrespective of their religion] living in the said specified countries [or other countries] can legally migrate to India and subject to fulfilment of conditions mentioned therein, apply for and get Indian citizenship if found eligible. It is submitted that in light of the above, the CAA is merely a limited legislative measure, circumscribed in its application which does not affect the existing legal rights or regime concerning citizenship [falling outside the purview of specialized measure] in any manner.
12. I state and submit that the gravamen of challenge posed by the present set of Petitioners are the assertions surrounding Article 14 which prohibits arbitrariness. It is respectfully submitted that the scope, expanse and width of application of Article 14 and the corresponding power of the Legislatures to make a reasonable classification which has a clear nexus with the object of an enactment, varies as per the subject matter of the classification.

It is respectfully submitted that this Hon'ble Court has repeatedly held that in matters concerning foreign policy, citizenship, economic policy, etc., a wider latitude for classification is available to the Parliament/Legislature considering the subject matters of the challenge and the nature of the field which the Legislature seeks to deal with.

13. With respect to the present batch of petitions, I state and submit that the classification of tribal area of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation, 1873 [hereinafter referred to as the "**excluded areas**"], has been made on tangible material, historical reasons and the already prevalent classifications. It is submitted that said classification of excluded areas is based on factors surrounding the fundamental differences in the population density, the constitutional obligation of protection of native culture, the economic and social inability/impact in case of mass migration and reasons concerning national security. It is submitted that Article 29(1) and Article 30(1) of the Constitution of India clearly demarcate the said aims and the CAA seeks to preserve and protect the said rights thereby upholding and balancing the ideals of the Constitution and the rights of the persons living in the excluded areas.
14. I state and submit that the classification of regions within the country, wherein parts are included and certain parts are not, is not a novel form of classification and the same exists in numerous legislations in the country. I state and submit that the said CAA has been confronted as being arbitrary and discriminatory on two

opposing grounds; one that the federal structure is breached by exclusion enshrined therein and the other that the exclusion of certain areas mentioned in the third tier of classification is insufficient. In this regard, it is submitted that areas of non-applicability of the amendment as contemplated in the third tier of classification is a representation of cultural and linguistic rights of the persons living in the excluded areas and a reaffirmation of the enunciation of this Hon'ble Court in *Sarbananda Sonowal versus Union of India*, (2005) 5 SCC 665.

15. It is submitted that the Petitioners have challenged the CAA on the ground that the same breaches Article 14 because it carves out an exception in the said classification on a subject which is governed by the Central List. It is submitted that the said classification is not novel and there are numerous Central legislations which are limited in their territorial application. It is submitted that classifications may be founded on different bases, including geographical or demographic density or linguistic identity. It is further submitted that classification on the basis of geographical grounds could further be affirmed by historical reasons which may justify differential treatment of separate geographical regions provided it bears a reasonable and just relation to the matter in respect of which differential treatment is accorded. It is submitted that once the basis of such classification is sound and has a reasonable nexus with the object of the Act, the principle of Article 14 cannot be said to have been breached merely because it applies in all the States of the country apart from the excluded areas.

16. It is submitted that the classification of the excluded areas is not a new classification rather is a reaffirmation of the classifications already made by way of the Sixth Schedule and "The Inner Line" as notified under the Bengal Eastern Frontier Regulation, 1873, and therefore, the question of the classification being bad on the ground that it excludes certain areas and includes the others, cannot be a subject matter of challenge. It is submitted that the Sixth Schedule was a part of the original Constitution and the classification of the areas therewith is a constitutionally permissible classification.
17. It is submitted that with regard to Assam and Tripura, parts of which fall under the excluded areas and parts which do not, the said classification cannot be said to be discriminatory. It is submitted that the tribal areas of Assam and Tripura, which are the most vulnerable in terms of scant indigenous population, are falling within the excluded areas of the CAA. It is submitted that the said portions of Assam and Tripura are classified at par with the entire states of Mizoram, Manipur and Arunachal Pradesh and almost entire states of Nagaland & Meghalaya being equally placed. It is submitted that with regard to the avowed object of the exclusion of certain areas from the CAA in order to protect the ethnic/linguistic rights and to protect them from getting swamped by large scale influx of migrants, the inclusion of non-tribal areas of Assam and Tripura in the CAA is not discriminatory as the said areas are not as thinly populated as other excluded areas and would not face the same consequences in case of immigration of persons. In the light of the above, it cannot be said that the said classification and the exclusion of certain areas of Assam and

Tripura from the list of excluded areas can be said to be against Article 14 of the Constitution.

18. It is submitted that the Assam Accord was signed in 1985 to tackle the unique problems arising out of influx of illegal foreigners from Bangladesh into Assam and the subsequent agitation against this influx. It is submitted that some parts of the Assam Accord were included in the 1955 Act as Section 6A by the Citizenship Amendment Act of December, 1985. This section provides a special provision dealing with the citizenship of persons covered by the Assam Accord. It is submitted that Sub Section 8 of Section 6A provides that provisions of Section 6A shall have effect notwithstanding anything contained in any other law for the time being in force. It is submitted that the provisions of the CAA operate on a different footing, designed for a specific purpose, to achieve a specific object.
19. It is submitted that the Section 6A (2) provides that such Bangladeshis of Indian origin who entered Assam up to December 31st, 1965 and who are ordinarily resident in Assam since then, shall be deemed to be Indian Citizens with effect from January 1st, 1966. Similarly, such persons of Indian origin who entered Assam from territory of present day Bangladesh between 1st January, 1966 and 24th March, 1971 would also be treated as citizens of India. However, they would be disenfranchised for 10 years from the date of their detection as a foreigner. It is submitted that the CAA does not amend or offend any of the provisions of Section 6A. It applies to a particular category of migrants from specified minority communities migrating to any part of India from any of the three countries up to 31 December, 2014 on

account of persecution on grounds of religion or fear of such persecution. It is submitted that it does not incentivize influx of illegal migrants since the aforesaid migrants are already living in various parts of India. It is submitted that the inhabitants of the classified communities from the particular neighbouring countries and their presence does not amount to "external aggression" and "internal disturbance", the two grounds cited in Article 355 of the Constitution & discussed by this Hon'ble Court in *Sarbananda Sonowal versus Union of India*, (2005) 5 SCC 665. It is further submitted that Articles 325 and 326 of the Constitution of India cannot be read in isolation and the future grant of citizenship rights to persons of these prosecuted minority communities will not compromise the political rights of the existing citizens of India. It is submitted that rights under Article 325 and 326 would accrue to such migrants only after they have become citizens of India.

20. It is submitted that as pointed out above, the unfortunate partition of India led to large scale violence and systematic oppression of Hindus & Sikhs in Pakistan including East Pakistan due to which they migrated to India including Assam. It is submitted that the Assam Accord was signed between the Central Government, State Government of Assam, the All Assam Students' Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP) on 15th August, 1985. It is submitted that the provisions at Clauses 5.1 to 5.6 of the Assam Accord were incorporated into section 6A of the Citizenship Act 1955 and came into force on 7th December, 1985. It is submitted that Clauses 5.1 to 5.9 of the Accord provide the basis for detecting foreigners including their exclusion/deletion from electoral rolls as well as their expulsion. It is submitted that

Sub-Section (2) of Section 6A provides that all persons of Indian origin who came to Assam from Bangladesh before 1 January, 1966 *are deemed to be* Indian citizens as from that date. It is submitted that however, as per sub-Section (3) of Section 6A, every person of Indian origin who came to Assam from Bangladesh between 1 January, 1966 but before 25 March, 1971, who are ordinary residents in Assam since then, and, who are detected as a foreigner by a Tribunal constituted under the Foreigners (Tribunals) Order, 1964, shall be registered under the rules made under Section 18 of the Act. It is submitted that further, if their names were included in the electoral roll for Assembly or Parliamentary constituency, the same shall be deleted for 10 years from the date of detection. Sub-Section 4 of Section 6A states that such person detected and registered as a foreigner under sub-Section (3) shall have the same rights and obligations as a citizen of India, except from being entitled to having his name included in the electoral roll for a period of ten years. It is submitted that as per sub-Section (5) of Section 6A, a person detected and registered as a foreigner under sub-Section (3) shall be deemed to be a citizen of India from the date of expiry of the ten years from the date of detection as foreigner. It is submitted that Section 6A of the Act is therefore, limited to making provisions regarding citizenship of persons of Indian origin who came to Assam from Bangladesh up to 25-03-1971.

21. It is submitted that CAA provides an exemption to persons belonging to certain minority communities coming from Afghanistan, Bangladesh and Pakistan and has general application beyond the Assam Accord as it is intended to apply to the whole

territory of India except excluded areas which include the hilly regions of Assam which are part of the Sixth Schedule. It is submitted that there is required to be a harmonious construction of the Assam Accord and the CAA as the CAA is a beneficial legislation intended for benefitting persons escaping religious persecution in particular neighbouring countries. It is submitted that the Assam Accord or the Memorandum of Settlement signed between Government of Tripura and a Tribal Group of Tripura i.e. All Tripura Tribal Force(ATTF) cannot form the basis of judicial review of legislation before this Hon'ble Court. It is submitted that by the exclusion of certain regions of Assam and Tripura, Parliament has tried to balance the interest of the classified communities and the indigenous people of Assam and Tripura.

22. Further, at the outset, it is submitted that the question of entitlement and conferment of citizenship and issues related thereto are within the plenary domain of the competent Legislature. The competent legislature devises its own legislative policy with respect to the issues concerning the citizenship. It is submitted that by the very nature of the question regarding citizenship of the country and issues pertaining thereto, the said subject matter may not be within the scope of judicial review and may not be justiciable. It is submitted that such decisions are the result of *Parliamentary legislative policy* based upon the executive – foreign policy decision making for which the constitutional courts may not have the requisite expertise to examine the parameters based upon which such legislative policy is enacted.

Without prejudice to the aforesaid submission, it is submitted that even if this Hon'ble Court would consider exercising its power of judicial review, such review would be very restrictive and limited considering wider width of legislative policy and legislative wisdom available to the competent legislature. It is submitted that the legislative policy making in certain subjects and the enhanced scope of question available to the competent legislature in such matters has been recognized by the courts across the world which may not be examined on the touchstone of Article 14 of the constitution and that too in a public interest jurisdiction.

23. It is humbly submitted that in matter concerning immigration policy and citizenship in particular, it is the *executive policy of the sovereign manifested by competent legislation*, which would govern the decision making. It is submitted that the legislative policies in this regard are designedly entrusted exclusively to elected representatives [to be carried out as per the procedure of legislation established by law]. It is humbly submitted that the power of exclusion of immigrants is, therefore, an incident of sovereignty belonging to a duly constituted Nation-State and immigration policy, which has an impact on the foreign policy of a State and by extension, affects the security apparatus of the State and would fall squarely within the domain of the Parliament.

24. I state and submit that equal protection of the laws guaranteed by Article 14 of the Constitution does not mean that all laws must be general in character and universal in application and that the legislature no longer has the power of distinguishing and classifying persons or things for the purposes of legislation. It is humbly submitted that the only requirement prior to making a

particular classification or a special legislation [as is in the CAA] is that the legislative classification must not be based on any arbitrary classification and should be based on an intelligible differentia having a reasonable relation to the object which the legislature seeks to attain. It is humbly submitted that if the classification on which the legislation is founded fulfils the above said requirement, then the differentiation which the legislation makes between the class of persons or things to which it applies and other persons or things left outside the purview of the subject matter of legislation cannot be regarded as a denial of the equal protection of the law.

25. Further, as a proposition of law, this Hon'ble Court may be pleased to take note of the fact that a number of petitions before this Hon'ble Court concerning the present issue have been purportedly filed in "public interest" with regard to the abovementioned reliefs. It is respectfully submitted that matters concerning the sovereign plenary power of the Parliament, especially in regard to citizenship and the contours thereof, cannot be questioned before this Hon'ble Court by way of a public interest petition. It is submitted that the cardinal principle of *locus standi* has been diluted by this jurisprudence evolved by this Hon'ble Court only limited fact situations which cannot be extrapolated to include the present constitutional challenge to the legislative measure of the Indian Parliament in the domain of issues concerning citizenship/immigration. It is therefore submitted that the scope of public interest petitions, and the maintainability thereof, especially in matters concerning immigration policy must be decided as question of law by this Hon'ble Court.

DETAILED SUBMISSIONS

26. The Respondent seeks to place a consolidated reply to the assertions made by the Petitioners which are received so far in all connected matters and therefore seeks to deal with broad submissions of the Petitioners by dividing the issues raised by them under the following heads:
- a. CAA violates the constitutional protection guaranteed to the indigenous people of Assam and defeats the purpose of Assam Accord and section 6A of the Citizenship Act, 1955;
 - b. CAA affects the rights of the Petitioners under Article 29(1);
 - c. CAA 2019 violates Article 325 and 326 of the Constitution of India as the same dilutes the political rights of the citizens of Assam;
 - d. CAA violates the Judgment of Hon'ble Supreme Court in All Assam Sanmilitia Mahasangha case. Sections 2,3,5 and 6 of the Impugned Act are in violation of the judgment of this Hon'ble Court in All Assam Sanmilitia Mahasangha vs. Union of India (2015) 3 SCC 1 wherein this Hon'ble Court directed the Union Government to detect and deport all illegal migrants who have come to the State of Assam after 25.03.1971;
 - e. CAA violates Article 355 of the Constitution of India especially in light of the observations in *Sarbananda Sonowal versus Union of India*, (2005) 5 SCC 665;
 - f. The Citizenship (Amendment) Act, 2019 creates different laws concerning citizenship for people living in the sixth

Schedule Areas in the States of Tripura, Meghalaya and Assam while exempting states with an inner line permit (Arunachal Pradesh, Mizoram, Manipur, Nagaland) and is therefore arbitrary;

- g.** Sections 2,3,5 and 6 of the Impugned Act are inconsistent with the Immigrants (Expulsion from Assam) Act, 1950 which was enacted to protect the indigenous inhabitants of Assam;
- h.** The Respondents have not issued any Order or Rules under the Registration of Foreigners Act, 1939 in respect of classes of persons sought to be covered by the impugned Act, which are, therefore, in violation of the mandate of the Registration of Foreigners Act, 1939;
- i.** The impugned Act which illegally legitimizes the entry and continued stay of such illegal migrants from Bangladesh who have entered Assam on or before 31.12.2014 is illegal and manifestly arbitrary and violative of the fundamental rights of the citizens of Assam as contained in the Constitution of India.

THE CHALLENGE ON THE GROUND THAT CAA VIOLATES THE CONSTITUTIONAL PROTECTION GUARANTEED TO THE INDIGENOUS PEOPLE OF ASSAM AND DEFEATS THE PURPOSE OF ASSAM ACCORD AND SECTION 6A OF THE CITIZENSHIP ACT, 1955

27. At the outset, I state and submit that judicial review of legislation before this Hon'ble Court is on the touchstone of fundamental right of the citizens of the country and not on the basis of any accord that the Government has entered into with another entity. Be that

as it may, it is submitted that a Memorandum of Settlement known as ‘Assam Accord’ was signed on 15th August, 1985 between the All Assam Students Union (AASU), All Assam Gana Sangram Parishad (AAGSP) and the Central Government on the foreigners issue in Assam. It is submitted that issues with regard to foreigners and safeguards & economic development are covered in clauses 5, 6 and 7 of the Accord which are quoted herein under:-

“Foreigners Issue

For purposes of detection and deletion of foreigners, 1.1.1966 shall be the base date and year.

All persons who came to Assam prior to 1.1.1966, including those amongst them whose names appeared on the electoral rolls used in 1967 elections shall be regularised.

Foreigners who came to Assam after 1.1.1966 (inclusive) and upto 24th March, 1971 shall be detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order 1964.

Names of foreigners so detected will be deleted from the electoral rolls in force. Such persons will be required to register themselves before the Registration Officers of the respective districts in accordance with the provisions of the Registration of Foreigners Act, 1939 and the Registrations of Foreigners Rules, 1939.

For this purpose, Government of India will undertake suitable strengthening of the government machinery.

On the expiry of a period of ten year following the date of detection, the names of all such persons which have been deleted from the electoral rolls shall be restored.

All persons who were expelled earlier, but have since re-entered illegally into Assam, shall be expelled.

Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted in accordance with law. Immediate and practical steps shall be taken to expel such foreigners. (Bold letters supplied)

The Government will give due consideration to certain difficulties expressed by the AASU/ AAGSP regarding the implementation of the Illegal Migrants (Determination by Tribunals) Act, 1983.

Safeguards and economic development

6. Constitutional, legislative and administrative safeguards, as may be appropriate shall be provided to protect, preserve and promote the cultural, social, linguistic identity and heritage of the Assamese people.

7. The Government take this opportunity to renew their commitment for the speedy all round economic development of Assam, so as to improve the standard of living of the people. Special emphasis will be placed on education and science & technology through establishment of national institutions."

28. It is respectfully submitted that Assam Accord being a political settlement, legislation was required to give effect to the relevant clauses of the Assam Accord relating to the foreigners' issue. It is submitted that accordingly a new section 6A was inserted in the Citizenship Act, 1955 by the Citizenship (Amendment) Act, 1985 which covered mainly the following:-

(i) For the purpose of section 6A, 'specified territory' was defined as the territories included in Bangladesh immediately before the commencement of the Citizenship (Amendment) Act, 1985.

(ii) For the purpose of section 6A, a person shall be deemed to be of Indian origin, if he, or either of his parents or any of his grandparents was born in undivided India.

(iii) All persons of Indian origin who came before 01.01.1966 to Assam from the specified territory (including such of those whose names were included in the electoral rolls used for the purposes of the General Election to the House of the People held in 1967) and who have been ordinarily resident in Assam since the dates of their entry into Assam shall be deemed to be citizens of India as from 01.01.1966.

(iii) Every person of Indian origin who – (a) came to Assam on after 01.01.1966 but before 25.03.1971 from the specified territory and (b) has, since the date of his entry into Assam, been ordinarily resident in Assam and (c) has been detected to be a foreigner, shall register himself with such authority as may be specified in the rules and if his name is included in any electoral roll for any Assembly or Parliamentary constituency in force on the date of such detection, his name shall be deleted therefrom.

A person so registered shall have, as from the date on which he has been detected to be a foreigner and till the expiry of a period of 10 years from that date, the same rights and

obligations as a citizen of India (including the right to obtain a passport) but shall not be entitled to have his name included in any electoral roll for any Assembly or Parliamentary constituency at any time before the expiry of the said period of 10 years.

A person so registered shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of 10 years from the date on which he has been detected to be a foreigner.

(iv) Provisions of section 6A shall have effect notwithstanding anything contained in any other law for the time being in force.

Further, a specific provision was incorporated in section 18 of the Citizenship Act, 1955 empowering the Central Government to make rules in this regard.

29. It is respectfully submitted that the Assam Accord was signed on 15th August, 1985 to tackle the *unique problems arising out of influx of illegal foreigners from Bangladesh into Assam* and the subsequent agitation against this influx. It is submitted that this Accord covered various issues like foreigners issue, safeguards and economic development of Assam and other issues like securing the international border, construction of road all along the international border, strict enforcement of relevant laws for prevention of encroachment of government lands in tribal belts and blocks, enforcement of relevant laws restricting acquisition of immovable property by foreigners in Assam, etc. It is respectfully submitted that the Assam Accord had a provision that foreigners

who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in *accordance with law*.

30. It is further submitted that the “*law*” which exists, even as per the Assam Accord is the Immigrants (Expulsion from Assam) Act, 1950. The said legislation has a specific proviso [*unamended by the present Legislative actions*] under section 2 of the Act which granted protection from expulsion proceedings to any person(s) who on account of civil disturbances or the fear of such disturbances in any area forming part of the then Pakistan (now including Bangladesh) has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam. It is submitted that civil disturbance or fear of such disturbance would cover persecution on grounds of religion or fear of such persecution and therefore, persons belonging to the minority communities in Pakistan and Bangladesh who have taken shelter in Assam due to persecution on grounds of religion or fear of such persecution as covered in the Citizenship (Amendment) Act, 2019 are protected from expulsion in terms of proviso to section 2 of the Immigrants (Expulsion from Assam) Act, 1950. It is therefore submitted that even the Assam Accord as a *political settlement* recorded the statutory protection guaranteed to such persons.

31. It is further respectfully submitted that this Hon’ble Court in W.P.(Civil) No. 131 of 2000 Sarbananda Sonowal vs. Union of India & Anr. had in their judgment dated 12.07.2005, while striking down the Illegal Migrants (Determination by Tribunals) Act, 1983 had, inter alia, held that the Passport (Entry into India) Act, 1920, the Foreigners Act, 1946, the Immigrants (Expulsion

from Assam) Act, 1950 and the Passport Act, 1967 shall apply to the State of Assam [*Para 57 of the Judgment dated 12.07.2005*]. It is respectfully submitted that the persons covered by the Citizenship (Amendment) Act, 2019 are protected from expulsion in terms of proviso to section 2 of the Immigrants (Expulsion from Assam) Act, 1950.

32. It is further submitted that section 6A of the Citizenship Act, 1955 covers special provisions for implementation of 'Assam Accord' and it is a standalone provision restricted to Assam and covers only the migrants from one country i.e. Bangladesh. Further, section 6A of the Citizenship Act, 1955 covers provisions with respect of such persons who have come to Assam till 24.03.1971. It is submitted that this section has not been abrogated or abridged by CAA and it shall operate on its own force. It is submitted that on the other hand, the Citizenship (Amendment) Act, 2019, is not limited to Assam and will be applicable throughout the country [except tribal areas of Assam, Meghalaya, Mizoram and Tripura as included in the Sixth Schedule of the Constitution and areas covered under "Inner Line" as notified under the Bengal Eastern Frontier Regulation, 1873 (Regulation 5 of 1873)]. Further, the provisions in the present amendment Act cover a specific category of migrants from Hindu, Sikh, Buddhist, Jain, Parsi or Christian communities from three countries i.e. Afghanistan, Bangladesh or Pakistan who were compelled to seek shelter in India on account of persecution on religious grounds or fear of such persecution and who had entered into India on or before 31.12.2014.
33. It is, therefore, respectfully submitted that specific concerns with regard to Assam and the other North Eastern States have been

taken into consideration by the legislature while enacting the Citizenship (Amendment) Act, 2019 and the provisions in the Citizenship (Amendment) Act, 2019 do not in any way violate the provisions of the Assam Accord or section 6A of the Citizenship Act, 1955.

CAA AFFECTS THE RIGHTS OF THE PETITIONERS UNDER ARTICLE 29(1)

34. It is submitted that Article 29 of the Constitution is quoted herein under :

“Article 29. Protection of interests of minorities.—

(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.”

35. It is submitted that there is no provision in CAA which would affect the distinct language, script or culture of citizens of Assam and other North-Eastern States. It is submitted that the Assamese people have full right to conserve their language, script or culture in according with the Constitution of India. It is submitted that CAA only makes eligible a class of foreigners who had taken shelter in India on or before 31/12/2014 due to persecution faced by them in three specified countries on grounds of their religion. It is submitted that CAA does not encourage any future influx of foreigners into India as it applies to past events and has no application *in futuro*. Therefore, CAA is not violative of Article 29 of the Constitution.

36. It is further respectfully submitted that in order to uphold the spirit of Article 29 and keeping in view the concerns of the North Eastern States including Assam, a specific provision has been included in sub-section (4) of section 6B inserted by the Citizenship (Amendment) Act, 1955 to the effect that nothing in this section shall apply to tribal area of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under “The Inner Line” notified under the Bengal Eastern Frontier Regulation, 1873. This provision protects the tribal population in the State of Assam which was one of the objects of the Assam Accord signed on 15th August, 1985. It is submitted that Clause 6 of the Assam Accord stipulates that constitutional, legislative and administrative safeguards, as may be appropriate, shall be provided to protect, preserve and promote the cultural, social, linguistic identity and heritage of the Assamese people.

37. It is submitted that in order to protect the constitutional rights under Article 29, the following actions have been taken to implement clause 6 of the Assam Accord :

- (i) The Srimanta Sankardeva Kalakshetra Complex was established and committed to work for preservation, promotion and upliftment of culture of the people of Assam. For the construction of the complex, the Ministry of Human Resources Development, Govt. of India funded Rs. 18.85 crores and Govt. of Assam funded Rs. 1.50 crores, the total construction cost being Rs. 20.35 crores The total area of the campus is 10.28 hectares at Panjabri, Guwahati. On 9th

November, 1998, the then President of India K.R. Narayanan bestowed the Srimanta Sankaradeva Kalashetra to nation.

- (ii) Modernization and up-gradation scheme of Jyoti Chitraban Films Studio Society was started in the year 1998 under the Centrally sponsored scheme by Govt. of India under Clause 6 of Assam Accord. The phase I and II project for modernization and up-gradation scheme of Jyoti Chitraban Film Society had been completed by 2003 with Govt. of India funds amounting to Rs. 8,79,50,000/- only, and the phase III project for Modernization and up-gradation of Jyoti Chitraban Film Studio was completed by 2013 with Govt. of India funds amounting to Rs. 10.00 crores.
- (iii) Rs. 69.45 crore had been granted as financial assistance to 359 Nos. of Satras of Assam.
- (iv) Archaeological Survey of India has taken up the protection, preservation and development of 5 monuments. These are (i) Singri temple's ruins (ii) Urvarshi Archaeological Site (III) Poa-Mecca, Hajo (iv) Kedar Temple, Hajo and (v) Hayagriva Madhava Temple, Hajo.
- (v) Establishment of an Assamese Chair in the Centre of Indian Language, Literature and Culture Studies of the Jawahar Lal Nehru University.
- (vi) An Autonomous Institution namely Anandaram Borooah Institute of Language Art & Culture Assam (ABILAC) has been established on 12th December, 1989 with the financial assistance from Govt. of Assam. The institute is pursuing research for the development of Indigenous Language, Art and Culture of the State. Besides this, the Directorate of

Higher Education is providing annual grants to the following Voluntary Organizations for upliftment of the Language, Art and Culture in their respective field. The list of Voluntary Organizations involved are as follows:- (1) India Art History Congress, (2) Assam Sahitya Sabha (3) Assam Science Society, (4) Institute of Advance Study in Science & Technology, (5) Central Tai Academy, Patsaku, (6) Sadou Asom Lekhika Samaroah Samity, (7) Tai Sahitya Sabha, (8) Manipuri Sahitya Prashad, (9) Dimasa Sahitya Sabha, (10) Assam Academy of Mathematics, (11) Borak Upatyaka Bonga O Sahitya Sanmilan, (12) South East Asia Ramayani Research Centre, (13) Karbi Lama T Amei (Karbi Sahitya Sabha), (14) Nepali Sahitya Prashad, (15) Rabha Academy, (16) Kamrup Sanskrit Sanjivani Sabha (17) Kamrup Anusandhan Samity, (18) Purnakant Buragbohain Institute, (19) Institute of Tai Studies.

CAA 2019 VIOLATES ARTICLES 325 AND 326 OF THE CONSTITUTION OF INDIA AS THE SAME DILUTES THE POLITICAL RIGHTS OF THE CITIZENS OF ASSAM

38. It is submitted that the text of Article 325 and Article 326 is as under :

***“Article 325. No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.—There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.*”**

326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.—*The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.*”

It is submitted that a citizen of India who is not less than 18 years of age and who is not otherwise disqualified by any law made by the appropriate Legislature, on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice is registered as a voter for election to the House of the People and to the Legislative Assembly of the State as per Article 326 of the Constitution. Article 325 provides that every constituency in India shall have one general electoral roll for election to House of the People and to the Legislative Assembly and no person shall be ineligible for inclusion in such electoral roll on grounds only of religion, race, caste, sex or any of them. Articles 325 and 326 give right to vote to every Indian citizen irrespective of religion, race, caste and sex. However, such rights are not available to foreigners. It is submitted that no regional rights are affected by the CAA with regard to the right to elect democratic representatives.

39. It is submitted that none of the provisions of CAA bar a citizen of India from registering himself as voter or excluding him from electoral roll. It is submitted that furthermore, CAA does not affect

the process of making electoral roll or inclusion or exclusion of any person in the electoral roll. Hence, CAA is not violative of provisions of Articles 325 and 326 of the Constitution.

CAA VIOLATES THE JUDGMENT OF HON'BLE SUPREME COURT IN ALL ASSAM SANMILITIA MAHASANGHA CASE

40. It is respectfully submitted that this Hon'ble Court in its order dated 17th December, 2014 in Writ Petition (Civil) No. 562 of 2012 – Assam Sanmilita Mahasangha & Ors. vs. Union of India & Ors, W.P.(Civil) No. 274 of 2009 – Assam Public Works vs. Union of India & Ors., and W.P. (Civil) No. 876 of 2014 – All Assam Ahom Association & Ors. vs. Union of India & Ors. had made the following observations in para 42 of the order:-

“42. In the light of the above, we have considered the necessity of issuing appropriate directions to the Union of India and the State of Assam to ensure that effective steps are taken to prevent illegal access to the country from Bangladesh; to detect foreigners belonging to the stream of 1.1.1966 to 24.3.1971 so as to give effect to the provisions of sections 6(3) & (4) of the Citizenship Act and to detect and deport all illegal migrants who have come to the State of Assam after 25.3.1971. Before issuing any such directions, we had thought it proper to require the Union as well as the State of Assam to state, on affidavits, their respective stands in the matter and also their suggestions, if any. Both the Union as well as the State of Assam have responded by filing affidavits sworn by duly authorized officials. We have taken note of the contents of the said affidavits which disclose that both the Union and the State are broadly in agreement in respect of the steps that are required to be taken as well as the action taken till date and further the measures that are required to be taken in

the future. It will be appropriate if the relevant contents of the affidavit filed by the Union are extracted below.”

41. It is further respectfully submitted that after taking into consideration the affidavits filed by the Union and the State of Assam, this Hon’ble Court gave the following directions:-

“46. On an overall consideration of the immediate dimensions of the issues and the potential that the same have for the future, we issue the following directions under Article 142 of the Constitution of India.

I. Border fencing, Border Roads and provision for floodlights. The Union will take all effective steps to complete the fencing (double coiled wire fencing) in such parts/ portions of the Indo-Bangla border (including the State of Assam) where presently the fencing is yet to be completed. The vigil along the riverine boundary will be effectively maintained by continuous patrolling. Such part of the international border which has been perceived to be inhospitable on account of the difficult terrain will be patrolled and monitored at vulnerable points that could provide means of illegal entry. Motorable roads alongside the international border, wherever incomplete or have not yet been built, will be laid so as to enable effective and intensive patrolling. Flood lights, wherever required, will also be provided while maintaining the present arrangements. The completed part of the border fencing will be maintained and repaired so as to constitute an effective barrier to cross border trafficking.

The progress achieved at the end of 3 months from today as against the position on the ground mentioned in the affidavit of the Union extracted above will be monitored by this Court and, depending on what is revealed upon such monitoring, further directions including a definite time schedule for

completion of the works relating to border fencing, border roads and flood lights may be made by this Court.

II. Foreigners Tribunals. The Gauhati High Court is requested to expedite and to finalise the process of selection of the Chairperson and Members of the Foreigners Tribunals, if required in phases, depending on the availability of officers opting to serve in the Tribunals. Within 60(sixty) days of the selection being finalized by the Gauhati High Court, the State of Assam will ensure that the concerned Foreigners Tribunal become operational.

The Chief Justice of the Gauhati High Court is requested to monitor the functioning of the Tribunals by constituting a Special Bench which will sit at least once every month to oversee the functioning of the Tribunals.

III. Existing Mechanism of Deportation of Declared Illegal Migrants. While taking note of the existing mechanism/ procedure for deportation keeping in view the requirements of international protocol, we direct the Union of India to enter into necessary discussions with the Government of Bangladesh to streamline the procedure of deportation. The result of the said exercise be laid before the Court on the next date fixed.”

42. It is submitted that that the directions given in the said judgment have been complied with. It is submitted that issue in the said case was different and the present enactment cannot be challenged on the ground of being violative of a judgment of this Hon’ble Court on a different issue. It is further respectfully submitted that the Ministry of Home Affairs had filed detailed Affidavit dated 10/04/2015 in this Hon’ble Court indicating the steps taken with regard to the three issues on which direction had been issued by

this Hon'ble Court under Article 142 of the Constitution. A copy of the Ministry of Home Affairs Affidavit dated 10/04/2015 is at **Annexure R - 1**. The affidavit filed by the Ministry of Home Affairs was subsequently considered by this Hon'ble Court on 13.05.2015 and 14.07.2015. Further, in pursuance of the orders of this Hon'ble Court dated 06.10.2015, an additional affidavit dated 03/11/2015 was filed by the Ministry of Home Affairs. A copy additional affidavit dated 03/11/2015 filed by the Ministry of Home Affairs is at **Annexure R -2**.

43. It is submitted that, in order to provide the assurance to the Petitioners and to satisfy the conscience of this Hon'ble Court, the present status with reference to the directions given by this Hon'ble Court in its order dated 17th December, 2014 is provided as follows:-

(i) **Border fencing, Border Roads, Floodlighting and Border Out Posts (BOPs) on Indo-Bangladesh border (Total length – 4096.7 Kms)**

The Central Government has been constructing border roads & border outposts and commissioning border fencing and border floodlighting to ensure that no illegal migrant is able to sneak into India. The latest data regarding these works is as follows:-

Work	Sanctioned (in Kms)	Completed (in Kms)	Upto
Fence	3326.14	2882.156	September,2022
Road	4223.04	3785.30	September,2022

Floodlight	2698.60	2428.76	September,2022
Border Outposts (in Nos.)	1185	1120	September,2022

It is submitted that all pending border works would be commissioned/ completed soon. There are, however, many riverine and mountainous stretches of these borders that cannot be secured through the aforementioned physical barriers. In these areas, it is planned to install high-tech/ unobtrusive barriers like ground sensors, thermal imagers, radars, cameras etc. with other command and control systems. This process is likely to take some more time.

(ii) **Foreigners Tribunals**

200 more Foreigners Tribunals were approved to be set up taking total number of Foreigners Tribunals in Assam to 300.

(iii) **Existing Mechanism of Deportation of Declared Illegal Migrants**

Central Government has shared with the Government of Bangladesh a draft Agreement to be entered into between the Government of India and the Government of the People's Republic of Bangladesh on 'Nationality verification and Return of Indian and Bangladeshi nationals'. The Agreement once finalized and signed with Government of Bangladesh will streamline the process of nationality verification and is

expected to facilitate the return of illegal migrants from each other's territory.

44. It is further respectfully submitted that this Hon'ble Court in *Sarbananda Sonowal versus Union of India*, (2005) 5 SCC 665 had in their judgment dated 12.07.2005 held that the Passport (Entry into India) Act, 1920, the Foreigners Act, 1946, the Immigrants (Expulsion from Assam) Act, 1950 and the Passport Act, 1967 shall apply to the State of Assam [*Para 57 of the Judgment dated 12.07.2005*]. In addition, the Registration of Foreigners Act, 1939 is also applicable in Assam. The Citizenship (Amendment) Act, 2019 does not abridge or modify any provisions of these Acts

It is further respectfully submitted that in W.P.(C) No. 562 of 2012 – Assam Sanmilita Mahasangha & Ors. vs. Union of India & Ors and other connected WPs, this Hon'ble Court has framed 13 questions for reference to a Constitution Bench. The Affidavit of Union of India with reference to the 13 questions framed has also been filed in this Hon'ble Court on 01.05.2017. A copy of this Affidavit is at **Annexure R -3**. The matter is now pending before the Constitution Bench.

45. It is, therefore, respectfully submitted that the Citizenship (Amendment) Act, 2019 does not in any way violate the judgment of this Hon'ble Court dated 17th December, 2014 in Writ Petition (Civil) No. 562 of 2012 – Assam Sanmilita Mahasangha & Ors. vs. Union of India & Ors and other connected WPs.

**CAA VIOLATES ARTICLE 355 OF THE CONSTITUTION OF INDIA
ESPECIALLY IN LIGHT OF THE OBSERVATIONS IN *SARBANANDA SONOWAL
VERSUS UNION OF INDIA*, (2005) 5 SCC 665**

46. It is respectfully submitted that this Hon'ble Court in its judgment dated 12.07.2005 in *Sarbananda Sonowal versus Union of India*, (2005) 5 SCC 665 had observed as follows:-

“38. This being the situation, there can be no manner of doubt that the State of Assam is facing “external aggression and internal disturbance” on account of large scale illegal migration of Bangladeshi nationals. It, therefore, becomes the duty of Union of India to take all measures for protection of the State of Assam from such external aggression and internal disturbance as enjoined in Article 355 of the Constitution. Having regard to this constitutional mandate, the question arises whether the Union of India has taken any measures for that purpose.”

Article 355 of the Constitution reads as follows:-

“355. It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution.”

47. It is respectfully submitted that this Hon'ble Court in its judgment dated 12.07.2005 in *Sarbananda Sonowal versus Union of India*, (2005) 5 SCC 665 had given the following directions:-

- (1) The provisions of the Illegal Migrants (Determination by Tribunals) Act, 1983 and the Illegal Migrants (Determination by Tribunals) Rules, 1984 are declared to be ultra vires the Constitution of India and are struck down;

- (2) The Tribunals and the Appellate Tribunals constituted under the Illegal Migrants (Determination by Tribunals) Act, 1983 shall cease to function;
- (3) All cases pending before the Tribunals under the Illegal Migrants (Determination by Tribunals) Act, 1983 shall stand transferred to the Tribunals constituted under the Foreigners (Tribunals) Order, 1964 and shall be decided in the manner provided in the Foreigners Act, the Rules made thereunder and the procedure prescribed under the Foreigners (Tribunals) Order, 1964;
- (4) It will be open to the authorities to initiate fresh proceedings under the Foreigners Act against all such persons whose cases were not referred to the Tribunals by the competent authority whether on account of the recommendation of the Screening Committee or any other reason whatsoever;
- (5) All appeals pending before the Appellate Tribunal shall be deemed to have abated.
- (6) The respondents are directed to constitute sufficient number of Tribunals under the Foreigners (Tribunals) Order, 1964 to effectively deal with cases of foreigners, who have illegally come from Bangladesh or are illegally residing in Assam.

48. It is respectfully submitted that in pursuance of the above mentioned orders of this Hon'ble Court, following action was taken by the Government:-

- (i) Tribunals and Appellate Tribunals constituted under the Illegal Migrants (Determination by Tribunals) Act, 1983 ceased to function w.e.f. 12th July, 2005.

- (ii) 200 more Foreigners Tribunals were approved to be set up taking total number of Foreigners Tribunals in Assam to 300.
- (iii) Cases pending in the erstwhile IMD Tribunals have been transferred to the Foreigners Tribunals set up under The Foreigners Act, 1946.

49. It is respectfully submitted that in para 57 of its judgment dated 12.07.2005 in *Sarbananda Sonowal versus Union of India*, (2005) 5 SCC 665, this Hon'ble Court, while declaring the Illegal Migrants (Determination by Tribunals) Act, 1983 as ultra vires the Constitution of India and striking down the same, had held that the Passport (Entry into India) Act, 1920, The Foreigners Act, 1946, The Immigrants (Expulsion from Assam) Act, 1950 and the Passport Act, 1967 shall apply to the State of Assam. In addition, The Registration of Foreigners Act, 1939 is also applicable to the State of Assam. Specific provisions in these Acts with regard to detention, deportation/ removal/ expulsion are given below:-

- (i) The Passport (Entry into India) Act, 1920 : As per section 5 of the Passport (Entry into India) Act, 1920 (34 of 1920), the Central Government may, by general or special order, direct the removal of any person from India who, in contravention of any rule made under section 3, prohibiting entry into India without passport, has entered therein, and thereupon any

officer of the Government shall have all reasonable powers necessary to enforce such directions.

- (ii) The Foreigners Act, 1946 : As per section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into India or, their departure therefrom or their presence or continued presence therein. Further, in terms of section 3(2) (e) of the Foreigners Act, 1946, Central Government may by order provide that the foreigner shall comply with such conditions as may be prescribed or specified – (i) requiring him to reside in a particular place, (ii) imposing any restrictions on his movements. In terms of section 3 (2) (c) of the Foreigners Act, 1946, Central Government may by order provide that the foreigner shall not remain in India or in any prescribed area therein. Para 11 of the Foreigners Order, 1948 notified in exercise of the powers conferred on the Central Government under section 3 of the Foreigners Act deals with power to impose restrictions on movements, etc. on a foreigner and as per this para, the civil authority may, by order in writing, direct that any foreigner shall comply with such conditions as may be specified in the order in respect of – (1) his place of residence and (2) his movements.
- (iii) The Immigrants (Expulsion from Assam) Act, 1950 : As per section 2 of the Immigrants (Expulsion from Assam) Act, 1950, if the Central Government is of the opinion that any

person or class of persons, having been ordinarily resident in any place outside India, has or have whether before or after the commencement of the Act, come into Assam and that the stay of such person or class of persons in Assam is detrimental to the interests of the general public of India or of any section thereof or of any Scheduled Tribe in Assam, the Central Government may by order –

- (a) direct such person or class of persons to remove himself or themselves from India or Assam within such time and by such route as may be specified in the order; and
- (b) give such further directions in regard to his or their removal from India or Assam as it may consider necessary or expedient.

As per proviso to section 2, nothing in section 2 shall apply to any person who on account of civil disturbances or the fear of such disturbances in any area forming part of Pakistan (now including Bangladesh) has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam.

- (iv) The Passport Act, 1967 : The Passport Act, 1967 provides for the issue of passports and travel documents, to regulate the departure from India of citizens of India and for other persons and for matters incidental or ancillary thereto. As per section 13 of the Act, any officer of customs empowered by a general or special order of the Central Government in this behalf and any officer of police or emigration officer not below the rank of a sub-inspector may arrest without warrant any person against whom a reasonable suspicion exists that he has

committed any offence punishable under section 12 and shall, as soon as may be, inform him of the grounds for such arrest.

- (v) The Registration of Foreigners Act, 1939 : the Registration of Foreigners Act, 1939 provides for the registration of foreigners in India. Section 3 of the Act empowers the Central Government to make rules inter alia requiring any foreigner entering, or being present in India to report his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed and also requiring any foreigner moving from one place to another place in India to report, on arrival at such other place, his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed. In exercise of the powers conferred by section 3 of the Act, the Central Government notified the Registration of Foreigners Rules, 1939, which was superseded by the Registration of Foreigners Rules, 1992.

50. It is respectfully submitted that functions of the Central Government in making orders of the nature specified in section 3(2)(e) and 3(2)(c) of the Foreigners Act, 1946 for detention and deportation of foreign nationals, section 5 of the Passport (Entry into India) Act, 1920 and under the Foreigners Order, 1948 and under Rule 3 of the Registration of Foreigners Rules, 1939 (now the Registration of Foreigners Rules, 1992) have been entrusted under article 258(1) of the Constitution of India to the State Governments vide MHA's Notification S.O.no. 590 [F.No.4/3/56-(I)F.I.] dated 19th April, 1958. UT Administrations have also been

directed under article 239 of the Constitution of India to discharge these functions of the Central Government vide Notification S.O.no. 591[F.No.4/3/56-(I)F.I] dated 19th April, 1958. A copy of the MHA's Notification S.O.no. 590 [F.No.4/3/56-(I)F.I] dated 19th April, 1958 and a copy of the Notification S.O.no. 591 [F.No.4/3/56-(I)F.I] dated 19th April, 1958 is annexed herewith and marked as **Annexure R –4**. It is submitted that Central Government by notification dated 20.03.1950 has also directed that the powers and duties conferred or imposed on it by Section 2 of the Immigrants (Expulsion from Assam) Act, 1950 shall be exercised or discharged also by the Government of Assam or by the Deputy Commissioners, Commissioners, Additional Deputy Commissioners, Sub-Divisional officers and the Superintendent, Lushasi Hills subordinate to Government of Assam. A copy of the notification dated 20.03.1950 is annexed herewith and marked **Annexure R - 5**.

51. It is respectfully submitted that while the Central Government has laid down the aforementioned legal framework wherein all State Governments including that of Assam and Union Territory Administrations are fully empowered to take action regarding detention and deportation/ removal/ expulsion of illegally staying foreigners as per the provisions in the Passport (Entry into India) Act, 1920, the Foreigners Act, 1946, the Foreigners Order, 1948 and the Immigration (Expulsion from Assam) Act, 1950. It is further respectfully submitted that the Central Government does not maintain a separate federal police force exclusively dedicated to the task of detection, detention and deportation of illegally

staying foreigners and action in this regard is to be taken by the State/ UT police.

52. It is further submitted that on the preventive side, the Central Government has taken various measures as mentioned in para 51 above.

53. It is respectfully submitted that the Citizenship (Amendment) Act, 2019 is not limited to Assam and will be applicable throughout the country [except tribal areas of Assam, Meghalaya, Mizoram and Tripura as included in the Sixth Schedule of the Constitution and areas covered under “Inner Line” as notified under the Bengal Eastern Frontier Regulation, 1873 (Regulation 5 of 1873)]. It facilitates grant of citizenship to migrants belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities from Afghanistan, Bangladesh and Pakistan who entered in to India on or before 31.12.2014 and who have been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of provisions of the Foreigners Act, 1946 or any rule/ order made thereunder.

54. It is further submitted that this is a narrowly tailored law which has a specific cut-off date of 31.12.2014. Therefore, only such of the migrants belonging to the six specified communities from the three countries who had entered into India on or before 31.12.2014 and who have been exempted by the Central Government from the penal provisions of The Foreigners Act, 1946 or The Passport (Entry into India) Act, 1920 will be covered by the provisions of this Amendment Act. It is respectfully submitted that these migrants are already residing in India and the Amendment Act

does not have any provision to provide for grant of citizenship to any migrants who would have come after 31.12.2014. It is therefore submitted that the Citizenship (Amendment) Act, 2019 does not in any way encourage illegal migration into Assam. It is therefore further respectfully submitted that the Citizenship (Amendment) Act, 2019 does not in any way violate the judgment of this Hon'ble Court in its judgment dated 12.07.2005 in *Sarbananda Sonowal versus Union of India*, (2005) 5 SCC 665.

THE CITIZENSHIP (AMENDMENT) ACT, 2019 CREATES DIFFERENT LAWS CONCERNING CITIZENSHIP FOR PEOPLE LIVING IN THE SIXTH SCHEDULE AREAS IN THE STATES OF TRIPURA, MEGHALAYA AND ASSAM WHILE EXEMPTING STATES WITH AN INNER LINE PERMIT (ARUNACHAL PRADESH, MIZORAM, NAGALAND) AND IS THEREFORE ARBITRARY

55. I state and submit that by excluding tribal areas as mentioned in Sixth Schedule to The Constitution of India and the areas covered under the Inner Line System, The CAA, 2019 seeks to protect the indigenous/ local communities inhabiting these areas in conformity with the constitutional provisions provided for such indigenous people. It is submitted that the exclusion for Sixth Schedule area and ILP areas is based on a 'class' of areas and cannot be treated as discriminatory. In a number of cases, classification on historical, geographical or other reasons has been upheld as being reasonable in the light of the object of the Act. It is submitted that some of these cases are as under:-

- In *Parents' Assn. v Union of India*, (2000) 2 SCC 657, distinction drawn between treatment of the pre-1942 settlers

and the post-1942 settlers in Andaman & Nicobar Islands by the Central Government on consideration of the historical background of the Island and reservation of 50% in their favour in allotment of seats for higher educational courses was upheld against other affluent group, on the ground that they belong to a separate category due to their struggle/ suffering and were considered as backward, socially and educationally.

- In the case of *Javed vs. State of Haryana, (2003) 8 SCC 369*, Hon'ble Supreme Court considered the provisions of Sections 175(1)(q) and 177 (1) of the Haryana Panchayati Raj Act, 1994, prescribing disqualification for being a Sarpanch, Up-Sarpanch or a Panch of a Gram Panchayat or a member of a Panchayat Samiti or Zila Parishad or to continue as such, to persons having more than two living children and upheld the same as promoting the two child policy and not being discriminatory.
- In the case of *Parisons Agrotech (P) Ltd. v. Union of India, (2015) 9 SCC 657*, Hon'ble Supreme Court held that once it is found that there is sufficient material for taking a particular policy decision, bringing it within the four corners of Art. 14 of the Constitution, power of judicial review would not extend to determine the correctness of such a policy decision or to indulge into the exercise of finding out whether there could be more appropriate or better alternatives. It was held that the equality clause does not forbid geographical classification, provided the difference between the geographical units has a reasonable relation to the object sought to be achieved.

56. It is submitted that the exclusion of Sixth Schedule areas is based on classification arising out of Constitutional safeguard accorded

to some specific areas based on their unique needs and circumstances. It is submitted that similarly exclusion of ILP areas is based on classification arising out of safeguard accorded by the provisions of Bengal Eastern Frontier Regulation, 1873 in view of their special circumstance and requirements. It is pertinent to mention that the purpose of Sixth schedule of the Constitution is, among others, to provide for development, local governance and other arrangements required for the needs of tribal areas. Further the purpose of ILP is to empower the State Government to regulate the movement of Indian Citizens in the respective States. It is submitted that the areas under Sixth Schedule and ILP are to be treated as a separate category i.e. a class by themselves.

57. It is submitted that the said classification duly meets the twin requirements of ‘intelligible differentia’ and ‘rational nexus’ with the objectives of CAA. The condition of intelligible differentia is met in as much as there is a need to honour the constitutional safeguard provided to this category of areas under Sixth Schedule and the safeguards provided to the areas under ILP regime. By treating them as a separate category and thus excluding them from CAA such special dispensation is being maintained for such areas. To that extent CAA therefore intends to protect and continue the dispensation accorded to these areas. The second condition of rational nexus is met by the explicit contents of ‘Statements of objects and reasons.’

58. It is submitted that thus, considering the areas under Sixth schedule and ILP, their needs and the provision to cater such needs make for the valid ground for intelligible differentia while the explicit contents (para 10 of the Statement of Objects and Reasons of

CAA) provide rational nexus with the objective of CAA with such classification. Hence CAA duly meets the twin requirements for reasonable classification for excluding sixth Schedule and ILP areas.

59. It is respectfully submitted with reference to the pleadings concerning the Chakmas, that the judgment of this Hon'ble Court dated 09.01.1996 in the Writ Petition filed by the National Human Rights Commission (NHRC) is neither relevant nor has any effect on the provision in sub-section (4) of section 6B of the Citizenship Act, 1955 inserted by the Citizenship (Amendment) Act, 2019. The Writ Petition filed by NHRC was in an entirely different context to enforce the rights under Article 21 of the Constitution of about 65,000 Chakma/Hajong Tribals settled mainly in Arunachal Pradesh who were alleged to be under threat by sections of the citizens of Arunachal Pradesh. It is submitted that this Hon'ble Court had then given following directions:-

“(i) The first respondent, the State of Arunachal Pradesh, shall ensure that the life and personal liberty of each and every Chakma residing within the State shall be protected and any attempt to forcibly evict or drive them out of the State by organised groups, such as the AAPSU, shall be repelled, if necessary by requisitioning the service of para-military or police force, and if additional forces are considered necessary to carry out this direction, the first respondent will request the second respondent, the Union of India, to provide such additional force, and the second respondent shall provide such additional force as is necessary to protect the lives and liberty of the Chakmas;

(ii) except in accordance with law, the Chakmas shall not be evicted from their homes and shall not be denied domestic life and comfort therein;

(iii) the quit notices and ultimatums issued by the AAPSU and any other group which tantamount to threats to the life and liberty of each and every Chakma should be dealt with by the first respondent in accordance with law.;

(iv) the application made for registration as citizen of India by the Chakma or Chakmas under section 5 of the Act, shall be entered in the register maintained for the purpose and shall be forwarded by the Collector or the DC who receives them under the relevant rule, with or without enquiry, as the case may be, to the Central Government for its consideration in accordance with law; even returned applications shall be called back or fresh ones shall be processed and forwarded to the Central Government for consideration;

(v) while the application of any individual Chakma is pending consideration, the first respondent shall not evict or remove the concerned person from his occupation on the ground that he is not a citizen of India until the competent authority has taken a decision in that behalf; and

(vi) the first respondent will pay to the petitioner cost of this petition which we quantify at Rs.10,000/- within six weeks from today by depositing the same in the office of the NHRC, New Delhi."

60. It is respectfully submitted that in W.P.(C) No. 510/2007, the Hon'ble Supreme Court in order dated 17th September, 2015 had observed that Chakma and Hajong were displaced from the area which became part of East Pakistan (now Bangladesh) on construction of Kaptai Dam and were allowed to be rehabilitated under the decision of Government of India. This Hon'ble Court further observed that there is a need to protect them and their claims of citizenship also needs to be considered as per applicable

procedure. This Hon'ble Court directed in para 20 of its order dated 17th September, 2015 that :-

“the Government of India and the State of Arunachal Pradesh to finalize the conferment of citizenship rights on eligible Chakmas and Hajongs and also to ensure compliance of directions in judicial decisions referred to in earlier part of this order for protection of their life and liberty and against discrimination in any manner. The exercise may be completed at the earliest preferably within three months from today.”

61. It is respectfully submitted that in the case of Chakmas & Hajongs a total of 1945 applications for registration as citizens of India under section 5 (1)(a) of the Citizenship Act, 1955 have been forwarded by the Government of Arunachal Pradesh to the Central Government recommending that they are not eligible for grant of citizenship under section 5(1)(a) of the Act on account of non-fulfillment of the conditions specified therein. This matter is separately under consideration of the Central Government.
62. It is respectfully submitted that the cases of Chakmas & Hajongs are entirely different as the Chakma-Hajong people had been allowed by the Central Government to settle in India as refugees and have also been issued refugee cards allowing their entry into India during the years 1960-69. Further, applications for grant of citizenship have already been made by many Chakmas. This Court has directed Govt. of India and the State of Arunachal Pradesh to finalize conferment of citizenship rights on eligible Chakmas and Hajongs. A specific provision has been made as sub-section (4) in section 6B of the Citizenship Act 1955 inserted by the Citizenship(Amendment) Act, 2019 to the effect that nothing in

this section shall apply to tribal areas of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under “The InnerLine” notified under the Bengal Eastern Frontier Regulation, 1873 with a view to protect the interests of the indigenous tribal population in these areas. It is, therefore, respectfully submitted that the exemptions given under sub-section (4) of section 6B of the Citizenship Act, 1955 as inserted by the Citizenship (Amendment) Act, 2019 are neither unconstitutional nor contrary to the orders of this Hon’ble Court in *National Human Rights Commission vs. State of Arunachal Pradesh & Anr.* [1996 SCC (1) 742].

SECTIONS 2,3,5 AND 6 OF THE IMPUGNED ACT ARE INCONSISTENT WITH THE IMMIGRANTS (EXPULSION FROM ASSAM) ACT, 1950 WHICH WAS ENACTED TO PROTECT THE INDIGENOUS INHABITANTS OF ASSAM

63. It is respectfully submitted that section 2 of the Immigrants (Expulsion From Assam) Act, 1950, which was notified on 1st March, 1950, empowers the Central Government to direct a person or class of persons to remove himself or themselves from India or Assam if the Central Government is of the opinion that such a person or class of persons, having been ordinarily resident in any place outside India has or have whether before or after the commencement of the Act come into Assam and the stay of such a person or class of persons in Assam is detrimental to the interests of – (i) the general public of India or; (ii) of any section thereof or; (iii) of any Scheduled Tribe in Assam (copy of the Immigrants

(Expulsion From Assam) Act, 1950 is at **Annexure R-6**). However, as per proviso to section 2, nothing in this section shall apply to any person who on account of civil disturbances or the fear of such disturbances in any area forming part of Pakistan (now including Bangladesh) has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam. It is respectfully submitted that the proviso to section 2 was adopted by the Parliament on 10th February, 1950 after extensive debate. The intention of the legislature in incorporating proviso to section 2 in the Immigration (Expulsion from Assam) Act, 1950 was to protect the Hindu refugees from East Pakistan (present day Bangladesh) residing in Assam from expulsion which is substantiated by the debates in Parliament when this Bill was considered.

64. It is further submitted that proviso to section 2 of the Immigration (Expulsion from Assam) Act, 1950 clearly protects a person who on account of civil disturbances or the fear of such disturbances in any area forming part of Pakistan (now including Bangladesh) has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam from expulsion proceedings. It is submitted that civil disturbance or fear of such disturbance would cover persecution on grounds of religion or fear of such persecution. Thus, it is submitted that persons belonging to the classified minority communities in Pakistan and Bangladesh as specified in the Citizenship (Amendment) Act, 2019 who have taken shelter in Assam due to persecution on grounds of religion or fear of such persecution are covered under the proviso to section 2 of the Immigrants (Expulsion from Assam) Act, 1950 and are,

therefore, protected from expulsion. It is, therefore, respectfully submitted that the provisions in the CAA 2019 cannot be considered as inconsistent with the Immigrants (Expulsion from Assam) Act, 1950.

THE RESPONDENTS HAVE NOT ISSUED ANY ORDER OR RULES UNDER THE REGISTRATION OF FOREIGNERS ACT, 1939 IN RESPECT OF CLASSES OF PERSONS SOUGHT TO BE COVERED BY THE IMPUGNED ACT, WHICH ARE, THEREFORE, IN VIOLATION OF THE MANDATE OF THE REGISTRATION OF FOREIGNERS ACT, 1939

65. It is respectfully submitted that The Registration of Foreigners Act, 1939 is not relevant for illegal foreigners. Hence, exemption from the Registration of Foreigners Act, 1939 for illegal foreigners is neither relevant nor required. The issue of legality of foreigners is to be determined only under the Passport (Entry into India) Act, 1920 and rules made thereunder and the Foreigners Act. 1946 under which exemptions were duly granted to the members of the classified communities under the CAA.
66. It is respectfully submitted that the Registration of Foreigners Act, 1939 provides for the registration of certain foreigners in India. Section 3 of the Act empowers the Central Government to make rules inter alia requiring any foreigner entering, or being present in India to report his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed and also requiring any foreigner moving from one place to another place in India to report, on arrival at such other place, his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed. In exercise

of the powers conferred by section 3 of the Act, the Central Government has notified the Registration of Foreigners Rules, 1992. It is further respectfully submitted that requirement of valid travel documents including passport and visa for foreigners entering and staying in India is covered by the Passport (Entry into India) Act, 1920, the Passport (Entry into India) Rules, 1950, the Foreigners Act, 1946 and the Foreigners Order, 1948. In view of this, the specified minorities from the three countries who had entered India upto 31st December, 2014 on account of persecution on grounds of religion or fear of such persecution either without any valid travel documents or with valid travel documents but the validity of any of such documents had expired, were exempted from the relevant provisions of the Passport (Entry into India) Rules, 1950 and the Foreigners Order, 1948 by the notifications issued on 07.09.2015 and 18.07.2016 with a view to regularize their entry and stay in India. It is respectfully submitted that the Ministry of Home Affairs had also issued Standard Operating Procedure (SOP) to State Governments and UT Administrations on 08.01.2016 & 14.09.2016 which provide that persons covered by the notifications issued on 07.09.2015 and 18.07.2016 can also submit applications for grant of Long Term Visa (LTV). It is submitted that once LTV is granted, such foreigners will get registered with the Registering Authority as specified in the Registration of Foreigners Rules, 1992. It is, therefore, respectfully submitted that issue of any separate notification exempting such persons from the Registration of Foreigners Act, 1939 or the Registration of Foreigners Rules, 1992 is not considered necessary and there is no violation of the mandate of

the Registration of Foreigners Act, 1939 or the Registration of Foreigners Rules, 1992.

THE IMPUGNED ACT WHICH ILLEGALLY LEGITIMIZES THE ENTRY AND CONTINUED STAY OF SUCH ILLEGAL MIGRANTS FROM BANGLADESH WHO HAVE ENTERED ASSAM ON OR BEFORE 31.12.2014 IS ILLEGAL AND MANIFESTLY ARBITRARY AND VIOLATIVE OF THE FUNDAMENTAL RIGHTS OF THE CITIZENS OF ASSAM AS CONTAINED IN THE CONSTITUTION OF INDIA

67. It is respectfully submitted that the Citizenship (Amendment) Act, 2019 facilitates grant of citizenship to migrants belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities from Afghanistan, Bangladesh and Pakistan who entered in to India on or before 31.12.2014 and who have been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of provisions of the Foreigners Act, 1946 or any rule/ order made thereunder. It is further submitted that this is a focused law which has a specific cut off date of 31.12.2014. Therefore, only such of the migrants belonging to the six specified communities from the three countries who had entered into India on or before 31.12.2014 will be covered by the provisions of this Amendment Act. It is respectfully submitted that these migrants are already living in India. The Amendment Act does not have any provision which provide for grant of citizenship to such migrants who would have come after 31.12.2014 till date or on any future date. It is respectfully submitted that the Citizenship (Amendment) Act, 2019 does not in any way encourage illegal migration into Assam

and, therefore, the apprehension that it has the potential to encourage illegal migration into Assam is unfounded.

68. In light of the above, it is submitted that the said petitions are liable to be dismissed by this Hon'ble Court. I further submit that the Union of India reserves the right to file a more detailed affidavit with the leave of this Hon'ble Court, if necessary, at a later stage as the present affidavit has been filed in the limited time available with the Respondent and after perusing the limited petitions which were served to the Union of India.

Sumant Singh

DEPONENT

(सुमन्त सिंह)

(SUMANT SINGH)

संयुक्त सचिव/Joint Secretary

गृह मंत्रालय

Ministry of Home Affairs

भारत सरकार/Govt. of India

VERIFICATION

Verified at New Delhi on this day 30th of October, 2022, that the contents of the above affidavit are true and correct to my knowledge and belief derived from the official records. No part of the above affidavit is false and nothing material has been concealed there from.

Sumant Singh

DEPONENT

(सुमन्त सिंह)

(SUMANT SINGH)

संयुक्त सचिव/Joint Secretary

गृह मंत्रालय

Ministry of Home Affairs

भारत सरकार/Govt. of India

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (CIVIL) NO. 562/2012

IN THE MATTER OF:

ASSAM SANMILITA MAHASANGHA & OTHERS ... Petitioners

-VERSUS-

THE UNION OF INDIA & OTHERS ... Respondents

ADDITIONAL AFFIDAVIT ON BEHALF OF THE RESPONDENTS NOS. 1, 2 &

3

PAPER BOOK

(Kindly see index inside)

Advocate for the Respondent : Sushma Suri

462

INDEX

1.	Additional Affidavit on behalf of the Respondents Nos. 1, 2 & 3.	Pg. 3-14
2.	<u>Annexure- A-1</u> True copies of letters dated 26.12.2014 from the Secretary, Department of Border Management, Ministry of Home Affairs, Government of India to the Chief Secretaries of the State Governments concerned namely, West Bengal, Assam, Meghalaya, Tripura and Mizoram is annexed herewith and marked as Annexure-A-1 (Colly).	Pg.15-19
3.	<u>Annexure- A-2</u> True copies of letters dated 12 th March 2015 from the Union Home Minister to the Chief Ministers of the State Governments is annexed herewith and marked as Annexure-A-2(Colly).	Pg.20-29
4.	<u>Annexure- A-3</u> A true copy of letter dated 9.01.2015 from Department of Border Management to all the construction agencies is annexed herewith and marked as Annexure-A-3.	Pg.30
5.	<u>Annexure- A-4</u> A true copy of letter dated 26.12.2014 from the Director (NE II), Ministry of Home Affairs, Government of India to the Government of Assam is annexed herewith and marked as Annexure-A-4	Pg.31-32
6.	<u>Annexure- A-5</u> A true copy of the details of district-wise number of police units/task force is received from the State Government of Assam is annexed herewith and marked as Annexure-A-5.	Pg.33
7.	<u>Annexure- A-6</u> A true copy of updated status of implementation of NCR, 1951 is received from the State Government of Assam is annexed herewith and marked as Annexure-A-6.	Pg. 34-35
8.	<u>Annexure- A-7</u> A true copy of letter dated 7.4.2015 from Ministry of Home Affairs to the State Government of Assam is annexed herewith and marked as Annexure-A-7.	Pg.36

IN THE SUPREME COURT OF INDIA
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WRIT PETITION (CIVIL) NO. 562/2012

IN THE MATTER OF:

ASSAM SANMILITA MAHASANGHA & OTHERS ... Petitioners

-VERSUS-

THE UNION OF INDIA & OTHERS

... Respondents

ADDITIONAL AFFIDAVIT ON BEHALF OF THE RESPONDENTS NOS.1,2 & 3

1. Shambhu Singh, son of Shri Ram Bahadur Singh, aged 55 years, resident of New Delhi, presently serving as Joint Secretary (North East) in the Ministry of Home Affairs, Government of India, New Delhi, do hereby solemnly affirm and state as under:

2. That I, in my official capacity mentioned above and being fully conversant with the facts and circumstances of the case, am competent to swear this affidavit on behalf of Respondent Nos. 1, 2 & 3.

3. This additional Affidavit is being filed indicating the steps that have been taken by the Union of India, pursuant to the directions passed by this Hon'ble Court vide its Judgment dated 17th December, 2014 and 31st March 2015 in this matter. The status of construction work of border fencing, border roads, provisions for flood lights, night patrolling at the international border along the India Bangladesh border, setting up of Foreigners Tribunals and mechanism for deportation of declared illegal migrants to their native country are given in the succeeding paragraphs.



I. Border fencing, Border Roads and provision for flood lights

4. The progress made in respect of construction works undertaken along Indo-Bangladesh border namely:- (i) border fencing, (ii) border roads, (iii) flood lights and (iv) additional Border Out Posts (BOPs) during the last three months upto 20.03.2015 are given below:-

Description of Work	Work undertaken	timelines targeted to be completed	work completed during the last three months	Total % of work completed
Construction work of fencing	78.80 km	(31.5.2016) (17 months)*	16 km.	20.30%
Construction work of roads	160.23 km.	(31.5.2016) (17 months)*	20 km.	12.32%
Installation of flood lights	330 km	31.5.2016 (17 months)*	107 km	32.42%
Construction of additional BOPs	78 (Nos.)	31.12.2016 (24 months)*	13 (Nos.)	16.66 %

* period/time lines indicated for completion of work undertaken as on the directions passed by this Hon'ble Court on 17th December 2014.

5. It is respectfully submitted that the total length of the Indo-Bangladesh border is 4096.7 km, out of which, about 2980.7 km is land border and about 1116 km is riverine border. The total fencing sanctioned along the Indo-Bangladesh border is 3,326 km, out of which, 102 km of fencing is not feasible due to low-lying/riverine and difficult terrain. Hence fencing can be constructed only in 3224 km. Therefore, it is evident that as on 20th March, 2015, out of the 3224 km feasible fencing work, 2844 km of fencing work has been completed which is 88% of the feasible fencing work. Further, considering that 293 km site is not available for fencing due to pending land acquisition, public protest, etc., the total available site for fence work is 2931 km ($3226 - 102 - 293 = 2931$ km).

Out of these 2931 km, 97% of the work (2844 km) has been completed. The progress of construction of border roads is generally slow compared to fencing, as the road work is completed after completion of on-going fencing work so as to avoid the damages to the road due to movement of construction trucks.



6. Regarding the fence work in Assam State, it is submitted that Assam shares 263 km long International border with Bangladesh. Out of 263 km, the border fencing has been sanctioned for 229.03 km in two phases (Phase-I: 152.31 km and Phase-II: 76.72 km). Under Phase-I, fencing work of 149.29 km was completed and balance work was found non-feasible. Under Phase-II, out of 76.72 km, all the fencing work has been completed except for about 3.5 km in Karimganj town of Assam which is densely populated till the bank of river Kushiara. During January, 2014, the State Government has been paid the amount of land acquisition for fencing in the balanced portion. However, considering that the proposed alignment of fence in Karimganj town was at 30 meter from the bank of River Kushiara, the State Government was of the view that many inhabited areas may fall beyond the fence towards Bangladesh side. Thus, the Government of Assam, in October, 2014, requested to change the alignment of the proposed fence at a distance of 5 meter from the River Kushiara. Accordingly, the Ministry of Home Affairs in November, 2014 requested the construction agency, i.e. NBCC Ltd, to examine the feasibility for reinforcement of embankment of River Kushiara and construction of fence at the distance of 5 meter from the river. The NBCC Ltd. on 16th March, 2015 has submitted the estimates for construction of fence at a distance of 5 meter from the bank of river Kushiara. The estimates of the NBCC will be deliberated in the meeting of the Technical Committee headed by the DG, CPWD proposed to be held on 27th April, 2015. Thereafter, if the Technical Committee agrees with the estimates of the NBCC, the same will be placed before the High Level Empowered Committee (HLEC) headed by the Union Home Secretary for financial approval. At present, about 97% of the sanctioned fence work has been completed in the State of Assam.

It is respectfully submitted that adequate companies of Border Security Force (BSF) have been deployed along the fence as well as unfenced areas of Indo-Bangladesh Border for effective day and night guarding of the international border. Besides, these unfenced as well as fenced areas are covered with



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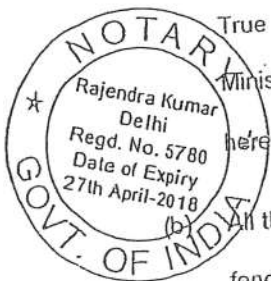
surveillance equipment like Hand Held Thermal Imager (HHTI), Binocular, Battle Field Surveillance Radar (BFSR), Night Vision Devices (NVDs) and Night Vision Goggles (NVGs). As stated above, unfenced gaps are properly guarded by the Border Security Force and these unfenced gaps have been plugged by improvised method, i.e., by barbed wire, concertina coil and by sending additional patrol and observation posts as per lay of the ground.

8. In respectful compliance of the orders of the Hon'ble Supreme Court, the Ministry of Home Affairs has taken following steps to further accelerate the pace of border infrastructure works including fencing along the Indo-Bangladesh Border:-

- (a) The Chief Secretaries of the State Governments concerned namely, West Bengal, Assam, Meghalaya, Tripura and Mizoram have been requested by the Secretary, Department of Border Management, Ministry of Home Affairs, vide letter dated 26th December 2014 to resolve the local issues including pending land acquisition, which are hampering the progress of border infrastructure works. Further, the Union Home Minister has also requested the Chief Ministers of the State Governments concerned vide letter dated 12th March 2015 to resolve the bottlenecks in the border infrastructure works so that the cross border illegal activities can be curbed. True copies of letters dated 26.12.2014 from the Secretary, Department of Border Management, Ministry of Home Affairs, Government of India to the Chief Secretaries of the State Governments concerned namely, West Bengal, Assam, Meghalaya, Tripura and Mizoram are annexed herewith and marked as Annexure-A-1 (Colly)(P.15-19).

True copies of letters dated 12th March 2015 from the Union Home Minister to the Chief Ministers of the State Governments are annexed herewith and marked as Annexure-A-2(Colly)(P.20-21).

(b) All the construction agencies engaged in the construction work of border fence, roads, floodlights and Border Out Posts (BOPs) along the Indo-Bangladesh border have been requested vide letter dated 9th January



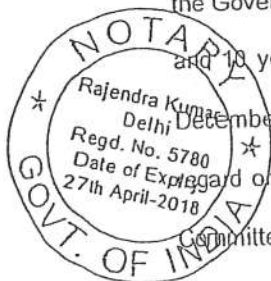
467

2015 to complete their respective sanctioned works along the border within the stipulated time period. A true copy of letter dated 9.01.2015 from Department of Border Management, Ministry of Home Affairs to all the construction agencies is annexed herewith and marked as Annexure-A-3(p.30).

- (c) The border infrastructure works are being closely monitored by the Ministry of Home affairs through review meetings and by the personal visits of the officers. In this regard, a meeting to review the progress of border infrastructure works along the Indo-Bangladesh Border was held under the chairmanship of Joint Secretary (Border Management) on 23rd December, 2014. Further, a State Level Coordination Committee (SLCC) meeting of Meghalaya State was held on 2nd January, 2015 under the chairmanship of Chief Secretary, Meghalaya to resolve the issue of pending land acquisition in about 88 km of border areas. The Deputy Secretary (Border Management) and Deputy Inspector General, BSF visited the border areas of Meghalaya during 3rd – 5th January, 2015 to review the progress of border infrastructure works.
- (d) The Union Home Minister visited the border areas of the Indo-Bangladesh Border in Tripura State during February, 2015 and in West Bengal State during 31st March – 1st April, 2015 to review the security situation along the international border.

II. Foreigners Tribunals

9. It was stated in the previous affidavit dated 5.12.2014 that the proposal of the Government of Assam for appointment of lawyers with the age of 55 years and 10 years legal experience as member, tribunal would be decided by 31st December 2014. The approval has been conveyed to the State of Assam in this regard on 26th December, 2014. The Hon'ble Gauhati High Court has set up a Committee for selection of Member, Tribunals for 64 additional tribunals as well as 12 vacancies which have arisen due to retirement in the existing 36 tribunals.



It is mentioned that all 36 Foreigners Tribunals have been made functional by giving dual charge to the Member tribunal of the neighbouring district. As soon as selection process is completed by the Committee set up by the Gauhati High Court for additional 64 Foreigners Tribunals and 12 vacancies, all Foreigners Tribunals will be made functional immediately. A true copy of letter dated 26.12.2014 from the Director (NE II), Ministry of Home Affairs, Government of India to the Government of Assam is annexed herewith and marked as Annexure-A-4 (P. 31-32).

III. Existing Mechanism of Deportation of Declared Illegal Migrants

10. The issue of streamlining of the procedure of the deportation was discussed in the Home Secretary Level Talks held between India and Bangladesh in February 2015 at New Delhi. The Bangladesh side had agreed to take necessary steps for simplifying the procedure for expeditious verification of nationality of such persons. In this connection, nodal points are being set up between the two countries for expeditious confirmation of nationality of such persons. Matter is being followed up with the Government of Bangladesh in this regard. The agreed minutes signed between the Home Secretaries of India and Bangladesh on security and border management related issues in February, 2015 will be presented in sealed cover for kind perusal of this Hon'ble Court as and when so directed by the Hon'ble Court.

11. In addition to above, implementation status of Action Plan submitted before this Hon'ble Court for detection and deportation of illegal Bangladeshi nationals from Assam to Bangladesh and border infrastructure are given in succeeding paragraphs.

Detection of illegal migrants:

The State Government of Assam has constituted 500 Police Units/Task Force and operationalised them in all 27 districts of the State for detection of illegal migrants and referring their cases to the Foreigners Tribunals for opinion. Each Task Force is comprised of 1 Sub-Inspector/Assistant Sub-Inspector/Head Constable and 3 constables. The Police units/Task Force have been directed by



(9)

the State authorities to make all efforts to trace the declared illegal migrants/foreigners who have done the act of vanishing. A true copy of the details of district-wise number of police units/task force is annexed herewith and marked as Annexure-A-5(p. 33)

II. Procedure for detection of illegal migrants Pre-1971:

(a) The State Government has been advised to follow the procedure which was devised in January 2014 for initiating inquiry against the illegal migrants pertaining to Pre-1971 stream and referred to Foreigners Tribunals after taking two sureties (bonafide Indians with bond or without bond), finger prints and photographs of such alleged illegal Bangladeshi nationals.

(b) Immediately on receipt of the judgment of Foreigners Tribunals declaring a person as illegal migrant, name of such declared illegal migrant is being sent to the competent authority for deletion from the respective electoral rolls. In turn, the District Election Officer deletes names of such persons from electoral rolls for 10 years. During January and February, 2015, names of 9 declared illegal migrants pertaining to pre-1971 stream were sent to the competent authority for deletion of their names from the electoral rolls. The State Government has been requested to send data for the month of March, 2015 which is still awaited. Such persons will also register themselves with the registering authority. The data of such persons are being maintained by the State authorities.



III. Procedure for detection of illegal migrants Post-1971:

(a) & (b): The State Government has been advised to follow the procedure which was devised in January 2014 for initiating inquiry against the illegal migrants pertaining to Post-1971 stream and referred to Foreigners Tribunals after taking two sureties (bona fide Indians with bond or without bond), finger prints and photographs of such alleged illegal Bangladeshi nationals. Such persons who are not able to arrange sureties will be detained by the State

480

(10)

police and produced before the respective tribunal within 24 hours. During the months of January and February, 2015, 939 numbers of inquiries were initiated out of which 847 inquiries have been completed. During the said period 555 number of cases were referred to the Foreigners Tribunals for opinion. During January and February, 2015, names of 676 declared illegal migrants pertaining to Post-1971 stream have been sent to the competent authority for deletion of their names from the electoral rolls. The State Government has been requested to send data for the month of March, 2015 which is still awaited.

(c) All such declared foreigners', who have done the vanishing act, a database indicating all details (along with photographs, if available), has been prepared by the State Government and is being given wide publicity in the newspapers. Such details have also been shared with the Task Force for tracing them out. Instructions have also been issued for cancellation of their driving licences, vehicle registration certificates, ration cards etc., if any, possessed by these declared illegal migrants.

IV. Deportation of declared illegal migrants:

(a) Persons declared as illegal migrants by the Tribunals are being kept in the Detention Centres till their repatriation to their native country. During the last three months up to 25.3.2015, 34 declared illegal migrants were detained in the detention centres while 12 such persons were released on bail granted by the Hon'ble Court. At present, 184 declared illegal migrants (156 illegal Bangladeshi nationals and 28 illegal Myanmar nationals) have been detained in the detention centres. Out of 156 declared illegal Bangladesh nationals who are

in detention centres, 38 such persons have filed Writ Petition before the Hon'ble High Court challenging the orders passed by the Foreigners



Details of declared illegal migrants along with their photographs and addresses and contact information of their relatives in Bangladesh as received

471

from the Government of Assam are being sent in prescribed format to the Ministry of External Affairs (MEA). In turn, the MEA sends the same to the Bangladesh authorities for nationality confirmation of such persons. Bangladesh authorities have confirmed nationality of 32 such persons during the last two years and they have been deported to Bangladesh.

(c) Bangladesh authorities are provided consular access for interviewing/taking information from such persons who are in detention centres for confirming their details.

(d) Declared illegal migrants/foreigners by the Tribunals are presently kept in three detention centres at Goalpara, Kokrajhar and Silchar. Three more detention centres at Nagaon, Tezpur and Dhubri have been proposed and are under active consideration of the Government of Assam for approval.

V. Strengthening of Foreigners Tribunals:

(a) Procedure defined to deal with the cases of illegal migrants is followed by the Foreigners Tribunals.

(b) It was stated in the previous affidavit dated 5.12.2014 that the proposal of the Government of Assam for appointment of lawyers with the age of 55 years and 10 years legal experience as member, tribunal would be decided by 31st December, 2014. The approval has been conveyed to the State of Assam in this regard on 26th December, 2014 (P. 31-32) (Annexure-A-4). The Hon'ble Guwahati High Court has set up a Committee for selection of member tribunals for 64 additional tribunals as well as 12 vacancies which have arisen due to retirement in the existing 36 tribunals. It is mentioned that all 36 Foreigners Tribunals have been made functional by giving dual charge to the member tribunal of the neighbouring district. As soon as selection process is completed by the Committee set up by the Gauhati High Court for additional 64 Foreigners Tribunals and 12 vacancies, all Foreigners Tribunals will be made functional immediately.



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VI. Deletion of name of declared illegal migrants from the Electoral rolls:

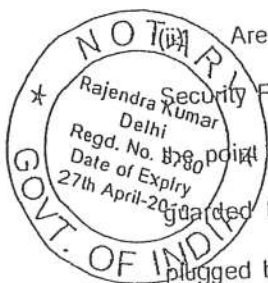
Name of those declared illegal migrants are being sent to the concerned Election Offices of the Districts for deletion of their names from the Electoral rolls immediately. As stated above, names of 9 persons pertaining to Pre-1971 and 676 declared illegal migrants pertaining to Post-1971 have been sent to the Competent Authority for deletion of their names from the electoral rolls during the last two months January and February 2015.

VII. National Register of Citizens in Assam:

Vide Order dated 31/03/2015, Hon'ble Court has directed NRC Coordinator to file an affidavit with regard to the progress in the preparation of NRC. A true copy of updated status of implementation of NCR, 1951 received from the State of Assam is Annexed herewith and marked as Annexure-A-6.

VIII. Effective border guarding to check and control illegal immigration:

(i) Intensive day and night patrolling is being carried out by field formations of the Border Security Force (BSF) at the international border of India and Bangladesh to check the illegal infiltration from Bangladesh including illegal cross border activities. It is mentioned that on an average, 1065 day and night patrolling in a month by each battalion is being done which include foot patrolling, cycle patrolling, boat patrolling, vehicle patrolling and zero line patrolling. Besides, on an average 995 Simultaneous Coordinate Patrols (SCPs) with Bangladesh Border Guards are also being conducted in a month on Indo-Bangladesh Border in vulnerable areas prone to border crimes including illegal infiltration.



Areas of 37 Border Outposts (BOPs) have been identified by the Border Security Force along the Indo Bangladesh Border as vulnerable patches from point of view of illegal immigration. These vulnerable areas are properly guarded by the Border Security Force and the unfenced gaps have been plugged by improvised methods, i.e., by barbed wire, concertina coil and by sending additional patrolling and placing of observation posts etc., as per lay of

473

the ground. These unfenced areas are also covered with surveillance equipments. Local Commanders are also carrying out special operations i.e. ambush-cum-patrolling on zero line and in depth area as per information/situation. During December 2014 to February 2015, BSF has apprehended 961 illegal Bangladeshi nationals (West Bengal – 943, Meghalaya – 08, Assam – 02 and Tripura - 08) along Indo-Bangladesh border. These apprehended Bangladeshi nationals were handed over to State police (740 persons) and to customs (50 persons) for their further necessary action. 171 persons were handed over to Border Guard Bangladesh (BGB).

(iii) and (iv) Instructions have been issued by the BSF to all field formations. However, apprehended persons are being interrogated by BSF as well as State Police. Strict vigil is being maintained by the troops as well as vigilance officers to stop illegal infiltration. Strict disciplinary action is being taken against BSF personnel found involved in any illegal activities. Disciplinary enquiries have been initiated against two BSF personnel on the grounds of dereliction of duty during the last three months.

(v) Intelligence agencies including BSF Intelligence Wing have been geared up for keeping close vigil along the international border.

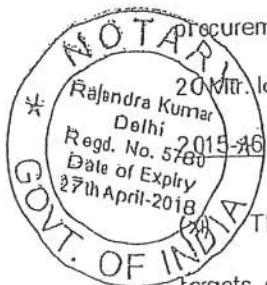
(vi) to (ix) Status of action taken on development of border infrastructure such as construction of fencing, border roads, installation of flood lights, setting up of BoPs are given in paras 4 to 8 of this affidavit.

(x) 152 water crafts/boats have already been deployed for guarding of riverine areas of international border between India and Bangladesh. Further

procurement of 10 numbers of Double Engine Speed Boats and 5 numbers of 20 Mtr. long Steel Boats is under process and will be completed during the year

2015-16 as stated in our previous affidavit.

The works of creation of border infrastructure are ongoing as per the targets conveyed and are likely to be completed in a time bound manner as mentioned in our previous affidavit dated 5.12.2014.



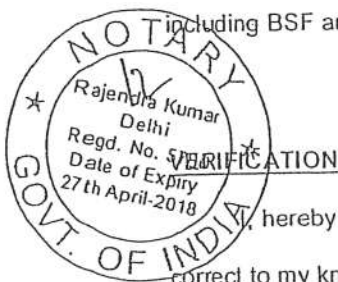
(xii) Regular village coordination meetings are being organized by field formation to sensitize border population. On an average, 400 meetings per month are being conducted along Indo-Bangladesh border. The meeting with Village Defence Parties (VDPs), Headman and villagers is being conducted regularly at Company/BOP level and also by visiting officers.

(xiii) 3153 Security personnel provided under Prevention of Infiltration of Foreigners (PIF) have been tasked for checking of illegal infiltration from Bangladesh. The State government of Assam has been requested vide this Ministry's letter No.11012/38/2012-NE.IV, dated 7.4.2015 for taking necessary action for filling up of vacant posts under PIF scheme. A true copy of the letter (p. 36) is annexed and marked as Annexure A-7. Besides, the State Government has set up 14 border posts along the international border behind the BSF as a second check point to intercept the illegal migrants.

(xiv) Four additional battalions of BSF will be raised in the financial year 2015-16, as stated in the previous affidavit.

12. It is respectfully submitted that as stated above, review meetings are held at various level to review the progress in construction of border infrastructure from time to time. Further, implementation status of the Action Plan will be reviewed in the Ministry of Home Affairs on 22nd April 2015 with all concerned including BSF and the State of Assam.

Shambhu Singh
(शंभु सिंह)
DEPONENT
संयुक्त सचिव
गृह मंत्रालय
भारत सरकार, नई दिल्ली



I, hereby verify the contents of my above additional affidavit are true and correct to my knowledge, belief, and information derived from the records of this case. No part of it is false and nothing relevant has been concealed therein.

Verified at New Delhi on this 10th day of April, 2015.

CERTIFIED THAT THE SIGNATURES EXPLAINED TO ME BY THE DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON 10.04.2015. IDENTIFIED BY 1. K. Shrivastava
I, hereby verify the contents of my above additional affidavit are true and correct to my knowledge, belief, and information derived from the records of this case. No part of it is false and nothing relevant has been concealed therein.

ATTESTED *Shambhu Singh*
RAJENDRA KUMAR P.N. 8212491692
NOTARY, DELHI-R-5780 9899446209
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI 110004
Register Pg./Sl. No. 10.04.2015

(शंभु सिंह)
DEPONENT
संयुक्त सचिव
गृह मंत्रालय
भारत सरकार, नई दिल्ली

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ANNEXURE - A - 1 (Copy) 218

स्नेह लता कुमार
(सीमा प्रबंधन)

SNEH LATA KUMAR
SECRETARY (BORDER MANAGEMENT)
Tel : 23092440 Fax : 23092717
E-mail : secybm@nic.in



गृह मंत्रालय
भारत सरकार

नार्थ ब्लॉक, नई दिल्ली-110 001

MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA

NORTH BLOCK, NEW DELHI - 110001

D.O. No. 11017/52/2014-BM.III

26 December 2014

Dear Shri Jitesh Khosla,

This is to invite your kind attention towards the recent judgement (dated 17.12.2014) of the Hon'ble Supreme Court of India in the case WP (Civil) 562 of 2012 "ASSAM SANMILITA MAHASANGHA & Vs. UNION OF INDIA & ORS." wherein the Apex Court has desired for effective steps by the Union of India towards an early completion of the pending border infrastructure works along the Indo-Bangladesh Border (IBB). The Hon'ble Court has also desired to review the status of border works after three months.

2. The Government of India is taking all possible steps for an early completion of border fence, road, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that the only pending (sanctioned) fence work in Assam is about 3.5 km in Karimganj area which is pending due to delay in Land Acquisition.

3. In this regard, I would like to request you to kindly review the matter personally and resolve the issue at the earliest so as to ensure the completion of the pending border works at the earliest.

With regards,

Yours sincerely,

(Sneh Lata Kumar)

Shri Jitesh Khosla,
Chief Secretary,
Government of Assam,
Guwahati.

15

486

लता कुमार
(सीमा प्रबंधन)

Smt. H LATA KUMAR
SECRETARY (BORDER MANAGEMENT)
Tel. 23092440 Fax 23092717
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गृह मंत्रालय
भारत सरकार

नार्थ ब्लॉक, नई दिल्ली-110 001

MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA

NORTH BLOCK, NEW DELHI - 110001

D.O. No. 11017/52/2014-BM.III

26 December 2014

Dear Shri. Warji,

This is to invite your kind attention towards the recent judgement (dated 17.12.2014) of the Hon'ble Supreme Court of India in the case WP (Civil) 562 of 2012 "ASSAM SANMILITA MAHASANGHA & Vs. UNION OF INDIA & ORS." wherein the Apex Court has desired for effective steps by the Union of India towards an early completion of the pending border infrastructure works along the Indo-Bangladesh Border (IBB). The Hon'ble Court has also desired to review the status of border works after three months.

2. The Government of India is taking all possible steps for an early completion of border fence, road, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that most of the pending border works are facing bottlenecks like pending land acquisition, public protest, etc. which can be resolved at the State Government level.

3. In the State of Meghalaya, about 91 km of fence and road works are pending due to pending land acquisition and public protest. In addition, about 06 km work is affected due to non-finalization of compensation amount for plantation in the acquired land.

4. In this regard, I would like to request you to kindly review the matter personally and resolve the issues at the earliest so as to ensure the completion of pending border works at the earliest.

With regards,

Yours sincerely,

(Smt. H Lata Kumar)

Shri P.B.O. Warji,
Chief Secretary,
Government of Meghalaya,
Shillong.

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श्री लता कुमार
 (सीमा प्रबंधन)
 Smt H LATA KUMAR
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 MINISTRY OF HOME AFFAIRS
 GOVERNMENT OF INDIA
 NORTH BLOCK, NEW DELHI - 110001

D.O. No. 11017/52/2014-BM.III

26 December 2014

Dear Shri Lalmaisaawma

This is to invite your kind attention towards the recent judgement (dated 17.12.2014) of the Hon'ble Supreme Court of India in the case WP (Civil) 562 of 2012 "ASSAM SANMILITA MAHASANGHA & Vs. UNION OF INDIA & ORS." wherein the Apex Court has desired for effective steps by the Union of India towards an early completion of the pending border infrastructure works along the Indo-Bangladesh Border (IBB). The Hon'ble Court has also desired to review the status of border works after three months.

2. The Government of India is taking all possible steps for an early completion of border fence, road, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that most of the pending border works are facing bottlenecks like pending land acquisition, public protest, etc. which can be resolved at the State Government level.

3. In the State of Mizoram, fence and road works in about 60 km could not be started due to pending forest/wildlife clearance from the National Board of Wildlife (NBWL). However, the NBWL in its last meeting held on 12-13 August, 2014 has recommended the project with the condition that the State Government will transfer about 1519.575 Ha of non-forest land as compensation to the equivalent area of land required to be diverted inside Dampa Tiger Reserve from a neighbouring areas or elsewhere.

4. In this regard, I would like to request you to kindly review the matter personally and resolve the issues at the earliest so as to ensure the completion of pending border works at the earliest.

With regards,

Yours sincerely,

(Signature)
 (Sneh Lata Kumar)

Shri Lalmaisaawma,
 Chief Secretary,
 Government of Mizoram,
 Aizwal.

17

478

श्री लता कुमार

(सीमा प्रबंधन)

H LATA KUMAR

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MINISTRY OF HOME AFFAIRS

GOVERNMENT OF INDIA

NORTH BLOCK, NEW DELHI - 110001

D.O. No. 11013/12/2012-BM.III

26 December 2014

Dear Shri Rao,

Please refer to your D.O. letter dated 18.12.2014 in connection with the fencing work along the Indo-Bangladesh Border. The matter regarding the pending fence work is being periodically reviewed in this Ministry and the agencies concerned have been advised to complete all the pending fence work at the earliest.

2. I would also like to apprise you about the recent judgement (dated 17.12.2014) of the Hon'ble Supreme court of India in the case WP (Civil) 562 of 2012 "ASSAM SAMAJLITA MAHASANGHA & ORS." wherein the Apex Court has desired for effective steps by the Union of India towards an early completion of the pending border infrastructure works along the Indo-Bangladesh Border (IBB). The Hon'ble Court has also desired to review the status of the border works after three months.

3. The Government of India is taking all possible steps for an early completion of the border works along the IBB wherever an encumbrance free site is available for the work. However, it is noticed that some of the border works are pending due to pending land acquisition, public protest, etc. which can be resolved at the State Government level.

4. In the State of Tripura, as also pointed out in your above mentioned D.O. letter that about 14 km of fence and road works are pending due to local issues. In this regard, I would like to request you to kindly review the matter personally and resolve the issues at the earliest so as to ensure the completion of pending border work at the earliest.

5. Further, I would like to inform that the Ministry of Home Affairs (MHA) is in process of deploying the technology solutions in the riverine and non-feasible fencing gaps along the Border. In this regard, a sub-committee under the Chairmanship of IG (Ops), BSF was constituted to study the various technologies available globally and to recommend the terrain specific solutions. The committee has submitted its report and it is being processed in MHA.

Regards and best wishes

for a Happy New Year.

Your's sincerely,

(Sneha Lata Kumar)

Shri G. Kameswara Rao,
Chief Secretary,
Government of Tripura,
Agartala.

स्नेह लता कुमार
(सीएम प्रबंधन)

SNEH LATA KUMAR

SECRETARY (BORDER MANAGEMENT)

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गृह मंत्रालय

भारत सरकार

नार्थ ब्लॉक, नई दिल्ली-110 001

MINISTRY OF HOME AFFAIRS

GOVERNMENT OF INDIA

NORTH BLOCK, NEW DELHI - 110001

D.O. No. 11017/52/2014-BM.III

26 December 2014

Dear Shri Mitra,

This is to invite your kind attention towards the recent judgement (dated 17.12.2014) of the Hon'ble Supreme Court of India in the case WP (Civil) 562 of 2012 "ASSAM SANMILITA MAHASANGHA & Ys. UNION OF INDIA & ORS." wherein the Apex Court has desired for effective steps by the Union of India towards an early completion of the pending border infrastructure works along the Indo-Bangladesh Border (IBB). The Hon'ble Court has also desired to review the status of border works after three months.

2. The Government of India is taking all possible steps for an early completion of border fence, road, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that most of the pending border works are facing bottlenecks like pending land acquisition, public protest, etc. which can be resolved at the State Government level.

3. In the State of West Bengal, about 90 km of fence works are pending due to land acquisition (85 km) and public protest (5 km).

4. In this regard, I would like to request you to kindly review the matter personally and resolve the issues at the earliest so as to ensure the completion of pending border works at the earliest.

With regards,

Yours sincerely,

[Signature]
(Sneh Lata Kumar)

Shri Sanjoy Mitra,
Chief Secretary,
Government of West Bengal,
Kolkata.

19

480

84

ANNEXURE-A-2 (10/17/14)
D.O. No. 11017/52/2014-BM-IIIराजनाथ सिंह
RAJNATH SINGHगृह मंत्री
भारत
नई दिल्ली-110001
HOME MINISTER
INDIA
NEW DELHI-110001

Dear Shri Gogoi Ji,

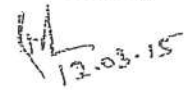
I am writing this letter to invite your kind attention towards the issues hampering the progress of the border infrastructure works along the Indo-Bangladesh Border (IBB) in your State.

2. In order to enhance the security situation along the International Borders of the country, the Government of India is taking all possible steps for an early completion of border fence, roads, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance-free site is available for work. However, due to delay in land acquisition, it is observed that the fence work in the State of Assam, which is about 3.5 Km. in Karimganj area, is pending.

3. Considering that the fence gaps are predominantly exploited by the cross border criminals for committing crimes like infiltration, smuggling, etc., I would like to request you to kindly review the matter personally and resolve the issues at the earliest so that the pending border works may be completed at the earliest.

With regards,

Yours Sincerely


12.03.15
(Rajnath Singh)

Shri Tarun Gogoi,
Chief Minister of Assam,
Chief Minister's Secretariat,
Dispur, Assam.

Office : Room No. 104, Ministry of Home Affairs, North Block, New Delhi-110 001
Tel : 23092462, 23094606 Fax : 23092979
E-mail : 31ashokroad@gmail.com

481

(201)

राजनाथ सिंह
RAJNATH SINGH



गृह मंत्री
भारत
नई दिल्ली-110001
HOME MINISTER
INDIA
NEW DELHI-110001

Dear Dr. Sangma Ji,

I am writing this letter to invite your kind attention towards the issues hampering the progress of the border infrastructure works along the Indo-Bangladesh Border (IBB) in your State.

2. In order to enhance the security situation along the International Borders of the country, the Government of India is taking all possible steps for an early completion of border fence, roads, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that most of the pending border works are facing bottlenecks such as pending land acquisition, public protests, etc., which are within the purview of the State Government concerned.

3. I have observed that in the State of Meghalaya, about 88.05 km of fence and road works are pending in the following stretches due to pending land acquisition and public protest:

- (i) BOP Hatimara (BP No. 1251 MP) to Pyrdwah (BP No. 1272/9-S)-33.30 Km
- (ii) BOP Dawki (BP No. 1272/9) to BOP Jaliakhola (BP No. 1299)-37.25 Km
- (iii) BOP Jaliakhola (BP 1299/3S) to BOP Lajuri (BP 1316)-17.50 Km

4. Further, construction of 02 Border Out Posts (BOPs) (Durbeta and Mikirpara) of Border Security Force (BSF) has also been delayed due to the pending land acquisition.

5. Recently, the above issues were also discussed in the State Level Coordination Committee (SLCC) meeting held on 02.01.2015 under the Chairmanship of the Chief Secretary, Meghalaya, which was attended by the representatives of MHA and BSF. However, no tangible outcome has been noticed till date.

6. Considering that the fence gaps are predominantly exploited by the cross border criminals for crimes like infiltration, smuggling, etc., I would like to request you to kindly review the matter personally and resolve the issues at the earliest so that the pending border works may be completed at the earliest.

With regards,

Yours Sincerely

(Rajnath Singh)

Dr. Mukul Sangma
Chief Minister of Meghalaya,
Chief Minister's Secretariat,
Shillong, Meghalaya

Office : Room No. 164, Ministry of Home Affairs, North Block, New Delhi-110 001
Tel : 23082482, 23094635 Fax : 23092979
E-mail : 30ashokroad@gmail.com

21

482

86

D.O. No. 11017/52/2014-BM-III

203

राजनार्थ सिंह
RAJNATH SINGHगृह मंत्री
भारत
नई दिल्ली-110001
HOME MINISTER
INDIA
NEW DELHI-110001

Dear Shri Lal Thanhawla Ji,

I am writing this letter to invite your kind attention towards the issues hampering the progress of the border infrastructure works along the Indo-Bangladesh Border (IBB) in your State.

2. In order to enhance the security situation along the International Borders of the country, the Government of India is taking all possible steps for an early completion of border fence, roads, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that most of the pending border works are facing bottlenecks such as pending land acquisition, public protests, etc., which are within the purview of the State Government concerned.

3. I have learnt that in the State of Mizoram, fence and road work in about 60 km could not be started in the Dampa Tiger Reserve, Mizoram due to pending forest/wildlife clearance from the National Board of Wildlife (NBWL). The NBWL in its meeting held on 12-13 August, 2014 has recommended the project with the condition that the State Government will transfer about 1519.575 Ha of non-forest land as compensation to the equivalent area of land required to be diverted inside Dampa Tiger Reserve from neighbouring areas or elsewhere.

4. Considering that the fence gaps are predominantly exploited by the cross border criminals in crimes like infiltration, smuggling, etc., I would like to request you to kindly review the matter personally and resolve the issues at the earliest so that the pending border works may be completed at the earliest.

With regards,

Yours Sincerely

12-03-15
(Rajnath Singh)

Shri Lal Thanhawla,
Chief Minister of Mizoram,
Chief Minister's Secretariat,
Aizwal, Mizoram.

Office: Room No. 104, Ministry of Home Affairs, North Block, New Delhi-110 001
Tel.: 23092362, 23094686 Fax: 23092979
E-mail: j8a8hokmard@gmail.com

22

483

87

202

D.O. No. 11017/52/2014-BM-III

राजनाथ सिंह
RAJNATH SINGH



गृह मंत्री,
भारत
नई दिल्ली-110001
HOME MINISTER
INDIA
NEW DELHI-110001

Dear Shri Sarkar Ji,

I am writing this letter to invite your kind attention towards the issues hampering the progress of the border infrastructure works along the Indo-Bangladesh Border (IBB) in your State.

2. In order to enhance the security situation along the International Borders of the country, the Government of India is taking all possible steps for an early completion of border fence, roads, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that in the State of Tripura, about 14 km of fence and road works are pending due to local issues. The list of pending fence and road works is enclosed at Annexure, for your ready reference.

3. Considering that the fence gaps are predominantly exploited by the cross border criminals in crimes like infiltration, smuggling, etc., I would like to request you to kindly review the matter personally and resolve the issues at the earliest so that the pending border works may be completed at the earliest.

With regards,

Yours Sincerely

(Rajnath Singh)

Enclose: As above

Shri Manik Sarkar,
Chief Minister of Tripura,
Chief Minister's Secretariat,
Agartala, Tripura.

Office : Room No. : 104, Ministry of Home Affairs, North Block, New Delhi-110 001
Tel : 23092462, 23094686 Fax : 23092979
Email : 38ashoknoid@gmail.com

23

484

Details of fence & road work pending in Tripura due to local issues

Srl No.	District	BSF Battalion	BSF BOP	Border Pillar reference		Length of gap (in Km)	Reason of gap
				From	To		
1	Tripura (North)	159	Brojendra Nagar	1814/16-S	1814/17-S	0.075	LA case pending
2	Tripura (North)	159	Yakubnagar	1823/20-S	1823/27-S	0.275	LA case pending
3	Tripura (North)	159	Yakubnagar	1824/1-R1	1825/25-S	0.438	LA case pending
4	Tripura (South)	60	Hrishyamuh	2181/15-S	2182/3-S	0.380	LA case pending
5	Sepahijala	158	Ashabari	2060/4-S	2061/2S	0.418	Public Protest
6	Sepahijala	158	Kalsimura	2063/2-S	2063/10S	0.840	Public Protest
7	Sepahijala	158	Kalamchera	2065/2-S	2065/5S	0.338	Public Protest
8	Sepahijala	29	Belardepa/Dhanpur	2087/7S	2088/7S	0.723	Public Protest
9	Sepahijala	29	Dhanpur	2089/M	2089/2S	0.327	Public Protest
10	Sepahijala	29	Nirbhaypur	2091/11-S	2091/19S	0.235	Public Protest
11	Tripura (South)	29	Rangamura	2107/7S	2107/8S	0.173	Public Protest
12	Sepahijala	29	Kulubari/Srimantapur/Belar depa	2080/3S	2086/6S	9.100	Public Protest
Total						13.322	

राजनथ सिंह
RAJNATH SINGH



गृह मंत्री (25)
भारत
नई दिल्ली-110001
HOME MINISTER
INDIA
NEW DELHI-110001

Dear Ms. Banerjee Ji,

I am writing this letter to invite your kind attention towards the issues hampering the progress of the border infrastructure works along the Indo-Bangladesh Border (IBB) in your State.

2. In order to enhance the security situation along the International Borders of the country, the Government of India is taking all possible steps for an early completion of border fence, roads, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that most of the pending border works are facing bottlenecks such as pending land acquisition, public protest etc., which are within the purview of the State Government concerned.

3. I have learnt that in the State of West Bengal, about 89 km of fence works are delayed due to pending land acquisition and public protest. Further, construction of about 68 Border Out Posts (BOPs) of the Border Security Force (BSF) has also been delayed due to the pending land acquisition. The lists of pending fence and BOP works are enclosed at Annexure-I and II respectively, for your ready reference.

4. Considering that the fence gaps are predominantly exploited by the cross border criminals for committing crimes like infiltration, smuggling, etc., I would like to request you to kindly review the matter personally and resolve the issues at the earliest so that the pending border works may be completed at the earliest.

With regards,

Yours Sincerely

12.03.15

(Rajnath Singh)

Enclose: As above

Ms. Mamata Banerjee
Chief Minister of West Bengal,
Chief Minister's Secretariat,
Kolkata, West Bengal.

25

Details of fence work pending in West Bengal due to local issues

Srl No.	District	BSF Bns	BSF BOP	Border Pillar reference		Length of gap (in Km)	Reasons
				From	To		
1	24 Pargnas (N)	144	Ghojadanga	2/2-S	04 MP	2.940	L.A case pending
2	24 Pargnas (N)	152	Gobardah, Kajjuri, Dublia	7/34-S	10 MP	7.470	L.A case pending
3	24 Pargnas (N)	152	Amudia	12/4-S	12/6-S	1.000	L.A case pending
4	24 Pargnas (N)	152	Amudia	13/1-S	13/4-R13	7.600	L.A case pending
5	24 Pargnas (N)	152	Arishakari	13/4-R 14	13/4-R 15	1.461	L.A case pending
6	24 Pargnas (N)	152	Kalanchi	17-1/1R	17-1/7-R	1.080	L.A case pending
7	24 Pargnas (N)	40	Garjala, Tentulberia, Pipili	17-1/13-R	17-1/39-R	5.795	L.A case pending
8	24 Pargnas (N)	40	Jhaudanga	17-1/67-R	17-1/75-R	1.665	L.A case pending
9	24 Pargnas (N)	40	Bornberia & Angrail	17-1/91-R	17/145-R	8.602	L.A case pending
10	24 Pargnas (N)	26	Mustafapur	27/7-S	28/1-S	1.221	L.A case pending
11	24 Pargnas (N)	26	Bowra & Laxmiour	39/1-S	39/5-S	3.500	L.A case pending
12	24 Pargnas (N)	26	Uttarpara	39/5-S	39/13-S	4.150	L.A case pending
13	24 Pargnas (N)	26	Uttarpara	39/13-S	39/15-S	2.050	L.A case pending
14	24 Pargnas (N)	26	Panchberia	40/16-T	40/24-T	1.084	L.A case pending
15	24 Pargnas (N)	1	Ranghat & Tilla	52/13-R	53/1-S	3.330	L.A case pending
16	Nadia	173	Srirampur	60/15-R	60/24-R	2.400	L.A case pending
17	Nadia	173	Jhorpara	60/28-R	60/36-R	1.919	L.A case pending
18	Nadia	173	Bornberia	60/36-R	60/38-R	0.481	L.A case pending
19	Nadia	85	Vijaymath	144/MP	144/5-S	0.114	L.A case pending
20	Nadia	85	Sikarpur	147/3-R	147/8-R	1.300	L.A case pending
21	Murshidabad	91	Madhubana, Jalangi & Charbhadra	157/2-1-S	84/3-S	5.000	L.A case pending
22	Murshidabad	4	Ramnagar	36/6-S	34/1-S	1.600	Public Protest
23	D/Dinajpur	82	L N Pur	894263	244/3-S	0.807	L.A case pending
24	D/Dinajpur	82	Chhatrahati	903281	245/5-S	0.407	L.A case pending
25	D/Dinajpur	82	Chhatrahati	922279	245/8-S	1.402	Non-payment of compensation
26	D/Dinajpur	96	Aptiar	836981	287/28-S	0.223	L.A case pending
27	D/Dinajpur	96	North Agra	837281	288/1-S	1.100	L.A case pending
28	D/Dinajpur	96	Bhimpur	357380	291/M	1.960	L.A case pending
29	D/Dinajpur	120	Darajpur	249504	299/5-S	1.411	L.A case pending
30	D/Dinajpur	120	Rasulpur	189587	308/6-R	0.677	L.A case pending
31	U/Dinajpur	109	Barmanbasti	954569	422/13-R	1.360	L.A case pending
32	U/Dinajpur	66	Hoptiagach	779701	442/1-S	0.740	L.A case pending
33	U/Dinajpur	66	Hoptiagach	782705	442/5-S	0.480	L.A case pending
34	Darjeeling	66	Murikhawa	785708	443/M	1.500	L.A case pending

	Jalpaiguri	93	Fulbari	861849	732/2-S	1.894	L.A case pending
	Jalpaiguri	93	Madnerbari	939718	739/15-S	0.312	L.A case pending
37	Jalpaiguri	102	Chosepara	150500	765/7-S	2.150	L.A case pending
38	Coochbehar	104	Changrabandha	820517	842/1-S	0.400	L.A case pending
39	Coochbehar	104	Changrabandha	820517	842/5-S	2.500	L.A case pending
40	D/Dinaipur	82	L N Pur	895262	244/1-S	0.610	L.A case pending
41	D/Dinaipur	96	Balupara	833886	283/13-S	0.311	Public Protest
42	D/Dinaipur	96	Hilli	833876	283/19-S	0.144	Public Protest
43	D/Dinaipur	96	Aptiar	836538	285/30-S	0.250	Public Protest
44	U/Dinaipur	14	Khunti	763386	395/5-S	0.090	Public Protest
45	Jalpaiguri	93	Datrapara	-	738/10-R	0.015	Public Protest
46	Coochbehar	13	B R K Bari	466416	800/1S	0.390	Public Protest
47	Cooch Behar	181	Kalamali	956/4-S	956/8-S	0.350	Public Protest
48	Cooch Behar	101	Sahibganj	963/4-S	963/5-S	0.300	Public Protest
49	Cooch Behar	34	Maheshmari	879/16-S	881/9-S	1.094	Public Protest
Total						88.639	

27

488

Details of BOP work pending in West Bengal due to local issues

SL NO.	BSF SECTOR	DISTRICT	NUMBER OF COMPOSITE BOPS	NAME OF BSF COMPOSITE BOP	AGENCY	REASON
1	Kolkata	24 Parganas (N)	6	i) Subhashnagar ii) Jalalpur iii) Moonbhatta iv) Kalupota-II v) Kajjuri-I vi) Angrial	CPWD	LA case pending
2	Krishnana gar	24 Parganas (N)	1	i) Laxmipur	CPWD	LA case pending
3	Behrampur	Nadia Nadia Nadia Nadia Nadia Murshidabad Murshidabad Murshidabad	9	i) Pakshi ii) Dhakola iii) Baijnathpur iv) Boripota v) Char Meghna vi) Uday vii) Kakmarichar viii) Charmurashi ix) Nalna	CPWD	LA case pending
4	Malda	Murshidabad Murshidabad Malda Malda Malda Malda	6	i) Chapghat ii) Kathakali iii) Sovapur TP iv) Singhbad v) JJ pur vi) Tikkapara	CPWD	LA case pending
5	Rainaj	D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur U/Dinajpur	10	i) Srirampur ii) Bamanhar iii) Dighipara iv) Koilara v) Kakot vi) Hariharpur vii) Dighisal viii) Ganglar ix) Deepapara x) Marium	CPWD	LA case pending

29

196

6	Kishanganj	U/Dinajpur	11	i) Kalughat ii) Panchi iii) Chandrapara iv) Chetnagach v) Kazigach vi) Molani vii) Mirchagach viii) Shyamgach ix) Karigach x) Jorapani	CPWD	LA case pending
		U/Dinajpur	1	Vivekanand	NPCC	LA case pending
7	Siliguri	Jalpaiguri	5	i) Baingach ii) Ramkrishna iii) Panna iv) Jamuna v) Khudiram	NPCC	LA case pending
8	Jalpaiguri	Cooch Behar	12	i) Krishna ii) Drona iii) Kalsipara iv) Narayani v) South Bhootbari vi) Bagdogra-I vii) Gomti viii) Chambal ix) Khosi x) Gandak xi) Himalaya xii) Panisala-I	NPCC	LA case pending
9	Falakata	Cooch Behar	1	i) Salbari	NPCC	LA case pending
10	Cooch Behar	Cooch Behar	6	i) Koarai ii) Daribas iii) Bharbhandā iv) Panchabati v) Dhalbari vi) Azampara	NPCC	LA case pending
Total			68			

29

490

Ministry of Home Affairs
Department of Border Management
(BM Division)

(80)


Subject: Border Infrastructure Works along Indo-Bangladesh Border.

This is to invite your kind attention towards the recent judgement (dated 17.12.2014) of the Hon'ble Supreme Court of India in the case WP (Civil) 562 of 2012 "ASSAM SANMILITA MAHASANGHA & Vs. UNION OF INDIA & ORS." wherein the Apex Court has desired for effective steps by the Union of India towards an early completion of the pending border infrastructure works along the Indo-Bangladesh Border (IBB). The Hon'ble Court has also desired to review the status of border works after three months.

2. In view of the above, all the agencies involved in the construction work of border infrastructure along the Indo-Bangladesh Border are requested to expedite the pending works so as to complete them in a given time frame. It is further requested that the completed border works may be handed over to the BSF on priority.

3. The progress achieved in the border infrastructure works may be intimated to this Ministry on monthly basis.

4. This has the approval of the JS(BM)


(Armit Nirmal)
Dy. Secretary (BM-III)
Tel. No. 23438151

To

1. DG, BRO, Naraina, Ring Road, New Delhi.
2. ADG (Border), CPWD, Nirman Bhawan, New Delhi.
3. CMD, NBCC, NBCC Bhawan, Lodhi Road, New Delhi
4. CMD, NPCC, Corporate Office, Plot No. 67-68, Sector-25, Faridabad, Haryana - 121004
5. CMD, Engineering Projects (India) Ltd., Core-3, Scope Complex, 7-Institutional Area, Lodhi Road, New Delhi - 110003
6. Chief Engineer (Border Roads), Assam PWD, Chandmari, Guwahati (Assam)

U.O.No.11017/52/2014-BM-III dated 9th January, 2015

30

491

F.No.11012/48/2005 – NE-IV
Ministry of Home Affairs
North East Division

(24)

New Delhi, 26th December 2014

To

1. Shri Jitesh Khosla,
Chief Secretary,
Government of Assam,
Dispur, Guwahati, Assam.
2. Shri Prateek Hajela,
Commissioner & Secretary (Home Department),
Government of Assam,
Dispur, Guwahati, Assam.

Sub:- Approval for allowing Advocates to be engaged as Members, Foreigners Tribunal.

Ref: 1. Hon'ble Guwahati High Court judgement and Order in W.P (C) 3282/2014
Ashim Roy Vs. State of Assam & Others.
2. Assam Home Department's letter No.PLB.155/2007/83, dated 23.9.2014

Sir,

I am directed to refer to State Government's letter No.PLB.143/2014/169, dated 21st October 2014 on the subject cited above and to say that 64 additional Foreigners Tribunals have been sanctioned vide this Ministry's letter No.11012/13/2013-NE.IV, dated 6th June 2013 for speedier disposal of pending cases.

2. In this connection, I am directed to say that the proposal of the Govt. of Assam for engagement/ appointment of lawyers as Members, Foreigner Tribunal was examined and it has been decided that Advocates with the age of 55 years and 10 years of Legal experience/Legal practice will be considered for appointment as Member for additional 64 Tribunals sanctioned initially for 2 years in addition to sitting/retired District Judge/ADJ. Maximum age upto which advocate will be allowed to work is 60 years. Extension of tenure may be considered upto 1 year on need basis. Pay and allowance to the member will be regulated as admissible to State Judicial officer at initial stage. Transfer allowance, HRA, TA & DA etc will be decided accordingly. Besides, Medical facilities will be provided to the judicial officers as per the norms. In so far as existing 36 tribunals are concerned, advocates may also be appointed as per above prescribed norms.

3. It is clarified that appointment of lawyers as Member, Tribunal will be purely on contractual basis for 2 years or as extended from time to time on need basis.

4. The selection of the lawyers will be done by the Committee headed by Retired High Court Judge as directed by the Hon'ble Guwahati High Court in Revision Petition No.22/2010.

31

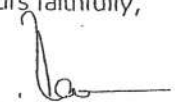
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(32)

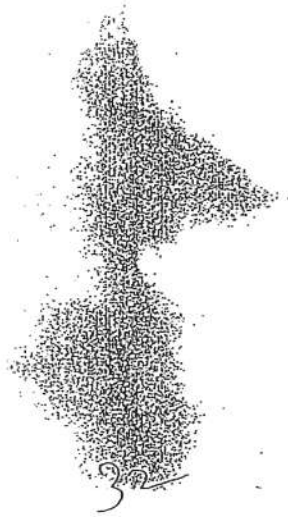
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5. It is requested that terms and guidelines issued by the State of Assam may kindly be revised accordingly.
6. This issues with the approval of IFD, MHA Diary No. 3049026 dated 24.12.2014.

Yours faithfully,



(Ajay Kanoujia)
Director (NE II)
Telefax: 23092728


(32)

ANNEXURE-A-5

ANNEXURE - 'A'

NUMBER OF TASK FORCE DISTRICT-WISE

Sl. No.	District	Nos of Task forces
1	Dhubri	25
2	Goalpara	15
3	Kokrajhar	10
4	Bongaigaon	19
5	Barpeta	20
6	South Salmara	10
7	Nalbari	16
8	Kamrup	30
9	City Guwahati	30
10	Darrang	20
11	Sonitpur	22
12	Lakhampur	8
13	Dhemaji	8
14	Biswanath	5
15	Dibrugarh	12
16	Tinsukia	9
17	Sivasagar	12
18	Sadia	5
19	Jorhat	10
20	Majuli	5
21	Nagaon	40
22	Morigaon	25
23	Hojai	10
24	Golaghal	10
25	K / Anglong	6
26	Hamren	5
27	Cachar	30
28	Karimganj	20
29	Hailakandi	15
30	Dima-Hasao	4
31	Baksa	10
32	Chirang	7
33	Udalguri	5
34	GRP, (Pandu)	12
35	R.P.O	10
	Total	500

ANNEXURE-A-6

Status of implementation of NRC 1951 in the state of Assam

(34)

- An amount of Rs.288.18 crore has been approved for NRC work. Out of which Rs.140.58 crore has already been released. Any revised cost in this regard, if any, will be approved accordingly.
- Publication of Legacy Data, i.e. NRC 1951 & Electoral Rolls upto 1971, started on 27th February 2015 in 100 NRC Seva Kendras (NSKs) and polling stations falling within those NSKs of Kamrup, Kamrup Metro, Nagaon & Nalbari districts. In order to facilitate easy search of entries in the Legacy Database the same has been digitised, developed and linked to the scans of the original Database. On 27th February 2015, apart from the statutory requirement of publishing Legacy Data in physical form, the Digitised Legacy Data Development software was also launched in the selected 100 NSKs.
- The response of the public for visit to first phase of NSKs has been positive and footfalls are increasing day by day. Out of 19921 persons, who visited these NSKs during the period 27th February 20-15 to 11th March 2015, about 16,500 could locate their legacy data. The segregation and printing of legacy data, for publishing at NSKs in other districts would be completed by March 2015.
- The organisation structure for implementation of the NRC updation has been put in place by mobilising the entire State Government machinery at various levels such as village, circle, district and state and also by engaging and training the pool of professionals hired at contract basis for the project.
- The large scale capacity building programmes are being organised for various levels of functionaries for implementation of the scheme of NRC updation. Preparatory phase capacity building exercise covering 25000 functionaries has been completed.
- The system integrator i.e. M/s. Wipro Ltd. has been hired for NRC updation process. They are setting up all the NSKs in Assam and providing all technical support.
- The search of the digitised data has been made available in any of the three languages namely Assamese, Bengali and English. Each NSK has been provided the legacy database of entire state for search of data from any part of the state so that one would not require going in search of legacy data in the original place of residence.
- An Toll Free NRC helpline number "15107" has been set up for the public which is operational 24/7 and is multilingual.
- An official website of NRC has been developed, whereby public can be looked for all relevant information related to NRC updation process.
- Timelines as suggested by State Government for NRC work is attached.

34

495

Timelines

The State Government has provided the following suggested timelines based on the latest situation and preparedness of implementation of the scheme as below:

TIMELINE FOR UPDATION OF NRC AS ON 27 th MARCH 2015					
Sl. No.	Activities	Start	End	Start	End
		For 100 NSKs		For remaining 2394 NSKs	
1.	Publication of Records - search/looking up of linkage by public	27 th February, 2015		27 th March 2015	
2.	Receipt of applications	27 th April 2015 to 31 st July 2015			
3.	Verification	1 st July, 2015	30 th October, 2015	1 st July 2015	30 th October 2015
4.	Draft Publication	31 st October, 2015		31 st October 2015	
5.	Receipt of Claims & Objections	1 st November, 2015	30 th November, 2015	1 st November, 2015	30 th November, 2015
6.	Disposal of Claims & Objections	1 st December, 2015	31 st December, 2015	1 st December, 2015	31 st December, 2015
7.	Finalisation of final updated NRC	31 st January, 2016		31 st January 2016	

100

No. 76/Email-out-er

ANNEXURE-A-2

Thru IB Fax

No. 11012/38/2012-NE.IV
Government of India
Ministry of Home Affairs

New Delhi, Dated 7th April, 2015

To,

Sh. M. Haziraka,
Joint Secretary (ACS),
Govt. of Assam, Dispur, Guwahati.

Sub: Status of vacancy position of personnel under PIF Scheme.

Sir,

I am directed to refer to this Ministry's letter of even number dated 27.03.2015 on the subject noted above and to say that necessary action may be taken for filling up of vacant posts under PIF scheme and send action taken report in the matter to this Ministry urgently.

Yours faithfully,

(Sushil Ekka)

Under Secretary to the Government of India
Tel: 2309 3586

36

497

D.O. No.11017/52/2014-BM-III

राजनाथ सिंह
RAJNATH SINGHगृह मंत्री (25)
भारत
नई दिल्ली-110001
HOME MINISTER
INDIA
NEW DELHI-110001

Dear Ms. Banerjee Ji,

I am writing this letter to invite your kind attention towards the issues hampering the progress of the border infrastructure works along the Indo-Bangladesh Border (IBB) in your State.

2. In order to enhance the security situation along the International Borders of the country, the Government of India is taking all possible steps for an early completion of border fence, roads, floodlights and Border Out Posts (BOPs) works along the IBB, wherever an encumbrance free site is available for work. However, it is observed that most of the pending border works are facing bottlenecks such as pending land acquisition, public protest etc., which are within the purview of the State Government concerned.

3. I have learnt that in the State of West Bengal, about 89 km of fence works are delayed due to pending land acquisition and public protest. Further, construction of about 68 Border Out Posts (BOPs) of the Border Security Force (BSF) has also been delayed due to the pending land acquisition. The lists of pending fence and BOP works are enclosed at Annexure-I and II respectively, for your ready reference.

4. Considering that the fence gaps are predominantly exploited by the cross border criminals for committing crimes like infiltration, smuggling, etc., I would like to request you to kindly review the matter personally and resolve the issues at the earliest so that the pending border works may be completed at the earliest.

With regards,

Yours Sincerely

(Rajnath Singh)

Enclose: As aboveMs. Mamata Banerjee
Chief Minister of West Bengal,
Chief Minister's Secretariat,
Kolkata, West Bengal.

25

Office : Room No. 104, Ministry of Home Affairs, North Block, New Delhi-110 001
Tel. : 23092962, 23094886 Fax.: 23092979
E-mail : 38ashokrona@gmail.com

Details of fence work pending in West Bengal due to local issues

Srl No.	District	BSF Bns	BSF BOP	Border Pillar reference		Length of gap (in Km)	Reasons
				From	To		
1	24 Pargnas (N)	144	Ghojadanga	2/2-S	04 MP	2.940	L.A case pending
2	24 Pargnas (N)	152	Gobardah, Kaijuri, Dublia	7/34-S	10 MP	7.470	L.A case pending
3	24 Pargnas (N)	152	Amudia	12/4-S	12/6-S	1.000	L.A case pending
4	24 Pargnas (N)	152	Amudia	13/1-S	13/4-R13	7.600	L.A case pending
5	24 Pargnas (N)	152	Arishakari	13/4-R 14	13/4-R 15	1.461	L.A case pending
6	24 Pargnas (N)	152	Kalanchi	17-1/1R	17-1/7-R	1.080	L.A case pending
7	24 Pargnas (N)	40	Garjala, Tentulberia, Pipili	17-1/13-R	17-1/39-R	5.795	L.A case pending
8	24 Pargnas (N)	40	Jhaudanga	17-1/67-R	17-1/75-R	1.665	L.A case pending
9	24 Pargnas (N)	40	Bornberia & Angrail	17-1/91-R	17/145-R	8.602	L.A case pending
10	24 Pargnas (N)	26	Mustafapur	27/7-S	28/1-S	1.221	L.A case pending
11	24 Pargnas (N)	26	Bowra & Laxmiour	39/1-S	39/5-S	3.500	L.A case pending
12	24 Pargnas (N)	26	Uttarpara	39/5-S	39/13-S	4.150	L.A case pending
13	24 Pargnas (N)	26	Uttarpara	39/13-S	39/15-S	2.050	L.A case pending
14	24 Pargnas (N)	26	Panchberia	40/16-T	40/24-T	1.084	L.A case pending
15	24 Pargnas (N)	1	Ranghat & Tilla	52/13-R	53/1-S	3.330	L.A case pending
16	Nadia	173	Srirampur	60/15-R	60/24-R	2.400	L.A case pending
17	Nadia	173	Jhorpara	60/28-R	60/36-R	1.919	L.A case pending
18	Nadia	173	Bornberia	60/36-R	60/38-R	0.481	L.A case pending
19	Nadia	85	Vijaymath	144/MP	144/5-S	0.114	L.A case pending
20	Nadia	85	Sikarpur	147/3-R	147/8-R	1.300	L.A case pending
21	Murshidabad	91	Madhubana, Jalangi & Charbhadra	157/2-1-S	84/3-S	5.000	L.A case pending
22	Murshidabad	4	Ramnagar	36/6-S	34/1-S	1.600	Public Protest
23	D/Dinajpur	82	L N Pur	894263	244/3-S	0.807	L.A case pending
24	D/Dinajpur	82	Chhatrahali	903281	245/5-S	0.407	L.A case pending
25	D/Dinajpur	82	Chhatrahali	922273	245/8-S	1.402	Non-payment of compensation
26	D/Dinajpur	96	Aptiar	836981	287/28-S	0.223	L.A case pending
27	D/Dinajpur	96	North Agra	837281	288/1-S	1.100	L.A case pending
28	D/Dinajpur	96	Bhimpur	357380	291/M	1.960	L.A case pending
29	D/Dinajpur	120	Darajpur	249504	299/5-S	1.411	L.A case pending
30	D/Dinajpur	120	Rasulpur	189587	308/6-R	0.677	L.A case pending
31	U/Dinajpur	109	Barmanbasti	954569	422/13-R	1.360	L.A case pending
32	U/Dinajpur	66	Hoptiagach	779701	442/1-S	0.740	L.A case pending
33	U/Dinajpur	66	Hoptiagach	782705	442/5-S	0.480	L.A case pending
34	Darjeeling	66	Murikhawa	785708	443/M	1.500	L.A case pending

	Jalpaiguri	93	Fulbari	861849	732/2-S	1.894	L.A case pending
	Jalpaiguri	93	Madnerbari	939718	739/15-S	0.312	L.A case pending
37	Jalpaiguri	102	Chosepara	150500	765/7-S	2.150	L.A case pending
38	Coochbehar	104	Changrabandha	820517	842/1-S	0.400	L.A case pending
39	Coochbehar	104	Changrabandha	820517	842/5-S	2.500	L.A case pending
40	D/Dinajpur	82	L N Pur	885262	244/1-S	0.610	L.A case pending
41	D/Dinajpur	96	Balupara	833886	283/13-S	0.311	Public Protest
42	D/Dinajpur	96	Hilli	833876	283/19-S	0.144	Public Protest
43	D/Dinajpur	96	Aptiar	836538	285/30-S	0.250	Public Protest
44	U/Dinajpur	14	Khunti	763386	395/5-S	0.090	Public Protest
45	Jalpaiguri	93	Datrapara	-	738/10-R	0.015	Public Protest
46	Coochbehar	13	B R K Bari	466416	800/1S	0.390	Public Protest
47	Cooch Behar	181	Kalamati	956/4-S	956/8-S	0.350	Public Protest
48	Cooch Behar	101	Sahibganj	963/4-S	963/5-S	0.300	Public Protest
49	Cooch Behar	34	Maheshmari	979/16-S	881/9-S	1.094	Public Protest
Total						88.639	

27

488

Details of BOP work pending in West Bengal due to local issues

SL NO.	BSF SECTOR	DISTRICT	NUMBER OF COMPOSITE BOPS	NAME OF BSF COMPOSITE BOP	AGENCY	REASON
1	Kolkata	24 Parganas (N)	6	i) Subhashnagar ii) Jalalpur iii) Moonbhatta iv) Kalupota-II v) Kajjuri-I vi) Angrial	CPWD	LA case pending
2	Krishnana gar	24 Parganas (N)	1	i) Laxmipur	CPWD	LA case pending
3	Behrampur	Nadia Nadia Nadia Nadia Nadia Murshidabad Murshidabad Murshidabad	9	i) Pakshi ii) Dhakola iii) Baijnathpur iv) Boripota v) Char Meghna vi) Uday vii) Kakmarichar viii) Charmurashi ix) Nalna	CPWD	LA case pending
4	Malda	Murshidabad Murshidabad Malda Malda Malda Malda	6	i) Chapghal ii) Kathakali iii) Sovapur TP iv) Singhabad v) JJ pur vi) Tikkapara	CPWD	LA case pending
5	Raiganj	D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur D/Dinajpur U/Dinajpur	10	i) Srirampur ii) Bamanhar iii) Dighipara iv) Koilara v) Kakot vi) Hariharpur vii) Dighisal viii) Ganglar ix) Deepapara x) Marium	CPWD	LA case pending

29

196

6	Kishanganj	U/Dinajpur	11	i) Kalughat ii) Panchi iii) Chandrapara iv) Chetnagach v) Kazigach vi) Molani vii) Mirchagach viii) Shyamgach ix) Karigach x) Jorapani	CPWD	LA case pending
		U/Dinajpur	1	Vivekanand	NPCC	LA case pending
7	Siliguri	Jalpaiguri	5	i) Baingach ii) Ramkrishna iii) Panna iv) Jamuna v) Khudiram	NPCC	LA case pending
8	Jalpaiguri	Cooch Behar	12	i) Krishna ii) Drona iii) Kalsipara iv) Narayani v) South Bhootbari vi) Bagdogra-I vii) Gomti viii) Chambal ix) Khosi x) Gandak xi) Himalaya xii) Panisala-I	NPCC	LA case pending
9	Falakata	Cooch Behar	1	i) Salbari	NPCC	LA case pending
10	Cooch Behar	Cooch Behar	6	i) Koarai ii) Daribas iii) Bharbhanda iv) Panchabati v) Dhalbari vi) Azampara	NPCC	LA case pending
Total			68			

29

490

ANNEXURE - A-3

Ministry of Home Affairs
Department of Border Management
(BM Division)

(30)

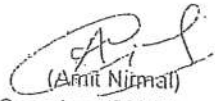
Subject: Border Infrastructure Works along Indo-Bangladesh Border.

This is to invite your kind attention towards the recent judgement (dated 17.12.2014) of the Hon'ble Supreme Court of India in the case WP (Civil) 562 of 2012 "ASSAM SANMILITA MAHASANGHA & Vs. UNION OF INDIA & ORS." wherein the Apex Court has desired for effective steps by the Union of India towards an early completion of the pending border infrastructure works along the Indo-Bangladesh Border (IBB). The Hon'ble Court has also desired to review the status of border works after three months.

2. In view of the above, all the agencies involved in the construction work of border infrastructure along the Indo-Bangladesh Border are requested to expedite the pending works so as to complete them in a given time frame. It is further requested that the completed border works may be handed over to the BSF on priority.

3. The progress achieved in the border infrastructure works may be intimated to this Ministry on monthly basis.

4. This has the approval of the JS(BM)


(Amit Nijmal)
Dy. Secretary (BM-III)
Tel. No. 23438151

To

1. DG, BRO, Naraina, Ring Road, New Delhi.
2. ADG (Border), CPWD, Nirman Bhawan, New Delhi.
3. CMD, NBCC, NBCC Bhawan, Lodhi Road, New Delhi
4. CMD, NPCC, Corporate Office, Plot No. 67-68, Sector-25, Faridabad, Haryana - 121 004
5. CMD, Engineering Projects (India) Ltd., Core-3, Scope Complex, 7-Institutional Area, Lodhi Road, New Delhi - 110 003
6. Chief Engineer (Border Roads), Assam PWD, Chandmari, Guwahati (Assam)

U.O.No.110-17/52/2014-BM-III dated 9th January, 2015

30

491

F.No.11012/48/2005 – NE-IV
Ministry of Home Affairs
North East Division

(24)

New Delhi, 26th December 2014

To

1. Shri Jitesh Khosla,
Chief Secretary,
Government of Assam,
Dispur, Guwahati, Assam.
2. Shri-Prateek Hajela,
Commissioner & Secretary (Home Department),
Government of Assam,
Dispur, Guwahati, Assam.

Sub:- Approval for allowing Advocates to be engaged as Members, Foreigners Tribunal.

Ref: 1. Hon'ble Guwahati High Court judgement and Order in W.P (C) 3282/2014
Ashim Roy Vs. State of Assam & Others.
2. Assam Home Department's letter No.PLB.155/2007/83, dated 23.9.2014

Sir,

I am directed to refer to State Government's letter No.PLB.143/2014/169, dated 21st October 2014 on the subject cited above and to say that 64 additional Foreigners Tribunals have been sanctioned vide this Ministry's letter No.11012/13/2013-NE.IV, dated 6th June 2013 for speedier disposal of pending cases.

2. In this connection, I am directed to say that the proposal of the Govt. of Assam for engagement/ appointment of lawyers as Members, Foreigner Tribunal was examined and it has been decided that Advocates with the age of 55 years and 10 years of Legal experience/Legal practice will be considered for appointment as Member for additional 64 Tribunals sanctioned initially for 2 years in addition to sitting/retired District Judge/ADJ. Maximum age upto which advocate will be allowed to work is 60 years. Extension of tenure may be considered upto 1 year on need basis. Pay and allowance to the member will be regulated as admissible to State Judicial officer at initial stage. Transfer allowance, HRA, TA & DA etc will be decided accordingly. Besides, Medical facilities will be provided to the judicial officers as per the norms. In so far as existing 36 tribunals are concerned, advocates may also be appointed as per above prescribed norms.

3. It is clarified that appointment of lawyers as Member, Tribunal will be purely on contractual basis for 2 years or as extended from time to time on need basis.

4. The selection of the lawyers will be done by the Committee headed by Retired High Court Judge as directed by the Hon'ble Guwahati High Court in Revision Petition No.22/2010.

31

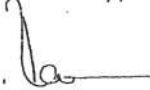
492

(32)

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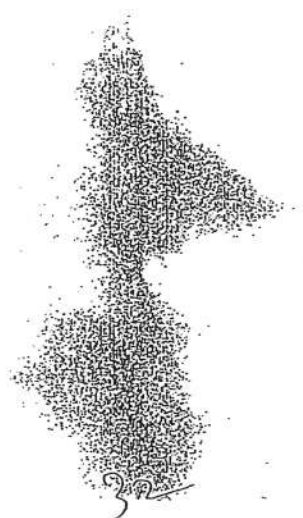
5. It is requested that terms and guidelines issued by the State of Assam may kindly be revised accordingly.
6. This issues with the approval of IFD, MHA Diary No. 3049026 dated 24.12.2014.

Yours faithfully,



(Ajay Kanoujia)
Director (NE II)

Telefax: 23092728



32

ANNEXURE-A-5

ANNEXURE - 'A'

NUMBER OF TASK FORCE DISTRICT-WISE

Sl. No.	District	Nos of Task forces
1	Dhubri	25
2	Goalpara	15
3	Kokrajhar	10
4	Bongaigaon	19
5	Barpeta	20
6	South Salmara	10
7	Nalbari	16
8	Kamrup	30
9	City Guwahati	30
10	Darrang	20
11	Sonitpur	22
12	Lakhampur	8
13	Dhemaji	8
14	Biswanath	5
15	Dibrugarh	12
16	Tinsukia	9
17	Sivasagar	12
18	Sadia	5
19	Jorhat	10
20	Majuli	5
21	Nagaon	40
22	Morigaon	25
23	Hojai	10
24	Golaghat	10
25	K / Anglong	6
26	Hamren	5
27	Cachar	30
28	Karimganj	20
29	Hailakandi	15
30	Dima-Hasao	4
31	Baksa	10
32	Chirang	7
33	Udalguri	5
34	GRP, (Pandu)	12
35	R.P.O	10
	Total	500

ANNEXURE-A-6

Status of implementation of NRC 1951 in the state of Assam

(34)

- An amount of Rs.288.18 crore has been approved for NRC work. Out of which Rs.140.58 crore has already been released. Any revised cost in this regard, if any, will be approved accordingly.
- Publication of Legacy Data, i.e. NRC 1951 & Electoral Rolls upto 1971, started on 27th February 2015 in 100 NRC Seva Kendras (NSKs) and polling stations falling within those NSKs of Kamrup, Kamrup Metro, Nagaon & Nalbari districts. In order to facilitate easy search of entries in the Legacy Database the same has been digitised, developed and linked to the scans of the original Database. On 27th February 2015, apart from the statutory requirement of publishing Legacy Data in physical form, the Digitised Legacy Data Development software was also launched in the selected 100 NSKs.
- The response of the public for visit to first phase of NSKs has been positive and footfalls are increasing day by day. Out of 19921 persons, who visited these NSKs during the period 27th February 2015 to 11th March 2015, about 16,500 could locate their legacy data. The segregation and printing of legacy data, for publishing at NSKs in other districts would be completed by March 2015.
- The organisation structure for implementation of the NRC updation has been put in place by mobilising the entire State Government machinery at various levels such as village, circle, district and state and also by engaging and training the pool of professionals hired at contract basis for the project.
- The large scale capacity building programmes are being organised for various levels of functionaries for implementation of the scheme of NRC updation. Preparatory phase capacity building exercise covering 25000 functionaries has been completed.
- The system integrator i.e. M/s. Wipro Ltd. has been hired for NRC updation process. They are setting up all the NSKs in Assam and providing all technical support.
- The search of the digitised data has been made available in any of the three languages namely Assamese, Bengali and English. Each NSK has been provided the legacy database of entire state for search of data from any part of the state so that one would not require going in search of legacy data in the original place of residence.
- An Toll Free NRC helpline number "15107" has been set up for the public which is operational 24/7 and is multilingual.
- An official website of NRC has been developed, whereby public can be looked for all relevant information related to NRC updation process.
- Timelines as suggested by State Government for NRC work is attached.

34

495

Timelines

The State Government has provided the following suggested timelines based on the latest situation and preparedness of implementation of the scheme as below:

TIMELINE FOR UPDATION OF NRC AS ON 12th MARCH 2015					
Sl. No.	Activities	Start	End	Start	End
		For 100 NSKs		For remaining 2394 NSKs	
1.	Publication of Records – search/looking up of linkage by public	27 th February, 2015		27 th March 2015	
2.	Receipt of applications	27 th April 2015 to 31 st July 2015			
3.	Verification	1 st July, 2015	30 th October, 2015	1 st July 2015	30 th October 2015
4.	Draft Publication	31 st October, 2015		31 st October 2015	
5.	Receipt of Claims & Objections	1 st November, 2015	30 th November, 2015	1 st November, 2015	30 th November, 2015
6.	Disposal of Claims & Objections	1 st December, 2015	31 st December, 2015	1 st December, 2015	31 st December, 2015
7.	Finalisation of final updated NRC	31 st January, 2016		31 st January 2016	

112

No. 76/Email-out-12

ANNEXURE-A-7

Thru IB Fax

No. 11012/38/2012-NE.IV
Government of India
Ministry of Home Affairs

(36)

New Delhi, Dated 7th April, 2015

To,

Sh. M.Haziraka,
Joint Secretary (ACS),
Govt. of Assam, Dispur, Guwahati.

Sub: Status of vacancy position of personnel under PIF Scheme.

Sir,

I am directed to refer to this Ministry's letter of even number dated 27.03.2015 on the subject noted above and to say that necessary action may be taken for filling up of vacant posts under PIF scheme and send action taken report in the matter to this Ministry urgently.

Yours faithfully,

(Sushil Ekka)

Under Secretary to the Government of India
Tel: 2309 3586

36

497

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (CIVIL) NO. 562/2012

IN THE MATTER OF:

ASSAM SANMILITA MAHASANGHA & OTHERS ... Petitioners

-VERSUS-

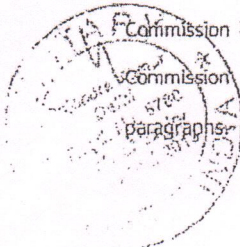
THE UNION OF INDIA & OTHERS ... Respondents

AFFIDAVIT ON BEHALF OF THE UNION OF INDIA

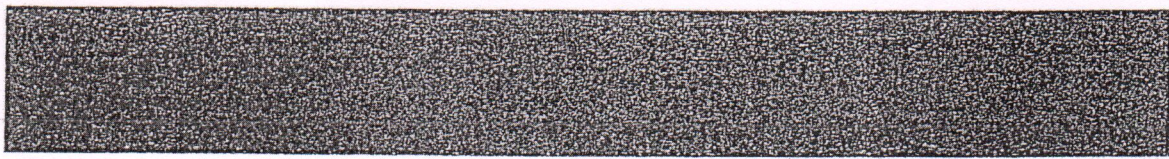
I, Ajay Kanoujia son of Shri Hari Prasad, aged 49 years, resident of New Delhi, presently serving as Director in the Ministry of Home Affairs, Government of India, New Delhi, do hereby solemnly affirm and state as under:

2. That I in my official capacity mentioned above and being fully conversant with the facts and circumstances of the case am competent to swear this affidavit on behalf of the Union of India.

3. It is respectfully submitted that this affidavit is being filed pursuant to the directions passed by this Hon'ble Court vide its Order dated 6.10.2015 for filing of response on the recommendations made by the Hon'ble Commission setup by this Court. Suggestions/recommendations made by the Commission has been examined and found that some of the suggestions relate to the other Central Ministries, State Government of Assam and also Election Commission of India. Comments of the Central Ministries, State Governments as also Election Commission have been sought. Gist of recommendations made by the Hon'ble Commission and preliminary response thereon are given in the succeeding paragraphs.



498



I. Sterile Zone along the riverine areas

4. It is respectfully submitted that the recommendations made by hon'ble Commission with regard to declaring sterile zone along riverine International boundary has been preliminarily examined and found that it would adversely affect the livelihood of the people living in the nearby area, which may result in public protest/litigation etc. In order to deal with the situation, presence of Border Security Force will be strengthened to keep close vigil in the area and each house hold for identification of illegal migrants and illegal movement of such persons. The villagers in the border areas are issued photo identity cards by the Election Commission of India. Besides, the process of updation of National Register of Citizens is continuing in the whole State including the riverine areas which is targeted to be completed by 1st March 2016.

II. Shifting of Assam Government cattle haats 20 kms. away from international border.

5. It is respectfully submitted that the Government of Assam has been requested to take necessary action for shifting of cattle haats 20 kms away from the international border. The matter of shifting of Custom Impound Centers/place of auction and fixing of auction value of seized cattle has also been taken with the Ministry of Finance. The suggestions made by the Commission for amending the sub-ordinate legislations has been referred to the Ministry of Environment, Forest and Climate change for their examination and necessary action.

III. Vulnerable patches

6. It is respectfully submitted that the main riverine area in Dhubri Sector (Approx 50 Kms) on the International Border exist due to large water body of river Brahmaputra and river Gangadhar, which extends towards Bangladesh covering larger areas. There are 16 BOPs and 01 Check Post existing on Char lands inside river Brahmaputra/ Gangadhar, which are manned by BSF. The BSF

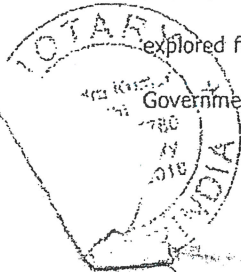


troops are effectively guarding the border day and night by way of Boat Patrolling, Nakas and Ambush Cum Patrolling (ACP) on Char lands etc. Major riverine gaps on the International Border exists due to large area of water bodies between BOPs (which exists on Charland/Island areas) and cannot be plugged by putting wire obstacles in the major river Brahmaputra and Gangadhar. Such unfenced stretches/gaps are being dominated by BSF personnel effectively by boats, both during day as well as night. In order to augment the force strength on the International Border, two Bns are under raising during the Current Financial Year 2015-16 to be located at Mainaguri/ Jalpaiguri District and Alipurduar/Jalpaiguri District under North Bengal and Guwahati Ftrs, respectively and supposed to be operationalized by January, 2016. Riverine border and all the vulnerable patches in Silchar Sector are effectively dominated round the clock by placing Ambush Cum Patrollings (ACPs)/ Ops/ boat patrolling and by using binocular/ CCTV camera/ Night Vision Goggles (NVG) /Night Vision Devices(NVD)/ Hand Held Thermal Imager (HHTI).

7. It is respectfully submitted that in order to utilize technological solutions for plugging the riverine gaps, 4 Pilot projects of approx. 30 Km each in different terrains and sensitive riverine gaps in Jammu, Punjab, Gujarat and West Bengal States have been approved. After examining the outcome of Pilot projects the same will be up scaled in all riverine/ low-lying gaps.

Relocating villages:

8. It is respectfully submitted that in Dhubri Sector, only two villages namely Bhogdanga and Fouskerkutti are located ahead of India-Bangladesh Border (IBB) fence. Relocation of villagers is a very complex matter and it will not be possible without co-operation of villagers and State Governments. Alternatively, relocation of fence ahead of the village, towards International border is being explored for which cooperation of the State Government and concurrence of the Government of Bangladesh will be required.



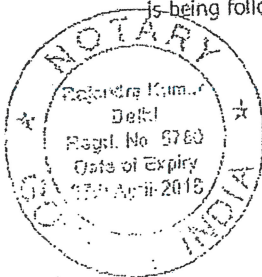
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Plugging vulnerable patches of bridge and culvert areas.

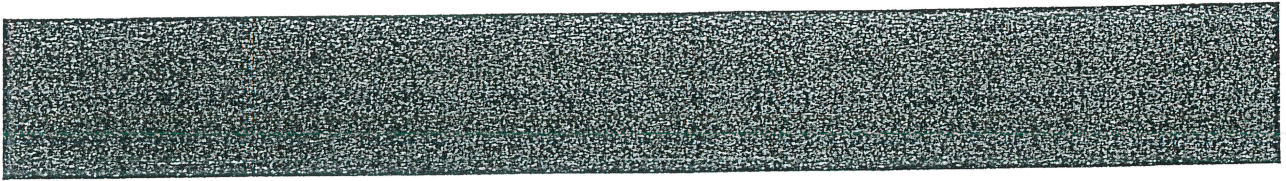
9. It is respectfully submitted that there are 50 Nos unfenced gaps in Dhubri Sector due to water bodies created by major rivers/small nallahs. Out of these, 34 Nos of gaps exist on land border due to bridges/ culverts along the route of existing Border Fence are covered by putting concertina coil, barbed wire and iron pickets etc by the respective Battalion personnel. Due to flooding of water these wire obstacles get damaged/ perished. Accordingly, these are being repaired/ replaced periodically by BSF personnel of respective Battalion during dry season. Beside, placing wire obstacles, these gaps are kept under constant surveillance by physical deployment of BSF personnel continuously both during day as well as night. Remaining 16 gaps (Approx. 50 Kms) are the major riverine gaps on the International Border existing due to large area water bodies between BOPs (which exists on Charland/Island areas) and cannot be plugged by putting wire obstacles in the major river Brahmaputra and Gangadhar. Such unfenced stretches/gaps are being dominated by BSF personnel effectively by boats, both during day as well as night. In order to utilize technological solutions for plugging the riverine gaps, 4 Pilot projects of approx. 30 Km each in different terrains and sensitive riverine gaps in Jammu, Punjab, Gujarat and West Bengal States have been approved. After examining the outcome of Pilot projects the same will be up scaled in all riverine/ low-lying gaps.

Providing regular electricity connection.

10. It is respectfully submitted that installation of border floodlights has been completed in feasible length of 217.44 km. Regarding electricity connection, funds have been deposited with the State Government and work is in progress. The matter of providing early electricity connection for illumination of floodlights is being followed up with the State Government of Assam regularly.



801

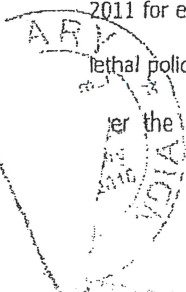


Increasing manpower strength of effective ground personnel.

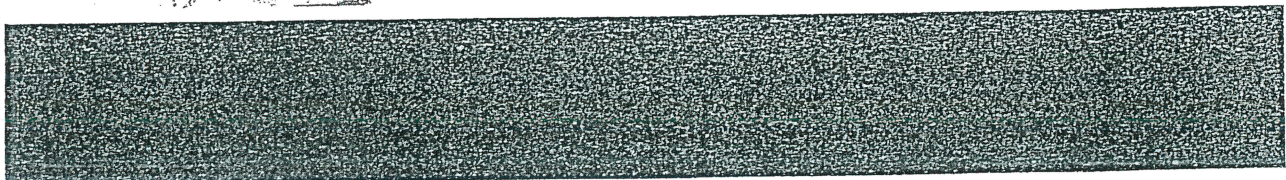
11. It is respectfully submitted that as stated above, 16 major gaps (Approx. 50 Kms) are existing due to large area water bodies between BOPs (which exists on Charland/ Island areas) and cannot be plugged by putting wire obstacles in the major river Brahmaputra and Gangadhar. Such unfenced stretches/ gaps are being dominated by BSF personnel effectively by boats, both during day as well as night. The manpower has been further enhanced by shifting from BN HQ to cover such gaps. In order to augment the force strength international border twoBns are under raising during the CFY 2015-16 to be located at Mainaguri/ Jalpaiguri District and Alipurduar/ Jaipalguri District under North Bengal and Guwahati Ftrs, respectively and supposed to be operationalized by January, 2016. Adequate manpower is available at the border and ground personnel are performing duty in 04 shifts, each of 06 hrs on daily basis.

Implication of non-lethal policy.

12. It is respectfully submitted that international border between India and Bangladesh is 4096 kms. including riverine areas. Peaceful international border with neighboring countries and also cordial relations with them is one of the most important factor for economic development of the entire region and also the neighbouring countries. There are reports that miscreants/smugglers from both sides (from India and Bangladesh) are active along the international border and crossing the border deliberately and challenging the sanctity of the international border. The Border Security Force has been dealing with them effectively while guarding the international border. However, there are also instances where innocent nationals of both sides cross over the international border inadvertently. In this connection, Coordinated Border Management Plan (CBMP) was signed by the BSF and the Border Guard Bangladesh (BGB) in July 2011 for effective guarding of international border including the adoption of non-lethal policy, which has proved to be very successful in reducing border tensions for the last four years or so, and has substantially improved cooperation



502



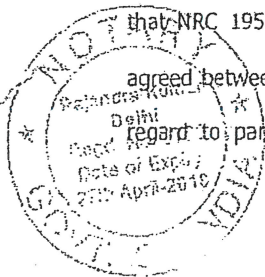
between BSF and BGB. More than 3000 joint patrols undertaken by BSF and BGB under the aegis of the CBMP have led to substantial reduction in the number of border incidents and deaths, and thus, have shown us as being serious in our assurance to Bangladesh to bring down border deaths to zero. This has also created a favourable climate for our overall security cooperation with Bangladesh.

13. In response to the suggestions made by the Hon'ble Commission at Sl. Nos. IX & XI, It is respectfully submitted that process of verification of documents submitted by the families/households for updation of NRC, 1951 is continuing. As per modalities, doubtful cases will be referred to the foreigners tribunals for their opinion and such cases will not be included in the NRC till such cases are decided. However, it is respectfully submitted that Committee set up by this Hon'ble Court to oversee the NRC work may be mandated to look into the suggestions made by the Commission or pass directions as deemed fit by this Hon'ble Court.

14. In response to the suggestions made in para X of the report, it is respectfully submitted that the Election Commission of India has been requested for examining the electoral rolls for unnatural increase and growth in population, including entry of new house-holds/individuals into the electoral roll suddenly.

15. It is respectfully submitted that with regard to recommendations/suggestions made by the Hon'ble Court Commissioner at Sl.No.14(A) to (C) regarding land issues, the State Government has been requested to take necessary action in the matter. With regard to recommendations/suggestions at Sl.No.14 (D & E), it is respectfully submitted

that NRC 1951 in Assam is being updated based on the modalities mutually agreed between the Central Government and the Government of Assam. With regard to para 15 of the report, it is respectfully submitted that expenses



503

incurred by the Hon'ble Court Commissioner during the last visit to the Indo-Bangladesh border sector is being processed for reimbursement.

Ajay Kumar Kanaujia
DEPONENT

VERIFICATION

I hereby verify the contents of my above affidavit are true and correct to my knowledge, belief, and information derived from the records of this case. No part of it is false and nothing relevant has been concealed therein.

Verified at New Delhi on this 3rd day of November 2015.



Ajay Kumar Kanaujia
DEPONENT
(अजय कुमार कानूजिया)
AJAY KUMAR KANAUJIA
Dated
03/11/2015

ATTESTED *[Signature]*
RAJENDRA KUMAR
NOTARY, DELHI-110020
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
REGD. NO. 5780
Ph. 0212491892
9999448208

10/11/2015
CERTIFIED THAT THE CONTENTS EXPLAINED TO THE
DEPONENT/EXECUTANT WHO IS SEEMED PERFECT TO
UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT
DELHI ON IDENTIFIED BY
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IDENTIFY THE EXECUTANT/DEPONENT WHO HAS
SIGNED IN MY PRESENCE

IDENTIFY THE EXECUTANT/
DEPONENT WHO HAS
SIGNED IN THE PRESENCE OF

504

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. 562/2012

IN THE MATTER OF:-

ASSAM SANMILITA MAHASANGHA & ORS. PETITIONER

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

WRITTEN SUBMISSIONS ON BEHALF OF THE UNION OF INDIA

1. It is respectfully submitted that the Present Written Submissions are being filed in the afore-titled without perusing the Written Submissions of the Petitioner. The Union of India requests that it be permitted to file final Written Submissions on the conclusion of Arguments meeting all the issues raised during Arguments as also in the Written Submissions.

1. *The Constitutional Scheme and consequent Legislative Competence to enact the Amending Act*
2. Part II (Articles 5-11) of the Constitution of India deal with Citizenship. Articles 5 to 10 provide the basic categories/definitions of citizenship, based on domicile, parents /grand parents, and for people residing in the area which became Pakistan etc. Article 6 provides for citizenship to those who came to India:
 - Before 19th July 1948 :- without Application
 - On or After 19th July 1948 :- with Application

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438

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3. Article 11 which provides full power to the Parliament to make citizenship laws is as under:

Article 11. Parliament to regulate the right of citizenship by law.—Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

4. The Article 11 starts with a non obstante clause, as under:

"Nothing in the foregoing provisions of this Part shall derogate Parliament".

5. Article 11 provides explicit power with regard to acquisition of Citizenship and on all other matters related to citizenship.

"to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship."

6. Further, Article 11 makes it clear that notwithstanding any of the foregoing provisions Article 5 to 10, it is the Parliament alone which is entitled to make provisions with respect to acquisition and termination of citizenship. Article 11 makes it abundantly clear that it is the Parliament alone which in its wisdom would grant/ terminate citizenship notwithstanding Article 5-10, which governed the field up to 1955 when the Citizenship Act was enacted. It is the enabling power of Article 11 which led to the enactment of the 1955 Act. The Constitution itself provides in Article 10 that the continuance

of the rights of citizenship of a person who was deemed to be a citizen of India prior to the commencement of the Constitution shall be subject to parliamentary law.

7. Further Seervai has opined as under on Article 11, (@ page 339)(*Constitutional Law of India, H. M. Seervai, Fourth Edition*)

"... Art.11 enables Parliament to legislate on the acquisition and termination of citizenship after the commencement of the Constitution, and it also enables Parliament to legislate on the continuance of citizenship at the commencement of the Constitution even to the extent of overriding or modifying the provisions of Arts. 5 to 9. In the exercise of its powers Parliament enacted the Citizenship Act which received the President's assent on 30 December 1955 and was gazetted the same day. S.2 is the interpretation section Ss. 3, 4, 5 and 6 provide respectively citizenship by birth, descent, registration and naturalization."

8. A similar view has also been taken by this Hon'ble Court in Izhar Ahmed Khan ~vs- Union of India, AIR 1962 SC 1052 and State Trading Corporation of India Ltd. -vs- The Commercial Tax Officer & Ors., AIR 1963 SC 1811.

9. Article 245 permits the Union of India to enact any law for the whole or any part of the territory of India. Under Article 246(1) read with Entry 17 to List-I of the 7th Schedule to the Constitution of India, Parliament has the exclusive power to make laws with respect to citizenship, which it has been

exercising by enacting the Citizenship Act in 1955 and its various subsequent amendments.

10. Under Article 10, every person who is or is deemed to be a citizen of India under any of the provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

11. Articles 10 and 11 provide the basic outline for the powers given to the Parliament. These articles are not restrictive in nature but are of inclusive nature. Hence the impugned Section 6A of the Citizenship Act in no way can be construed to be in abrogation to these articles.

12. The 1955 Act as it originally stood is a detailed act providing for citizenship by birth, descent, registration and naturalization etc.

13. Consequently, the legislative competence to amend the Act and insert Section 6-A of the Act is within the Constitutional framework.

II. *Background to the Citizenship (Amendment Act), 1985*

14. Section 6A was incorporated in the Citizenship Act, 1955 by the Citizenship (Amendment Act), 1985 (65 of 1985) to give effect to the relevant clauses of Assam Accord relating to the foreigners' issue.

5

15. The Memorandum of Settlement (Assam Accord) signed on 15th August, 1985 by Central Government (Ministry of Home Affairs), State Government of Assam, All Assam Students' Union (AASU) and All Assam Gana Sangram Parishad (AAGSP) covered the following decisions concerning foreigners issue:-

- (i) For purposes of detection and deletion of foreigners, 1-1-1966 shall be the base date and year.
- (ii) All persons who came to Assam prior to 1-1-1966, including those amongst them whose names appeared on the electoral rolls used in 1967 elections, shall be regularized.
- (iii) Foreigners who came to Assam after 1-1-1966 (inclusive) and upto 24th March, 1971 shall be detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964.
- (iv) Names of foreigners so detected will be deleted from the electoral rolls in force. Such persons will be required to register themselves before the Registration Officers of the respective districts in accordance with the provisions of the Registration of Foreigners Act, 1939 and the Registration of Foreigners Rules, 1939.
- (v) For this purpose, Government of India will undertake suitable strengthening of the governmental machinery.
- (vi) On the expiry of a period of ten year following the date of detection, the names of all such persons which have been deleted from the electoral rolls shall be restored.

(vii) All persons who were expelled earlier, but have since entered illegally into Assam, shall be expelled.

(viii) Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law. Immediate and practical steps shall be taken to expel such foreigners.

(ix) The Government will give due consideration to certain difficulties expressed by the AASU/ AAGSP regarding the implementation of the Illegal Migrants (Determination by Tribunals) Act, 1983.

16. The Assam Accord being a political settlement, legislation was required to give effect to the relevant clauses of the Assam Accord relating to the foreigners' issue. Accordingly, in September, 1985, Ministry of Home Affairs processed a draft Note for the Cabinet Committee of Political Affairs (CCPA) seeking approval for grant of citizenship to all such persons who came from erstwhile East Pakistan (now Bangladesh) to Assam prior to 1.1.1966 by inserting a deeming provision in the Citizenship Act, 1955.

17. The Statement of Objects and Reasons attached with the Citizenship (Amendment) Bill, 1985 stated as follows:-

"The core of the Memorandum of Settlement (Assam Accord) relates to the foreigners issue, since the agitation launched by the AASU arose out of their apprehensions regarding the continuing influx of foreign nationals into Assam and the fear about adverse effects upon the political, social, cultural and economic life of the State.

2. Assam Accord being a political settlement, legislation is required to give effect to the relevant clauses of the Assam Accord relating to the foreigners' issue.

3. It is intended that all persons of Indian origin who came to Assam (including such of these whose names were included in the electoral rolls used for the purpose of General Election to the House of People held in 1967) and who have been ordinarily resident in Assam ever since shall be deemed to be citizens of India as from the 1st day of January, 1966. Further, every person of Indian origin who came between 1st day of January, 1966 and upto 24th March, 1971 from territories presently included in Bangladesh and who has been ordinarily resident in Assam ever since and who has been detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964 shall, upon registration, be deemed to be a citizen for all purposes as from the date of expiry of a period of ten years from the date of detection as a foreigner. It is also intended that in the intervening period of ten years, these persons should not suffer from any other disability vis-à-vis citizens, excepting the right to vote and that proper record should be maintained of such persons. To inspire confidence, judicial element should be associated to determine eligibility in each and every case under this category.

4. The Bill seeks to amend the Citizenship Act, 1955 to achieve the above objectives."

18. The Assam Accord was signed by the Government taking into account the circumstances prevailing then and historical reality and it upholds the value of human rights. The political decision was based on consideration of human

rights, protection, preservation and promotion of the cultural, social, linguistic identity and heritage of the Assamese people. Government of the day had the right to take a decision in this regard taking into account the genuine apprehensions of the people of Assam, their emotions and sensitivity. Section 6A does not contradict the Rule of Law.

19. Section 6A has detailed provisions for registration of every person who -

- (a) came to Assam on or after the 1st day of January, 1966 but before the 25th day of March 1971 from the specified territory (Bangladesh)
- (b) has, since the date of his entry into Assam, been ordinarily resident in Assam and
- (c) has been detected to be a foreigner.

20. Central Government has delegated the powers under section 3(2)(c) of the Foreigners Act, 1946 for detection and deportation of foreigners to the State Governments/ Union Territory Administrations. Provisions of 6A of the Citizenship Act are kept in view by the State Government while detecting the foreigners illegally staying in Assam.

21. The Citizenship (Amendment) Act, 1985 (65 of 1985) was published in the Official Gazette on 7.12.1985. By a notification no. S.O. 882(E) dated 7.12.1985, the Central Government appointed 7.12.1985 as the appointed date on which the provisions of the Citizenship (Amendment) Act, 1985 (65 of 1985) shall come into force.

22. Consequently Section 6A of the Citizenship Act inserted vide Amendment Act of 1985 added two further kinds of citizens in 1985:-

i. *Those illegal immigrants who came into the country before 1.1.1966 were to be treated as Citizens.*

ii. *Those illegal immigrants who came into the country between 1.1.1966 & 25.3.1971 were to be identified, disfranchised and registered as citizens on application after the elapse of a period of 10 years therefrom.*

23. Those who came after 25.3.1971 were illegal immigrants/foreigners and were not to be granted citizenship.

III. *There is inordinate Delay in the present Petition and there is a presumption in favour of the Statute.*

24. The Petitioners have approached this Hon'ble Court after nearly 27 years and various rights have accrued to the 'citizens' since then and the present Petition ought to be dismissed on delay & laches alone.

25. There is a fundamental presumption of constitutionality of a statute. The Hon'ble Court should sustain the validity of an enactment as there is neither lack of legislative competence nor is it violative of Article 14 or arbitrary. The onus to disprove it lies on the person challenging the statute as unconstitutional.

IV. *Article 6 of the Constitution has not been violated.*

26. Acquisition of citizenship through various modes is very much a part of the constitutional scheme. Articles 5-10 only deal with various situations in which citizenship to certain categories of people was provided for prior to the commencement of the constitution. The constituent assembly in its wisdom, being fully aware that situations for grant of citizenship would arise even later specifically included the plenary powers under Article 11.

27. What happens subsequently (after the commencement of the Constitution) with regard to has been provided for under Article 11 of the Constitution. All the varied and myriad situations which may arise have been left to be dealt by the will of the Parliament.

28. Article 6 provides the mechanism for people who came from Pakistan to India and when they shall be deemed citizens. The cut off date in terms of migration under Article 6 is 19th July 1948, under article 6 (b)(i).

29. Article 6 (b)(ii) on the other hand deals with cases of migration subsequent to 19th July 1948, but before the commencement of the constitution. For cases of this category the person concerned has to make an application, the proviso requires residence in India for 6 months- preceding the application.

30. Thus Art 6 did not act as a prohibition or a bar against registration of migrants even from Pakistan albeit with a cut off date. It in fact provides the mechanism during the period as envisaged in that article.

31. Section 5 of the Act provides for Citizenship through Registration. Thus it is evident that citizenship even after the commencement of the constitution can be acquired by individuals of various categories upon fulfillment of conditions under the Citizenship Act.

32. Similarly Section 6A provides the mechanism for providing deemed citizenship to various categories of people who migrated into Assam up to 25.3.1971. In other words all that section 6A does is to provide a special mechanism for a particular class of people in a particular background. The necessity for such a provision arose in light of the exigent circumstances of the time preceding the necessity (the violence/protest in the late 70's and early 80's) in that region, which lead to the Assam Accord.

33. Even otherwise had section 6A not been incorporated these immigrants could have still applied for citizenship by registration under Section 5. The only reason why a special mechanism in the nature of Section 6 A was required was in order to restore peace in Assam and to give effect to the Political settlement, which formed basis for restoration of

peace and normalcy. This also comes with an outer limit of grant of citizenship, i.e. 25.3.1971.

V. *Article 14 of the Constitution has not been violated.*

34. The Citizenship Act, under Sections 3-7 provides for various modes of Acquisition of Citizenship. In particular, Section 5 provides for Acquisition of Citizenship by Registration. Section 6A was incorporated as a special provision for a very limited section of people being those who had migrated to India on or before 25.03.1971 and who were resident in Assam ever since. Even amongst such persons two categories are envisaged being (a) people who migrated prior to 1.1.1966 who are given automatic deemed citizenship and (b) people who migrated between 1.1.1966 and 25.03.1971 who were initially disenfranchised for a period of 10 years, required to register themselves and would then be granted citizenship.

35. It is pertinent to note that the entire argument of the Petitioners with regards to Article 14 violation is essentially stemming out of two apprehensions: (a) that the burden of all/most Bangladeshi immigrants who migrated to India prior to 25.03.1971 is falling on Assam by virtue of Section 6A. (b) Section 6A promotes further influx of illegal immigrants into Assam further compounding the burden on Assam.

36. However, these apprehensions and consequently the argument suffers from several fundamental fallacies. Section

6A is very limited in its scope and does not encourage or provide for continuous influx of fresh immigrants and regularization thereof. Section 6A was enacted in 1985 to give the limited benefits to the people who had migrated to Assam and were residents there prior to 25.03.1971. Even similar migrants of Bangladeshi origin who had migrated prior to 25.03.1971 and settled in other parts of the country, could not in 1985 have moved to Assam and claimed benefit of Section 6A.

37. Therefore, the apprehension about burden created on Assam by influx of immigrants after 25.03.1971, is completely baseless. Such immigrants will not be entitled to be covered under section 6A of the Citizenship Act, and will be dealt with as per law.
38. The necessary steps with regard to deportation of illegal immigrants who had migrated post 25.03.1971 are being taken, which migrants form a huge part of the migrated population. However, the same has nothing to do with Section 6A or its impact.
39. The necessity for Section 6A especially for Assam arose out of the exigent circumstances of the time to prevent any further disruption of peace in the region and to restore normalcy to a troubled area. As discussed earlier, all that Section 6A does is to provide a slightly modified mechanism for acquisition of citizenship to people who otherwise, like

others similarly placed in other parts of the country, who could have also acquired citizenship by registration under Section 5.

40. Section 6A is the consequence of an agreement voluntarily entered into subsequent to the Assam agitation. The position obtaining say in Meghalaya or W.Bengal hardly obtained in Assam in 1985. However, that was sought to be changed by that agreement. While the problem of illegal migration persisted in other bordering States also, Assam agitation was confined to Assam only. Assam Accord, a political settlement, was a way forward to resolve this issue.

41. Courts have held that if the legislature takes care to reasonably classify persons for legislative purposes and if it deals equally with all persons belonging to a well-defined class, it is not open to the charge of denial of equal protection on the ground that the law does not apply to other persons.

42. Since provisions in section 6A applies to a well-defined class, it cannot be considered as violating article 14 of the Constitution.

43. Hence, the Assam Accord was arrived at and after due deliberation it was given a legislative mandate by the Parliament in the form of Section 6A.

44. Reasonableness of classification - Intelligible differentia. So far as the rationality of the classification is concerned, it is well settled that the classification made on geographical criteria based on historical facts is a perfectly valid and acceptable classification. Where application of unequal laws is reasonably justified for historical reasons, a geographical classification founded on those historical reasons would be upheld.

45. Reasonable nexus with the object sought to be achieved by the statute. An important test as regards the validity of a statute vis a vis Article 14 is the rational & reasonable nexus of the provisions with the avowed policy and object of the statute. The policy of the statute is clear from the Preamble of the Act and the material provisions which have been already set in some detail hereinabove. The introduction of Section 6-A is to give legislative effect to the Assam Accord which was entered into after considering all aspects including constitutional and legal provisions, international agreements, national commitments and humanitarian considerations.

VI. *Section 6A of the Act is not violative of the Article 29(1) of the Constitution.*

46. - Article 29(1) provides for Protection of interests of minorities. It reads as follows:-

"Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same."

47. Section 6A of the Citizenship Act in no way impacts, directly or indirectly, culture of the existing citizens of Assam.
48. Therefore, Section 6A of the Citizenship Act cannot be considered to be violating the Fundamental Right contained in Article 29(1) in any manner.
49. Further, necessary steps with regard to removal of immigrants who had migrated after 25.03.1971 are being taken and monitored by the Courts.
50. Article 29 is in the nature of a protective right for preservation of one's own culture. The same cannot be said to be violated simply because people from other parts have come and settled in the vicinity. The same cannot be termed as an attack on the culture of the region and the people are free to preserve and protect their culture.
51. This contention is further unfounded because adequate powers have been delegated to the autonomous councils set up under the Sixth Schedule of the Constitution for protection

of socio-cultural and economic activities of the defined persons under the Fifth Schedule.

VII. *Other submissions*

52. Section 6A of the Citizenship Act is an amendment in a statute/ law made by the Parliament for citizenship. It cannot be construed to be an amendment to the Constitution or that it is in violation of the basic principles of Constitution.

53. Constitutional validity of an Act can be challenged only on two grounds, namely (i) lack of legislative competence; and (ii) violation of any of the fundamental rights guaranteed in Part III of the Constitution of India or of any other constitutional provisions. Under Article 245(1), the Union of India can legislate any law for the whole or any part of territory of India. Under Article 246(1) read with Entry 17 to the List-I of the 7th Schedule to the Constitution of India, Parliament has the exclusive power to make laws with respect of citizenship. Consequently, the legislative competence to bring in Section 6A of the Act cannot be doubted.

54. Article 325 provides as follows:-

"There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any

*such constituency on grounds only of religion,
race, caste, sex or any of them.*

55. As per Article 326, the elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than [eighteen years] of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

56. Articles 325 and 326 will not be attracted at all because we are at a stage prior to the exercise of rights under Article 325 and 326 because Art 326 gives a right to vote to a Citizen and who is to be a citizen is to be decided as per Article 5-11. It is only after becoming a citizen the Right to franchise under 326 and only then will come the question of being ineligible or eligible in terms of Article 325 and 326. Therefore there is no question of dilution of any right as every citizen has a right to one vote only.

57. Articles 325 and 326 cannot be read in isolation. All citizens of India residing in the territory of State of Assam and fulfilling the conditions in Article 326 are eligible to be included in the electoral roll. Article 326 specifically speaks about citizens of India.

19

58. The Statute on the subject i.e. Representation of the People Act, 1950 has been drafted keeping in mind the guiding principles of Articles 325 and 326.
59. Section 6A of the Citizenship Act, which has provided a limited number of persons citizenship has in no way compromised the political rights of the existing citizens of Assam.
60. The Union of India is taking various steps to prevent illegal immigrants from entering the Country including various measures for the State of Assam and the same is being monitored by the Court and its appointed committee from time to time.
61. Further the NRC process is being carried out in Assam. It likely to conclude by December 2017. The preparation of NRC shall help the State in identifying illegal immigrants/ foreigners.
62. The Citizenship Act, 1955 does not have any provision for dual citizenship. As per section 9 of the Citizenship Act, 1955, any citizen of India who by naturalization, registration or otherwise voluntarily acquires, or has at any time between the 26th January, 1950 and the commencement of the Act, voluntarily acquired, the citizenship of another country, upon such acquisition or, as the case may be, such commencement,

cease to be a citizen of India. Therefore, if anyone by suppression of facts or documents is a deemed citizen or a proclaimed citizen or has been declared as a citizen of India, he/ she will cease to be a citizen of India when any proof or fact comes to the knowledge that he/she has enjoyed/ been enjoying the citizenship of another country.

63. Section 6A was introduced in the Citizenship Act, 1955 to give effect to the relevant clauses of the Assam Accord relating to the foreigners' issue. Provisions of 6A were brought in to restrict illegal migration and to clarify the ambiguity about the people who have been living in Assam for considerable period after / as a fall out of partition in 1947. This cannot be construed as violating article 355.

64. As per Article 14, which also applies to foreigners, the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 14 speaks about 'person' and is not limited to 'citizen of India' and has been so construed.

65. Article 21 of the Constitution, which also is applicable to foreigners, provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. Article 21 also speaks about 'person' and is not limited to 'citizen of India'

66. The intent of 6A is primarily to protect Assam from being adversely affected by influx of illegal migrants. Assam Accord provides a solution for regularization of people who arrived in Assam prior to 1.1.1966. Therefore, provisions of section 6A cannot be considered to be violating the principles of article 21.

67. If a person has entered into India as an illegal migrant, he/ she cannot enjoy the right as a citizen of India. However, Government in their wisdom allowed citizenship rights to certain categories of persons by inserting Section 6A in the Citizenship Act, 1955. However, if somebody is enjoying any rights illegally, it does not mean that he will be entitled to such rights even after detection takes place.

68. Persons who entered Assam from East Pakistan (now Bangladesh) have been treated as a well-defined class in view of the historical and other background while incorporating section 6A in the Citizenship Act, 1955. These are special provisions included in the Citizenship Act, 1955 to give effect to the relevant clauses of the Assam Accord relating to the foreigners' issue and therefore, cannot be considered as violative of section 5(1) proviso and section 5(2) of the Citizenship Act, 1955 (as it stood in 1985).

69. The Immigrants (Expulsion from Assam) Act, 1950 is an Act to provide for the expulsion of certain immigrants from

Assam, whereas the Foreigners Act, 1946 provides for exercise of certain powers by the Central Government in respect of entry of foreigners into India, their presence therein and their departure therefrom.

70. There is nothing in the Immigrants (Expulsion from Assam) Act, 1950 to suggest that the provisions in this Act will override the provisions in the Foreigners Act, 1946 and consequently the Foreigners (Tribunals) Order, 1964 made under the Foreigners Act, 1946 in relation to Assam.

71. This Hon'ble Court in *Sarbananda Sonowal Vs. Union of India & Anr.*, [(2005) 5 SCC 665] had observed that the Foreigners Act, 1946 confers wide ranging powers to deal with all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner for prohibiting, regulating or restricting their or his entry into India or their presence or continued presence including his arrest, detention and confinement. Hon'ble Supreme Court had also observed that "*The Passport (Entry into India) Act, 1920, the Foreigners Act, 1946, the Immigrants (Expulsion from Assam) Act, 1950 and the Passport Act, 1967 shall apply to the State of Assam.*" While striking down the provisions of the Illegal Migrants (Determination by Tribunals) Act, 1983 and the Illegal Migrants (Determination by Tribunals) Rules, 1984, this Hon'ble Court had directed that all cases pending before the Tribunals under the Illegal Migrants (Determination by Tribunals) Act, 1983 shall stand transferred to the

Tribunals constituted under the Foreigners (Tribunals) Order, 1964 and shall be decided in the manner provided in the Foreigners Act, the Rules made thereunder and the procedure prescribed under the Foreigners (Tribunals) Order, 1964.

72. In view of the above, it is concluded that the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964 will be applicable to Assam along with the Immigrants (Expulsion from Assam) Act, 1950.

73. The following is the list of Judgments which the Union of India proposes to rely upon. The Union craves the Liberty to rely upon further Judgments as may be necessary during the Course of Argument and in reply to the oral submissions to be made by the Petitioner.

- 1) Public Services Tribunal Bar Assn. v. State of U.P.(2003) 4 SCC 104
- 2) State of Bihar v. Bihar Distillery Ltd.(1997) 2 SCC 453
- 3) People's Union for Civil Liberties v. Union of India (2004) 2 SCC 476
- 4) Karnataka Bank Ltd. v. State of A.P.(2008) 2 SCC 254
- 5) State of A.P. v. McDowell & Co.(1996) 3 SCC 709
- 6) State of Madhya Pradesh vs. Peer Mohammed AIR 1963 SC 645
- 7) State Trading Corpn. of India, Ltd. v. CTO AIR 1963 SC 1811
- 8) State of U.P. v. Shah Mohd. (1969) 1 SCC 771
- 9) Izhar Ahmad Khan v. Union of India AIR 1962 SC 1052

- 10) State of W.B. v. Committee for Protection of Democratic Rights (2010) 3 SCC 571
- 11) M. Nagaraj v. Union of India (2006) 8 SCC 212
- 12) State of M.P. v. Bhopal Sugar Industries Ltd. AIR 1964 SC 1179
- 13) Ram Krishna Dalmia v. Justice S.R. Tendulkar 1959 SCR 279; AIR 1958 SC 538
- 14) Clarence Pais v. Union of India (2001) 4 SCC 325
- 15) Kishan Singh v. State of Rajasthan AIR 1955 SC 795
- 16) National Council for Teacher Education v. Shri Shyam Shiksha Prashikshan Sanstha (2011) 3 SCC 238
- 17) Sarbananda Sonowal v. Union of India (2005) 5 SCC 665
- 18) Ewanlangki-E-Rymbai v. Jaintia Hills District Council (2006) 4 SCC 748
- 19) Tilokchand Motichand v. H.B. Munshi (1969) 1 SCC 110
- 20) Rabindranath Bose v. Union of India (1970) 1 SCC 84

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FILED ON : 01.05.2017

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(B.K. PRASAD)

117

the notification of the Government of India in the Ministry of Home Affairs No. S.R.O. 628, dated the 28th February, 1957, namely:—

In Part III of the said Schedule, after the existing entries, the following entry shall be inserted, namely:—

I	2	3	4	5
Central Emergency Relief Training Institute, Nagpur.				
All Posts.	Commandant.	Commandant.	All.	Deputy Secretary, Ministry of Home Affairs.

[No. 15/3/58-V.]

P. PRABHAKAR RAO, Dy. Secy.

New Delhi, the 19th April 1958

S.O. 590.—In exercise of the powers conferred by clause (1) of article 258 of the Constitution and of all other powers enabling him in this behalf and in supersession of all previous notifications on the subject in so far as they relate to the Acts, Rules and Order hereinafter mentioned, the President, with the consent of the State Government concerned, hereby entrusts to the Government of each of the States of Andhra Pradesh, Assam, Bihar, Bombay, Jammu and Kashmir, Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab, Rajasthan, Uttar Pradesh and West Bengal the functions of the Central Government (i) under section 5 of the Indian Passport Act, 1920 (34 of 1920); (ii) under rules 2 and 4 of the Indian Passport Rules, 1950; (iii) under rule 3 of the Registration of Foreigners Rules, 1939; (iv) in making orders of the nature specified in clauses (c), (cc), (d), (e) and (f) of sub-section (2) of section 3 of the Foreigners Act, 1946 (31 of 1946); and (v) under the Foreigners Order, 1948, subject to the following conditions, namely:—

- (a) that in the exercise of such functions the said State Government shall comply with such general or special directions as the Central Government may from time to time issue; and
- (b) that notwithstanding this entrustment, the Central Government may itself exercise any of the said functions should it deem fit to do so in any case.

[No. 4/3/56-(I) F.I.]

S.O. 591.—In pursuance of clause (1) of article 239 of the Constitution and in supersession of all previous notifications on the subject in so far as they relate to the Acts, Rules and Order hereinafter mentioned, the President hereby directs that the Administrator for the time being of a Union territory (whether called a Lieutenant Governor or a Chief Commissioner or an Administrator) shall, in relation to the Union territory concerned, discharge the functions of the Central Government (i) under section 5 of the Indian Passport Act, 1920 (34 of 1920); (ii) under rules 2 and 4 of the Indian Passport Rules, 1950; (iii) under rule 3 of Registration of Foreigners Rules, 1939; (iv) in making orders of the nature specified in clauses (c), (cc), (d), (e) and (f) of sub-section (2) of section 3 of the Foreigners Act, 1946 (31 of 1946); and (v) under the Foreigners Order, 1948, subject to the following conditions, namely:—

- (a) that in the exercise of such functions the said Administrator shall comply with such general or special directions as the Central Government may from time to time issue; and
- (b) that notwithstanding this entrustment, the Central Government may itself exercise any of the said functions should it deem fit to do so in any case.

[No. 4/3/56-(II) -F.I.]

FATEH SINGH, Jt. Secy.

The Immigrants (Expulsion From Assam)

Act, 1950

(10 of 1950)

[1st March, 1950]*An Act to provide for the expulsion of certain immigrants from Assam.*

1. Short title and extent.- (1) This Act may be called the Immigrants (Expulsion from Assam) Act, 1950.

(2) It extends to the whole of India.

2. Power to order expulsion of certain immigrants.- If the Central Government is of opinion that any person or class of persons, having been ordinarily resident in any place outside India, has or have whether before or after the commencement of this Act, come into Assam and that the stay of such person or class of persons in Assam is detrimental to the interests of the general public of India or of any section thereof or of any Scheduled Tribe in Assam, the Central Government may by order--

- (a) direct such person or class of persons to remove himself or themselves from India or Assam within such time and by such route as may be specified in the order; and
- (b) give such further directions in regard to his or their removal from India or Assam as it may consider necessary or expedient;

Provided that nothing in this Section shall apply to any person who on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam.

3. Delegation of power.- The Central Government may, by notification in the Official Gazette, direct that the powers and duties conferred or imposed on it by section 2 shall, subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by--

- (a) any officer subordinate to the Central Government;
- (b) the [Government of Assam, Meghalaya] or any officer subordinate to that Government.

State Amendment.

Nagaland: In Section 3, for the words 'Government of Assam' in Clause (b), substitute the words "Government of Assam or Nagaland" State of Nagaland.

[(A.L.U.S.) Order. 1965 (G.S.R. 1761, dated 29-1-1965) (w.e.f. 1-12-1963)].

4. Power to give effect to orders, etc.- Any authority empowered by or in pursuance of the provisions of this Act to exercise any power may, in addition to any other section expressly provided for in this Act, take or cause to be taken such steps, and use or cause to be used such force, as may in its opinion be reasonably necessary for the effective exercise of such power.

5. Penalties. Any person who--

- (a) contravenes or attempts to contravene or abets the contravention of any order made under section 2, or
- (b) fails to comply with any direction given by any such order, or
- (c) harbours any person who has contravened any order made under Section 2 or has failed to comply with any direction given by any such order, as/line shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.

6. Protection to persons acting under this Act.- No suit, prosecution or other legal proceeding shall lie against any person for anything which in good faith done or intended to be done under this Act.

7. Repeal and saving.- [Rep. by the Repealing and Amending Act, 1957 (36 of 1957), sec. 2 and Schedule 1 (17-9-1957).]

State Amendment

Nagaland : After Section 6 insert the following :-

"7. Construction of reference to Assam. – In this Act, except in Section 3, references to Assam shall be construed as including also a reference to the State of Nagaland". [(A.L.U.S.) Order, 1965 (G.S.R. 1761, dated 29-11-1965) (w.e.f. 1-12-1963)].

NOTIFICATION

Delegation of powers of Assam Government and certain officers subordinate to it

No. F. 17-1/50-Pak. III, dated the 20th March, 1950 – In exercise of the powers conferred by Section 3 of the Immigrants (Expulsion from Assam) Act, 1950 (10 of 1950), and in supersession of the Notification of the Government of India, Ministry of External Affairs No.F.12-27 / 49-Pak.-III, dated the 30th January, 1950, the Central Government is pleased to direct that the powers and duties conferred or imposed on it by Section 2o of the said Act shall be exercised or discharged also by the Government of Assam or by the Deputy Commissioners, Commissioners, Additional Deputy Commissioners, Sub-Divisional Officers and the Superintendent, Lushasi Hills subordinate to that Government.

THE IMMIGRANTS (EXPULSION FROM ASSAM) ACT, 1950

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and extent.
2. Power to order expulsion of certain immigrants.
3. Delegation of power.
4. Power to give effect to orders, etc.
5. Penalties.
6. Protection to persons acting under this Act.
7. [*Repealed.*]

THE IMMIGRANTS (EXPULSION FROM ASSAM) ACT, 1950

* ACT No. 10 OF 1950

[1st March, 1950.]

An Act to provide for the expulsion of certain immigrants from Assam.

BE it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Immigrants (Expulsion from Assam) Act, 1950.

(2) It extends to the whole of India.

2. Power to order expulsion of certain immigrants.—If the Central Government is of opinion that any person or class of persons, having been ordinarily resident in any place outside India, has or have, whether before or after the commencement of this Act, come into Assam and that the stay of such person or class of persons in Assam is detrimental to the interests of the general public of India or of any section thereof or of any Scheduled Tribe in Assam, the Central Government may by order—

(a) direct such person or class of persons to remove himself or themselves from India or Assam within such time and by such route as may be specified in the order; and

(b) give such further directions in regard to his or their removal from India or Assam as it may consider necessary or expedient:

Provided that nothing in this section shall apply to any person who on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan has been displaced from or has left his place of residence in such area and who has been subsequently residing in Assam.

3. Delegation of power.—The Central Government may, by notification in the Official Gazette, direct that the powers and duties conferred or imposed on it by section 2 shall, subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by—

(a) any officer subordinate to the Central Government;

(b) the ¹[²[Government of Assam, Meghalaya] or Nagaland] any officer subordinate to that Government.

4. Power to give effect to orders, etc.—Any authority empowered by or in pursuance of the provisions of this Act to exercise any power may, in addition to any other action expressly provided for in this Act, take or cause to be taken such steps, and use or cause to be used such force, as may in its opinion be reasonably necessary for the effective exercise of such power.

5. Penalties.—Any person who—

(a) contravenes or attempts to contravene or abets the contravention of any order made under section 2, or

(b) fails to comply with any direction given by any such order, or

(c) harbours any person who has contravened any order made under section 2 or has failed to comply with any direction given by any such order,

shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.

6. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

7. [Repeal and saving.]—Rep. by the Repealing and Amending Act, 1957 (36 of 1957), s. 2 and Schedule.

1. Subs. by the State of Nagaland (Adaptation of Laws on Union Subjects) Order, 1965, for "Government of Assam" (w.e.f. 1-12-1963).

2. Subs. by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, for "Government of Assam" (w.e.f. 21-1-1972).