#### IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 1512 OF 2019 IN THE MATTER OF: PRASENJIT BOSE

.....PETITIONER

VERSUS

UNION OF INDIA & ORS .... RESPONDENTS

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### **APPLICATION FOR STAY**

i.A. NO. OF 2019

### FILED BY : TALHA ABDUL RAHMAN

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### ANNEXURE 'X'

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	PROFORMA FO	DR FIRST LIS	PING	
		S	SECTION	P1
The	ease pertains to (Please tick/ch	eck the correct	box):	•
	Central Act: (Title) Cor	stitution		
	Bection: Avt 14,	19,21425		a the state of the
	Central Rule: (Title)	NIL		
	Rule No(s)	NIL		
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	Section:	MIL	<del></del>	· · · · · · · · · · · · · · · · · · ·
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	Impugned Interim Order: (Date	NIL		
	Impugned Final Order/Decree:	(Date) <u>N</u>	IL	
	High Court: (Name)	<u>NI</u>		•
	Names of Judges	NI	L	
	Tribunal/Authority: (Name)			
I.	Nature of matter:		Crimina	1
2.	<ul> <li>(a) Petitioner/appellant No.1:</li> <li>(b) e-mail ID:</li> <li>(c) Mobile phone number:</li> </ul>	Prasenjit B	032	

		-
	:2	:
3.	(a) Respondent No.1: Union OF Indias (b) e-mail ID: (c) Mobile phone number:	
	(a) Main category classification: <u>NIL</u> (b) Sub-classification: <u>NIL</u>	
5	Not to be listed before:	
6.	<ul> <li>(a) Similar disposed of matter with citation, if any, &amp; case details:</li> <li>(b) Similar pending matter with case details:</li> </ul>	
7,	Criminal Matters: (a) Whether accused/convict has surrendered: Yes No. (b) FIR No. <u>NIL</u> Date: (c) Police Station: <u>NIL</u> (d) Sentence Awarded: <u>NIL</u> (e) Period of sentence undergone including period of detention/custody undergone: <u>NIL</u>	
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10.	Special Category (first petitioner/appellant only): MIL Senior Citizen>65 years SC/ST Woman/child Disabled Legal aid case In custody	and the second se
<u>.</u> 11.	Vehicle Number (in case of Motor Accident Claim matters):	
Date	e: 17-12-19 AOR for petitioner(s)/appellant(s) (Name) TALHA ABDOL RAHMAN/ Registration No. <u>CC-2467</u>	

### <u>Synopsis</u>

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The Petitioner is a public interest litigant. The Petitioner is an independent economist. That the Petitioner is a convenor of Joint Forum against NRC, a common platform of various people's organisations in West Bengal, which is at the forefront of democratic opposition to the proposed nationwide-NRC process. The forum is apprehensive that such a process will exclude millions of poor vulnerable people from Indian citizenship, particularly the post-Partition refugees, minorities and undocumented migrants, rendering them Stateless. The Petitioner is involved in various public/social works and is the President of a youth organisation called "Young Bengal" which undertakes socially relevant and welfare activities in the State of West Bengal.

The Petitioner, a public interest litigant is filing the present Writ Petition against the Respondent seeking relief of declaration that the Citizenship Amendment Act, 2019 and other executive orders are against the Constitution and are void.

That pursuant to the powers conferred by the Constitution, Parliament enacted the Citizenship Act, 1955. Thus, under the existing law as existing prior to CAA, any person who was born in India till 1987 is an Indian citizen without any further ado. Hence, till 1987, India followed the criterion of citizenship by birth. This criterion is narrowed down for persons born in India between 1987 and 2003. Such persons must have at least one parent who is an Indian citizen. A person can also be registered as an Indian citizen. A person qualifies for registration if among other grounds she is of Indian origin and has been residing in India or outside undivided India, is married to an Indian citizen or is a minor child of Indian citizens. A person can also apply for citizenship through naturalisation following the procedures laid down in the Act and rules. Therefore, all the essential criteria for grant of Citizenship are provided in the Constitution and to a limited extent in the legislation which is essentially in the nature of power to regulate - but nothing has been left to any Government

That in 2004, the Citizenship Act was amended by the introduction of the term "illegal immigrant", , which was defined as someone who enters or stays in India without legal authorization. It appears that the said amendment was effected to keep out Bangladeshi migrants would get Indian citizenship and participate in elections. Thus, atter the amendment, any child born 2004 onward to even one parent who is an illegal migrant would be disqualified from citizenship by birth. Illegal migrants were also disqualified from the other routes to citizenship. Any person who was an "illegal migrant" or a descendant of an "illegal migrant" would be disqualified from getting Indian citizenship through. any means whatsoever. It is stated that children of "illegal immigrants" are disproportionately affected.

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In September 2015, the government exempted non-Muslim illegal migrants from the three countries from the pperation of the Foreigners Act through an executive order. This provided immunity to this class of migrants from any adverse action by the state due to illegal entry and stay. The 2015 executive order

providing exemption to illegal migrants does so for Hindu, Sikh, Buddhist, Jain, P'arsi and Christian "minority pommunities" from the three countries, which "were compelled to seek shelter in India due to religious persecution or fear of religious persecution. It is a clear case of targeting Muslims or those who muslims who could not muster enough documents to prove themselves as Indian.

That on October 23, 2018, the Home Ministry issued a directive that provided a separate and accelerated process for non-Muslim legal migrants from the three countries to get citizenship, which is also based on religion, and such a directive was in place since 2016.

The CAA removes disqualification based on illegal migration for "minority communities", specifically "Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan." These groups would not be considered "illegal migrants", thus allowing them and their descendants to be Indian citizens or apply for Indian citizenship. The amendment also shortens the

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minimum period of residence in India for them. Instead of 11 years applicable to everyone, they need 5 years to qualify for citizenship through naturalization. Thus, in effect, specifically for non-Muslim migrants from these three neighbouring countries, the amendment seeks to make two changes – it removes their and their descendants' disqualification from citizenship, and accelerates citizenship by naturalization

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That it is apparent that CAA is violative of Article 14 and Article 21, in that it uses religion as a dominant or the only criteria. That as a consequence of CAA, the non-Muslim residents who illegally Pakistan and Afghanistan, migrated from Bangladesh will be able to apply for citizenship through registration and naturalization. Similarly irrespective how Muslim residents. placed persecuted they are, will continue to be barred. This includes, for instance Muslim communities from Bangladesh have Pakistan Afghanistan, and suffered and continue to suffer from religious persecution. Persecution against the Ahmadiyas is

both socially pervasive and state-backed in Pakistan. Shia Muslim communities, particularly the Hazara, have been subjected to severe persecution in Afghanistan because of their religious beliefs

That under the CAA the differential treatment of Indian residents must meet the requirement of equality before law and equal protection of laws under Article 14 and 21 of the Constitution. Significantly, this Hon'ble Court has held that f protection of Article 14 is also available to foreign citizens as well. It is settled law that differential treatment of Indian residents and also foreigners must meet the requirement of equality before law and equal protection of laws under Articles 14 and 21 of the Constitution.

That the CAA as well as the executive orders leading up to it are unconstitutional because they fail the constitutional standard of rationality are all illegal and manifestly arbitrary. The CAA also suffers from the vice of excessive delegation as important function and control to be exercised by the

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legislature in respect of the prescription of qualification for citizenship has been delegated

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In light of this, the amendment and the executive orders make three classifications. *Firstly*, between Muslim and non-Muslim migrants from Afghanistan, Bangladesh and Pakistan; <u>secondly</u>, between migrants from these three countries and those from other countries; and <u>thirdly</u>, between residents who migrated due to reasons of religious persecution and those who migrated due to other forms of persecution like racial or ethnic/persecution. The CAA also violates promise of freedom of religion under Article 25 of the Constitution of India.

That the test under Article 14 as the test of equal protection is : *if the classification is rational and* · *corresponds with the proclaimed purpose*. It is stated that CAA and the executive orders fail to meet both these requirements, and they are unconstitutional on account of discrimination.

Further, read with the nationwide exercise of NRC, it is clear that the proceedings are likely cause division of the country on religious lines.

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That the CAA is manifestly arbitrary for want of an adequate determining principle. The complete absence of any factual basis behind the amendment's categorisation *I* of migrants renders it without any determining principle. That categorisation is done for its own sake, only to separate non-Muslim from Muslim illegal migrants, and not in pursuance of a principle

ALC: NO.

### LIST OF DATES

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1950	The Constitution is adopted providing for	
t.	criteria of citizenship. Constitution of	
S S	India in Article 5 to 11 deal with the	
	Citizenship of India.	
	Religious criteria is expressly rejected at	
	the Debate stage.	
	Sir Alladi Krishnaswamy Iyer, while	
	discussing Article 5, (Constituent	
	Assembly of India Debates	
l l	(Proceedings)- Volume IX) on the 12th of	
	August 1949, stated:	
1	"We are plighted to the principles of a secular	

	State. We may make a distinction between
	people who have
	voluntarily and
	deliberately chosen
1	another country as their
	home and those who
	want to retain their
	connection with this
1	country. But we cannot
	on any racial or
	religious or other
	grounds make a
	distinction between one
	kind of persons and
1	another, or one sect of
	persons and another
	sect of persons, having
	regard to our
	commitments and the
	formulation of our policy
	on various occasions.
,1955	The Citizenship Act, 1955 was enacted.
1987	That pursuant to the powers conferred
	by the Constitution, Parliament enacted
	the Citizenship Act, 1955. Thus, under
	the existing law as existing prior to CAA,
1	any person who was born in India till
	1987 is an Indian citizen without any
	further ado. Hence, till 1987, India
	followed the criterion of citizenship by
١	birth. This criterion is narrowed down for

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an en en la ser en la	persons born in India between 1987 and
	2003. A person can also be registered
	as an Indian citizen. A person qualifies
	for registration if among other grounds
	she is of Indian origin and has been
۱ ۲	residing in India or outside undivided
	India, is married to an Indian citizen or is
i i	a minor child of Indian citizens. A person
1	can also apply for citizenship through
	naturalisation following the procedures
	laid down in the Act and rules
2004	That in 2004, the Citizenship Act was
	amended by the introduction of the term
	"illegal migrant", which was defined as
	someone who enters or stays in India
	without legal authorization. It appears
i	that the said amendment was effected to
	keep out Bangladeshi migrants would
,	get Indian citizenship and participate in
	elections. Thus, after the amendment,
	any child born 2004 onward to even one
ł	parent who is an illegal migrant would be

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	disqualified from citizenship by birth.
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	Illegal migrants were also disqualified
	from the other routes to citizenship
07.09.2015	September 2015, the government
&	exempted non-Muslim illegal migrants
08.09.2015	from the three countries from the
•	operation of the Foreigners Act through
	an executive order. This provided
	immunity to this class of migrants from
	any adverse action by the state due to
	illegal entry and stay. The 2015
	executive order providing exemption to
	illegal migrants does so for Hindu, Sikh,
	Buddhist, Jain, Parsi and Christian
	"minority communities" from the three
	countries, which "were compelled to
	seek shelter in India due to religious
	persecution or fear of religious
F	persecution.
2016 and	That on October 23, 2018, the Home
23.10.2018	Ministry issued a directive that provided
5	a separate and accelerated process for

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	non-Muslim legal migrants from the three I		
	countries to get citizenship, which is also		
1 f	based on religion. The directive		
	extended this policy that was already in		
ı	place since 2016 vide GSR No. 702-E &		
î s	703-E dated 18.07.2016 and S.O.		
	1168(E) dated 23.12.2016.		
12.12.2019	Citizenship Amendment Act, 2019 is		
	passed by both houses and notified by		
	the President.		
	The CAA removes disqualification based		
	on illegal migration for "minority		
	communities", specifically "Hindus,		
1	Sikhs, Buddhists, Jains, Parsis and		
	Christians from Afghanistan, Bangladesh		
1	and Pakistan." These groups would not		
	be considered "illegal migrants", thus		
	allowing them and their descendants to		
ł	be Indian citizens or apply for Indian		
	citizenship. The amendment also		
	shortens the minimum period of		
ł	residence in India for them. Instead of 11		

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	years applicable to everyone, they need
	5 years to qualify for citizenship through
ł	naturalization. Thus, in effect,
	specifically for non-Muslim migrants from
•	these three neighboring countries, the
	amendment seeks to make two changes
1	- it removes their and their descendants'
	disqualification from citizenship, and
	accelerates citizenship by naturalization
17.12.2019	Hence, the present petition.

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IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION WRIT PETITION (C) NO. OF 2019

IN THE MATTER OF: PRASENJIT BOSE

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.....PETITIONER

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### VERSUS

- Union of India through Secretary, Ministry of Home Affairs, North Block, New Delhii 110001
- Secretary, Ministry of Law & Justice, 4<sup>th</sup> Floor, A-Wing, Shastri Bhawan, New Delhi, Delhi 110001

.... RESPONDENTS

(all are contesting respondents)

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR VIOLATION OF PREAMBLE, ARTICLES 13, 14, 19 AND 21 OF THE CONSTITUTION OF INDIA

TO,

THE HON'BLE THE CHIEF JUSTICE AND HIS COMPANION JUSTICES OF THE HON'BLE SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF APPLICANT ABOVENAMED

### MOST RESPECTFULLY SHEWETH:

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- The Petitioner, a public interest litigant is filing the present Writ Petition against the Respondent seeking relief of declaration, that the Citizenship Amendment Act, 2019 (Act No. 47 of 2019) (hereinafter called the "CAA") is *ultra vires* the Constitution. The CAA is violative of Articles 5,6,7,8,10,11, 14, 19, 21 and 25 of the Constitution of India. That the Petitioner is also challenging the validity of
  - (a) Notification Order No. GSR 685 (E) dated 08.09.2015;
  - (b) Notification/ Order G.S.R. 686(E) dated 08.09.2015,
  - (c) G.S.R. 702(E) dated 18.07.2016,
  - (d) G.S.R. 703(E) dated 18.07.2016.
  - (e) GSR 1186 (E) dated 23.12.2016
  - (f) GSR 5377(E) dated 23.10.2018
- The aforesaid with forced nationwide NRC exercise is bound to disenfranchise crores and will result in forced statelessness as a consequence of State Action and legislation.
- 1A. That the Petitioner has not moved any representation concerning the reliefs sought in this petition for the reason that the relief of declaring a statute as illegal cannot be granted by any authority in India except the Constitutional Courts established by law.

### I. CREDENTIALS OF THE PETITIONER

2. That, the Petitioner is a public interest litigant. The Petitioner is an independent economist. That the Petitioner is a convenor of Joint Forum against NRC, a common platform of various people's organisations in West Bengal, which is at the forefront of democratic opposition to the nationwide-NRC process. The forum is apprehensive that such a process will exclude millions of poor vulnerable people from Indian citizenship, particularly the post-Partition refugees, minorities and undocumented migrants, rendering them Stateless. The Petitioner is involved in various public/social works and is the President of a youth organisation called "Young Bengal" which undertakes socially relevant and welfare activities in the State of West Bengal.

# II. FACTS LEADINGS TO THE PRESENT PETITION

3. Constituent Assembly debates: Part II of the Constitution of , India enshrines within provisions related to citizenship in India. At the time of framing of India's constitution, one of the first questions faced by the Constituent Assembly was of who would be a citizen of India. To answer this question, the Constituent Assembly set up the Advisory Committee on

Fundamental Rights, Minorities and Tribal and Excluded 'Areas, headed by Sardar Vallabhai Patel.

4. On April 23, 1947, the Committee reported to the Constituent Assembly with a formula for citizenship that incorporated the principle of *jus soli*, or citizenship by birth. Clause 3 of this draft (which would be incorporated into Article 5 of the Constitution of India) stated that:

> 'every person born in the Union or naturalised according to its laws and subject to the jurisdiction thereof shall be a citizen of the Union"

5. That during Constituent Assembly Proceedings on April 23, 1947, 'Sardar Vallabhai Patel defended this formulation on the basis that this was the most "democratic", "enlightened" and "civilised" model of citizenship, as opposed to
citizenship regimes drawn on explicitly racial or ethnic lines.

6. That during subsequent Constituent Assembly debates on Article 5, which enshrined birth-right citizenship at the time of commencement of the Constitution, amendments were sought to be introduced which would grant a preferential right to citizenship in India for Hindus and Sikhs. However, the same was countered by both Pandit Jawaharlal Nehru and Sir Alladi Krishnaswamy Iyer, on the grounds that it violated the principle of secularism. Sir Alladi Krishnaswamy lyer, while discussing Article 5, (Constituent Assembly of India Debates (Proceedings)- Volume IX) on the 12th of August 1949, stated:

"We are plighted to the principles of a secular State. We may make a distinction between people who have voluntarily and deliberately chosen another country as their home and those who want to retain their connection with this country. But we cannot on any racial or religious or other grounds make a distinction between one kind of persons and another, or one sect of persons and another sect of persons, having regard to our commitments and the formulation of our policy on various occasions."

### Constitutional provisions

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7. The preamble of the Constitution provides as under:

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a <sup>1</sup>[SOVĘREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:

JUSTICE social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the <sup>2</sup>[unity and integrity of the Nation];

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Interpreting the Preamble, this Hon'ble Court has held:

Freedom and tolerance of religion is distinct from the secular life of the State, and the latter falls in the exclusive domain of the State. The Constitution does not recognise or permit mixing religion and State power and the two must be kept apart. Furthermore, as the Constitution requires the State to be secular in thought and action, the same requirement attaches to political parties as well. (See Abhiram Singh v. C.D. Commachen, (2017) 2 SCC 629.)

(emphasis supplied) These promises translated into Articles 14, 19, 21 and 25 of the Constitution.

8. That the Constitution of India in Article 5 to 11 deal with the Citizenship<sup>1</sup> of India, which are extracted below for convenience:

5.Citizenship<br/>ofat<br/>the<br/>ofthe<br/>thecommencement<br/>constitution.—Atofthe<br/>the<br/>the<br/>constitution<br/>every person who has his domicile in<br/>the territory of India and—

(a) who was born in the territory of India; or

(b) either of whose parents was born in the territory of India; or

(c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement,

shall be a citizen of India.

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6. Rights of citizenship of certain persons who have migrated to India from Pakistan.— Notwithstanding anything in Article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if—

(a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

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(b) (i) in the case where such person has so migrated before the inineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government:

Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

7. Rights of citizenship of certain migrants to Pakistan.— Notwithstanding anything in Articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen (of India:

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of Article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, (1948.

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8. Rights of citizenship of certain persons of Indian origin residing India --- Notwithstanding outside anything in Article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to consular or diplomatic sych representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

9. Persons voluntarily acquiring citizenship of a foreign State not to be citizens.—No person shall be a citizen of India by virtue of Article 5, or be deemed to be a citizen of India by virtue of Article 6 or Article 8, if he has voluntarily acquired the citizenship of any foreign State.

**10.** Continuance of the rights of citizenship.—Every 'person who is or is deemed to be a citizen of India

under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen. 9

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**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.

9. <u>Citizenship in India:</u> That pursuant to the powers conferred by the Constitution, Parliament enacted the Citizenship Act, 1955. Thus, under the existing law as existing prior to CAA, any person who was born in India till 1987 is an Indian citizen without any further ado. Hence, till 1987, India followed/the criterion of citizenship by birth. This criterion is narrowed down for persons born in India between 1987 and 2003. Such persons must have at least one parent who is an Indian citizen. A person can also be registered as an Indian citizen. A person qualifies for registration if among other <sup>1</sup>grounds she is of Indian origin and has been residing in India or outside undivided India, is married to an Indian citizen or is a minor child of Indian citizens. A person can also apply for citizenship through naturalisation following the procedures laid down in the Act and rules. Therefore, all the essential criteria for grant of Citizenship are provided in the Constitution and to a limited extent in the legislation, which is essentially in the nature of power to regulate – but nothing has been left to any Government. A true copy of the Citizenship Act, 1955 is annexed as **Annexure P** – 1 (pg. 36-52-)

10. Post 2004: That in 2004, the Citizenship Act was amended by the introduction of the term "illegal migrant", which was defined as someone who enters or stays in India without legal authorization. It appears that the said amendment was effected to keep out Bangladeshi migrants would get Indian citizenship and participate in elections. Thus, after the amendment, any child born 2004 onward to even one parent who is an illegal migrant would be disqualified from citizenship by birth. Illegal migrants were also disqualified from the other routes to citizenship. Any person who was an "illegal migrant" or a descendant of an "illegal migrant" would be disqualified from getting Indian citizenship through any means whatsoever. It is stated that children of "illegal immigrants" are disproportionately affected.

That, in September 2015, the government exempted 11. non-Muslim illegal migrants from the three countries from the operation of the Foreigners Act through an executive order. This provided immunity to this class of migrants from any adverse action by the state due to illegal entry and stay. The 2015 executive order providing exemption to illegal 'migrants does so for Hindu, Sikh, Buddhist, Jain, Parsi and Christian "minority communities" from the three countries, which "were compelled to seek shelter in India due to religious persecution or fear of religious persecution." A true copy of The Passport (Entry into India) Amendment Rules, 2015 vide GSR No. 685 ( E) and GSR No. 686 (E ) dated Annexure P-2 08.09.2015 is as annexed (pg. 53-55)

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S.O. No. 5377 dated 23.10.2018 is annexed as Annexure P-5 (pg.....6.4.-...6.6......).

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13. That the Respondents have insisted: this law, i.e. CAA 2019, is necessary to protect "persecuted minorities" in India's international neighborhood, however, the pick and choose by the Respondents to exclude muslims clearly shows violation of Article 14.

14. Changes brought in by CAA: The CAA removes disqualification based on illegal migration for "minority communities", specifically "Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan." These groups would not be considered "illegal migrants", thus allowing them and their descendants to be Indian citizens or apply for Indian; citizenship. The amendment also shortens the minimum period of residence in India for them. Instead of 11 years applicable to everyone, they need 5 years to qualify for citizenship through naturalization. Thus, in effect, specifically for non-Muslim migrants from these three neighboring countries, the amendment seeks to make two changes - it removes their and their descendants' disqualification from citizenship, and accelerates citizenship by naturalization.

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- 16. That under the CAA a child born in India after 2003 to Hindu "illegal migrants" would qualify as a citizen by birth. If the child is born to even one Muslim "illegal migrant", she would not. This is violation of the rights of child under the UN Convention of the Rights of Child 1969 as well as Juvenile Justice Act which promises equal rights HII and equal protection of all children. A child, age of consent has no

religion because in law a child lacks capability to elect choices that have serious consequences, and the religion of the child may be more of matter of presumption.

- 17. That CAA also places illegally migrated from other countries like, Sri Lanka, Nepal, China and Myanmar at a disadvantage, and despite being persecuted no protection is available to them. As a consequence of CAA, a buddhist ' who illegally migrated from Pakistan owing to religious persecution would qualify for citizenship, a Buddhist who fled China for the same reason would not This is 'clear violation of Article 14.
- 18. That under the CAA the differential treatment of Indian residents must meet the requirement of equality before law and equal protection of laws under Article 14 and 21 of the Constitution. Significantly, this Hon'ble Court has held that protection of Article 14 is also available to foreign citizens as well. It is settled law that differential treatment of Indian residents and also foreigners must meet the requirement of equality before law and equal protection of laws under Articles 14 and 21 of the Constitution;

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19, That the CAA as well as the executive orders leading up to it are unconstitutional because they fail the constitutional standard of rationality are all illegal and manifestly arbitrary. The CAA also suffers from the vice of excessive delegation as important function and control to be exercised by the legislature in respect of the prescription of qualification for citizenship has been delegated.

- 20. <u>Cumulative Effect:</u> In light of this, the amendment and the executive orders make three classifications. <u>Firstly</u>,
  between Muslim and non-Muslim migrants from Afghanistan, Bangladesh and Pakistan; <u>secondly</u>, between migrants from these three countries and those from other countries; and <u>thirdly</u>, between residents who migrated due to reasons of religious persecution and those who migrated due to other forms of persecution like racial or ethnic persecution.
- 21. That the test under Article 14 as the test of equal protection is *if the classification is rational and corresponds* with the proclaimed purpose. It is stated that CAA and the executive orders fail to meet both these requirements, and they are unconstitutional on account of discrimination.

22. Persecution of Minorities in India's neighborhood.

It is stated that persecution against the Ahmadiyas is both socially pervasive and state-backed in Pakistan. Shia Muslim communities, particularly the Hazara, have been subjected to severe persecution in Afghanistan because of their religious beliefs. Despite suffering from religious persecution, these minority communities have been explicitly excluded under the CAA only on the ground of their Muslim religious faith. In fact, religious persecution of minorities is equally pervasive outside these three neighbours. Muslim Rohingyas in Myanmar have been subjected to one of the most high' profile religious and ethnic persecution in recent times and the Government of India resisted any efforts at providing humanitarian has assistance and whatever has been provided is with great resistance. Muslim Uighurs from the Xinxiang region and Tibetan Buddhists have been subjected to religious persecution at the hands of the Chinese.

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23. That the CAA is manifestly arbitrary for want of an adequate determining principle. The complete absence of any factual basis behind the amendment's categorisation of migrants renders it without any determining principle. That categorisation is done for its own sake, only to separate

non-Muslim from Muslim illegal migrants, and not in pursuance of a principle.

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- 24. That Article 14 states that every law, including its purpose, must not be whimsical or capricious, but based on a factually tenable principle and rationale.
- 25. That in fact archives will reveal that Muslim Bengalis, *Liberation* who fled during the Bangladesh, war, were subjected to severe persecution based on their linguistic and political ties and therefore there is no good reason why religious persecution should be seen as more severe compared to any of these other forms of persecution in that context.
- 26. The CAA seeks isolate and exclude Muslim migrants from the three countries, in order to offer citizenship specifically to the Hindu migrants. It also aims to do so in an extraordinary fashion by altering the parameters of citizenship retrospectively. It is stated that there is no determining principle simply because the government intends to enact a purely religious classification, which is clear violation of the principle of secularism, a part of basic structure under the Constitution of India;

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27. That secularism has consistently been declared to be a facet of the constitution's basic structure that the parliament cannot abrogate even through its constitutional amendment powers

- 28. That citizenship law is definitive of a country's political and constitutional identity. Laying down rules that determine and national membership in our political community only on the basis of ones religious beliefs completely, violates this principle of non-arbitrariness, equality and the rule of law.
- 29. That the Petitioner has no other alternative and equally efficacious remedy; and the instant Writ Petition has been filed, inter alia, on the following grounds:

#### GROUNDS

A. BECAUSE, it is incorrect premises that the CAA is necessary to give protection to persecuted minorities from Afghanistan, Pakistan and Bangladesh; and the same only opens an express entry door for people of certain religion to India, while leaving out other persecuted minorities (such as Muslims) who do not belong to the same religion (i.e. ' Hinduism). It is relevant that for the purposes of certain laws, definition of hindus include Buddhist, Jains and Sikhs.

B. BECAUSE, the CAA excludes non-Muslim migrants from the three countries from the category of "illegal migrants" and facilitate their citizenship, and is void on account of ( violating Article 14 of the Constitution of India;

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- C. BECAUSE, the selection by excluding muslims (or including only non-muslims) does not amount to a valid classification and such a classification they adopt is irrational and 'unjustified;
- D. BECAUSE, that it is apparent that CAA is violative of Article 14 and Article 21, in that it uses religion as a dominant or the only criteria.
- E. BECAUSE, as a consequence of CAA, the non-Muslim residents who illegally migrated from Afghanistan, Pakistan and Bangladesh will be able to apply for citizenship through registration and naturalization. Similarly placed Muslim residents, irrespective how persecuted they are, will continue to be barred.
- F. BECAUSE, Muslim communities from Afghanistan, Pakistan and Bangladesh have suffered and continue to suffer from religious persecution. Persecution against the Ahmadiyas is both socially pervasive and state-backed in Pakistan. Shia Muslim communities, particularly the Hazara, have been subjected to severe persecution in Afghanistan because of

their religious beliefs. No regard has been paid to the persecution in general.

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- G. BECAUSE, CAA is still born, being violative of Article 14, 19 and 21 as well as Articles 5,6,7;8,9,10 and 11;
- H. BĘCAUSE, CAA a child born in India after 2003 to Hindu "illegal migrants" would qualify as a citizen by birth. If the child is born to even one Muslim "illegal migrant", she would not. This is violation of the rights of child under the UN , Convention of the Rights of Child 1969 as well as Juvenile Justice Act which promises equal rights and equal protection of all children. A child, frankly, till the age of consent has no religion because in law a child lacks capability to elect choices that have serious consequences.
- BECAUSE, CAA also places illegally migrated from other رومنسونهای countries like Sri Lanka, Nepal, China and Myanmar at a disadvantage, and despite being persecuted no protection is available to them.
- J. BECAUSE, as a consequence of CAA, a buddhist who illegally migrated from Pakistan owing to religious persecution would qualify for citizenship, a Buddhist who fled China for the same reason would not. This is clear Violation of Article 14.

- K. BECAUSE,<sup>(</sup> under the CAA the differential treatment of Indian, residents must meet the requirement of equality before law and equal protection of laws under Article 14 and 21 of the Constitution.
- L. BECAUSE, this Hon'ble Court has held that protection of Article 14 is also available to foreign citizens as well.
- M.BECAUSE, it is settled law that differential treatment of Indian residents and also foreigners must meet the requirement of equality before law and equal protection of laws under Articles 14 and 21 of the Constitution;
- N. BECAUSE Further infraction of the Constitution by the Amendment Act include absolute abdication of essential law making function in favour of the Central Government where the Act allows Central Government to provide any conditions and restrictions on the power to grant citizenship to "*Hindus, Sikhs, Buddhists, Jains, Parsis and Christians* from Afghanistan, Bangladesh and Pakistan"
- O. BECAUSE, the CAA as well as the executive orders leading up to it are unconstitutional because they fail the constitutional standard of rationality are all illegal and manifestly arbitrary.

- **P.** BECAUSE, the CAA and the executive orders fail to meet both these requirements, and they are unconstitutional on account of discrimination.
- Q. BECAUSE, suffering from religious persecution of Shias, Hazra and Ahmadiyas in Pakistan and Afghanistan has been overlooked to identify persecuted minorities and these minority communities have been explicitly excluded under the CAA only on the ground of their Muslim religious faith.
- **R.** BECAUSE, persecution of minorities is equally pervasive outside these three neighbours. Muslim Rohingyas in Myanmał have been subjected to one of the most high profile religious and ethnic persecution in recent times and the Government of India has resisted any efforts at providing humanitarian assistance and whatever has been provided is with great resistance. Muslim Uighurs from the
- Xinxiang region and Tibetan Buddhists have been subjected to religious persecution at the hands of the Chinese.
- **S.** BECAUSE, the CAA is manifestly arbitrary for want of an adequate determining principle.
- T. BECAUSE, the complete absence of any factual basis behind the amendment's categorisation of migrants renders it without any determining principle.

- U. BECAUSE, categorisation is done for its own sake, only to separate non-Muslim from Muslim illegal migrants, and not in pursuance of a principle.
- V. BECAUSE, Article 14 states that every law, including its purpose, must not be whimsical or capricious, but based on a factually tenable principle and rationale.
- W.BECAUSE, Muslim Bengalis, who fled during the Bangladesh war, were subjected to severe persecution based on their linguistic and political ties and therefore there is no good reason why religious persecution should be seen as more severe compared to any of these other forms of persecution
- X. BECAUSE, the CAA seeks isolate and exclude Muslim migrants from the three countries, in order to offer citizenship specifically to the Hindu migrants. It also aims to db so in an extraordinary fashion by altering the parameters of citizenship retrospectively. It is stated that there is no determining principle simply because the government intends to enact a purely religious classification, which is ' clear violation of the principle of secularism, a part of basic structure under the Constitution of India;
- Y. BECAUSE, secularism has consistently been declared to be a facet of the constitution's basic structure that the

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parliament cannot abrogate even' through its constitutional amendment powers

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- Z. BECAUSE, citizenship law is definitive of a country's political and constitutional identity. Laying down rules that determine membership in our political community only on the basis of ones religious beliefs completely violates this principle of non-arbitrariness, equality and the rule of law.
- AA. BECAUSE, the CAA is fraud on the Constitution and is still born;
- BB. The Citizenship (Amendment) Act, 2019 is a fraud on the Constitution because it violates several sacrosanct (facets of the Constitution including equality, secularism and the like;
- CC. BECAUSE, The Citizenship (Amendment) Act, 2019 further provides that all citizenship related legal proceedings including those concerning expulsion or detention under the Foreigners Act, 1946 would abate in respect of "*Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan*" who is granted citizenship;
- DD. BECAUSE, the Citizenship (Amendment) Act, 2019 itself makes in reference to persecution of "Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from

Afghanistan, Bangladesh or Pakistan" and is bereft of essential policy;

- EE. BECAUSE, it would have been a distinct matter if the Government of India had welcome all refugees;
- FF. BECAUSE, children of illegal immigrants are not given legal recognition even if they are born in India, which is violative of India's obligation under the UN Convention on the Rights of Child;
- GG. BECAUSE, the children have no fault and do not deserve arbitrary treatment;
- HH. BECAUSE, the Citizenship (Amendment) Act, 2019 exempts certain areas in the North-East from this provision such as Tripura and Manipur, and would also not affected the Inner Line Permit system which restricts free movement of Indian nationals in Arunachal Pradesh, Mizoram and Nagaland.<sup>1</sup>Therefore, illegal immigrants in such areas would not be benefitted from the Citizenship Amendment Act and the same is arbitrary and fanciful and has no connection with the object (if any) sought to be achieved;
- II. BECAUSE, nation-wide NRC cannot be done at this stage, as there is no purpose being served by the same and will result in Statlessness for no good reason, and will result in violation of customary international law as well;

JJ!BECAUSE, it is submitted that the Citizenship Act, 1955 is meant for laying conditions for eligibility for and acquisition of citizenship and not for creation of a "register" and as such the process of NPR /NRC is itself incongruous with the Scheme of the 1955 Act

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- KK. BECAUSE, there is no procedure specified by the government as to how the information will be collected for NPR because a person having a domicile in one state might have migrated to another state in search of living and if such migration is hindered with then it will be a gross violation of Article 19. This disproportionality affects migrant workers and does not preserve public interest;
- LU. BECAUSE, in respect of NPR, no guidelines prescribed on the manner of collection of information and the same is left to a field manual, the residents are left to the mercy of the person preparing the field manual;
- MM. BECAUSE, in NPR and NRC, the possibility of usage/dissemination of the said information for 'profiling' and other purposes not provided by law is eliminated and penalized;
- NN. BECAUSE, the power to doubt the citizenship of any *i* person, (as experience from Assam shows), is a serious power and can only be exercised by a person who has had

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judicial training and experience, and cannot be left to the whims and personal opinion of taluk level officers. Further, this certainly cannot be done by the Rule making power;

- OO. BECAUSE, the Foreigners Act, 1946 read with Foreigners Order 1964 provides for a mechanism for identification, detection and adjudication over noncitizens/foreigners, and as such the power in law is exercisable by a person having judicial experience and such a process cannot given go by using NRC.
- PP. BECAUSE, the power under S.14-A under the Citizenship Act, 1955 is exercisable after the government so decides (by use of the phrase "may compulsorily register"), and thus, contemplates application of mind based on cogent and intelligible material
- QQ. BECAUSE, Section 14-A of the Citizenship Act, 1955 is *ultravires* the Constitution, in that the collection of personal data under the NPR in terms of Section 14-A of the Citizenship Act, 1955 is violative of Article 14 and Article 21 to the Constitution of India and it suffers from the vice of excessive delegation in that it does not prescribe to what extent private information of citizens shall be required and leaves it to the discretion of executive, i.e. Respondent No.1 & 2;

- RR. BECAUSE, Since the rights, including the right to privacy is affected by collection of personal information to be collected under NPR/NRC, it is submitted that the same can only be regulated or abridged by a statute and not by rules;
- SS. BECAUSE, Section 14A of the Citizenship Act, 1955
   and Citizenship Amendment Act, 2019 suffers from the vice
   of excessive delegation;
- TT. BECAUSE, the CAA also violates the right to freedom of religion, in that, it affects any person's free choice to follow religion of his or her choice, without any fear, inducement or promise/threat of consequences;

## III. DECLARATIONS IN COMPLIANCE WITH SUPREME COURT RULES

30. The Petitioner has no personal or private interest in the matter, and has no civil, criminal or revenue proceedings pending against him or that would have a connection with these proceedings. The Petitioner is an economist by occupuation and is involved in socially relevant causes as well. The PAN Number of the Petitioner is ALYPB0386R and UID Number is 427183331188. The Petitioner's annual income in last AY 17,138/. The Petitioner's Email is boseprasenjit@gmail.com and Mob. 9818307909. The address of the Petitioner is as stated in the cause title.

- 31. That the Petitioner has not filed any other Petition before any High Court or this Hon'ble Court seeking the same or similar relief.
- 32. That the cause of action arose when the CAA was notified by the Respondents on 12.12.2019. The Petitioner is alleging violation of Preamble, Articles 13, 14, 19 and 21 of the Constitution of India and the Basic Structure Doctrine, which are enshrined as fundamental right or have been read so by this Hon'ble Court. The public injury caused because of the impugned order is manifold and it affects integrity of India and attempts to divide India on the basis of religion;
- 33. That the CAA is illegal and against the Constitution, and if allowed to proceed it prejudicially affects the general public as it allows religion based identification of citizens and residents of India. Further, it provides an express entry door to India for residents of other countries largely on the basis of their religion. The CAA can affect the integrity and political stability of India, which itself is a serious injury to the public at large.

## <u>PRAYER</u>

For the facts and reasons aforestated, this Hon'ble Court may graciously be pleased to:

- a. declare that the Citizenship Amendment Act, 2019 (Act No.47 of 2019) is unconstitutional and *void ab initio*;
- b. declare that Section 14-A of the Citizenship Act, 1955 is
   <sup>1</sup> ultravires the Constitution, unconstitutional and *void ab initio*;
- c. issue a writ, order or directiona in the nature of *certiorari* quashing (a) Notification Order No. GSR 685 (E) dated 08.09.2015; (b) Notification/ Order G.S.R. 686(E) dated
  - 08.09.2015; (c) Notification/ Order G.S.R. 702(E) dated
     18.07.2016; (d) Notification/ Order G.S.R. 703(E) dated
     18.07.2016; (e) Notification/ Order GSR 116&E) dated
     23.12.2016; (f) Notification/ Order GSR 5377(E) dated
     23.10.2018;
- d. issue a writ in the nature of *prohibition*, prohibiting the Respondents from proceeding with preparation of pan-India National Register of Citizens;
- e. Such other orders as may be necessary may also be passed;

AND FOR THIS ACT OF KINDNESS THE PETITIONER SHALL EVER REMAIN DUTY BOUND AND PRAY:

FILED BY:

## TALHA ABDUL RAHMAN ADVOCATE FOR THE PETITIONER

DATED: 17.12.2019 DRAWN BY:

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Talha Abdul Rahman Darshana Mitra

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IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION			
WRIT PETITION (C) NO.		OF 2019	
PRASENJIT BOSE	. •	PETITIONER	
ł	VERSUS		
UNION OF INDIA & ORS	<u>AFFIDAVIT</u> '	RESPONDENTS	

- 1. That I am the Petitioner in the accompanying Writ Petition, and I am well conversant with the facts of the case. It is stated that the Petitioner will have no personal gain, or has any private motive or oblique reason for filing the present Public Interest Litigation before this Hon'ble Court.
- 2. That I have read and understood the contents of the Synopsis and List of dates (Pages B'), Writ Petition (Pages 1 to and para 1 ), I.A's and the contents of the same are true and correct to my knowledge and based on the records of the case.
- 3. I further state that all the Annexures to this Writ Petition are true copies of their respective originals.

## VERIFICATION:

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I the above named deponent do hereby verify that the contents of the aforesaid affidavit from para 1 to 3 are true and correct to the best of my knowledge and belief, no part of it is false nothing material has been concealed there from the refried at New Delhi on this the 17<sup>th</sup> day of December 201

## <u>APPENDIX</u>

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## **Relevant Provisions of the Constitution**

5. Citizenship at the commencement of the Constitution.—At the commencement of this Constitution every person who has his domicile in the territory of India and—

(a) who was born in the territory of India; or

(b) either of whose parents was born in the territory of India; or

(c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement,

shall be a citizen of India.

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6. Rights of citizenship of certain persons who have migrated to India from Pakistan.— Notwithstanding anything in Article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the commencement of this Constitution if—

(a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(b) (i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or

(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government: I

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Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

7. Rights of citizenship of certain migrants to Pakistan.—Notwithstanding anything in Articles 5 and 6, a person who has after the first day of March, 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of Article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

8. Rights of citizenship of certain persons of Indian origin residing outside Notwithstanding anything in Article 5, any person who or either of whose parents or any of whose grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

9. Persons voluntarily acquiring citizenship of a foreign State not to be citizens.—No person shall be a citizen of India by virtue of

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Article 5, or be deemed to be a citizen of India by virtue of Article 6 or Article 8, if he has voluntarily acquired the citizenship of any foreign State.

of rights the of Continuance citizenship.---Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

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.

# Article 13 in The Constitution Of India 1949

13. Laws inconsistent with or in derogation of the fundamental rights

(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void

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(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void

(3) In this article, unless the context otherwise requires law includes any Ordinance, order, bye law, rule, regulation, notification, custom or usages having in the territory of India the force of law; laws in force includes laws passed or made by Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas

(4) Nothing in this article shall apply to any amendment of this Constitution made under Article 368 Right of Equality

Article 21

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21. Protection of life and personal liberty No person shall be deprived of his life or personal according liberty except established by law

Article 25 in The Constitution Of India 1949 25. Freedom of conscience and free profession,

practice and propagation of religion

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

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(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus Explanation I The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion Explanation II In sub clause (b) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly

\*\*\* END \*\*\*

Annex/P-1 36

## THE CITIZENSHIP ACT, 1955

(57 of 1955)

[30th December, 1955]

An Act to provide for the acquisition and determination of Indian citizenship. BE it enacted by Parliament in the Sixth Year of the Republic of India as

1. Short title.—This Act may be called the Citizenship Act, 1955. follows:-

2. Interpretation.-(1) In this Act, unless the context otherwise requires,---

- "a Government in India" means the Central Government or a State (a)
  - "illegal migrant" means a foreigner who has entered into India-
  - (i) without a valid passport or other travel documents and such Ч(b) 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
    - "Indian consulate" means the office of any consular officer of the Government of India where a register of births is kept, or where (d)
    - there is no such office, such office as may be prescribed; "minor" means a person who has not attained the age of eighteen (e)
  - <sup>2</sup>[(ee) "overseas citizen of India" means a person registered as an overseas
  - citizen of India by the Central Government under section 7A;] (f) "person" does not include any company or association or body of
    - individuals, whether incorporated or not;

"prescribed" means prescribed by rules made under this Act; (g)

3[\*\*\*]

"undivided India" means India as defined in the Government of (h) India Act, 1935, as originally enacted

STATEMENT OF OBJECTS AND REASONS [The Citizenship (Amendment) Act, 2005] To expand the scope of grant of Overseas Citizenship of India to Persons of Indian

Origin of all countries except Pakistan and Bangladesh. (2) For the purposes of this Act, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any

1. Subs. by Act 6 of 2004, sec. 2, for clauses (b) and (c) and the proviso to clause (c) (w.e.f.

2. Subs. by the Citizenship (Amendment) Act, 2005, sec. 2 (w.r.e.f. 28-6-2005), for clause "(ee) "overseas citizen of India" means a person who-

- (i) is of Indian origin being a citizen of a specified country, or
- (ii) was a citizen of India immediately before becoming a citizen of a specified country, and is registered as an overseas citizen of India by the Central Government under sub-
- 3. Clause (gg) omitted by the Citizenship (Amendment) Act, 2005, sec. 2 (w.r.e.f. 28-6-2005). Clause (gg) prior to its omission stood as:
  - "(gg) "specified country" means a country specified in the Fourth Schedule: Provided that the Central Government may, by notification in the Official Gazette, amend the said Schedule by way of addition or omission of any

Provided further that every notification issued under this clause shall, as entry therein: soon as may be, after it is made, be laid before each House of Parliament".

country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country. (3) Any reference in this Act to the status or description of the father of a

person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description of the father at the time of the father's death; and where that death occurred before, and the birth occurs after, the commencement of this Act, the status or description which would have been applicable to the father had he died after the commencement of this Act shall be deemed to be the status or description

applicable to him at the time of his death. (4) For the purposes of this Act, a person shall be deemed to be of full age

if he is not a minor and of full capacity if he is not of unsound mind.

## (i) The Citizenship Act and the Constitution are completely exhaustive of the citizenship of this country and these citizens can only be natural persons, the fact that corporations may be nationals of the country for purposes of International laws will not make them citizens of this country for purposes of Municipal Law or the Constitution;

State Trading Corporation of India v. Commercial Tax Officer, AIR 1963 SC 1811. (ii) Nationality and Citizenship are not interchangeable terms; State Trading

Corporation of India v. Commercial Tax Officer, AIR 1963 SC 1811. (iii) "Citizenship" has nothing to do with a juristic person. "Person" means a natural person and not any legal entity; State Trading Corporation of India v. Commercial Tax Officer,

AIR 1963 SC 1811.

# ACQUISITION OF CITIZENSHIP

[3. Citizenship by birth.-(1) Except as provided in sub-section (2), every

(a) on or after the 26th day of January, 1950, but before the 1st day of person born in India,-

(b) on or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose

parents is a citizen of India at the time of his birth; on or after the commencement of the Citizenship (Amendment) Act,

- (c) 2003, where-(i) both of his parents are citizens of India; or
  - (ii) one of whose parents is a citizen of India and the other is not an
  - illegal migrant at the time of his birth,

(2) A person shall not be a citizen of India by virtue of this section if at the shall be a citizen of India by birth.

either his father or mother possesses such immunity from suits and time of his birthlegal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, (a)is not a citizen of India; or

1. Subs. by Act 6 of 2004, sec. 3, for section 3 (w.e.f. 3-12-2004). (See Annexe 1)

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[Sec. 2

(b) his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.]

4. Citizenship by descent.— ${}^{1}$ (1) A person born outside India shall be a citizen of India by descent.—

- (a) on or after the 26th day of January, 1950, but before the 10th day of December, 1992, if his father is a citizen of India at the time of his birth; or
- (b) on or after the 10th day of December, 1992, if either of his parents is a citizen of India at the time of his birth:

Provided that if the father of a person referred to in clause (a) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless—

- (a) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or
- (b) his father is, at the time of his birth, in service under a Government in India:

Provided further that if either of the parents of a person referred to in clause (b) was a citizen of India by descent only, that person shall not be a zifizen of India by virtue of this section unless---

- (a) his birth is registered at an Indian consulate within one year of its occurrence or on or after the 10th day of December, 1992, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or
- (b) either of his parents is, at the time of his birth, in service under a Government in India:

Provided also that on or after the commencement of the Citizenship (Amendment) Act, 2003, a person shall not be a citizen of India by virtue of this section, unless his birth is registered at an Indian consulate in such form and in such manner, as may be prescribed,—

- (i) within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 2003, whichever is later; or
- (ii) with the permission of the Central Government, after the expiry of the said period:

Provided also that no such birth shall be registered unless the parents of such person declare, in such form and in such manner as may be prescribed, that the minor does not hold the passport of another country.

(1A) A minor who is a citizen of India by virtue of this section and is also a citizen of any other country shall cease to be a citizen of India if he does not renounce the citizenship or nationality of another country within six months of attaining full age.]

1. Subs. by Act 6 of 2004, sec. 4, for sub-section (1) (w.e.f. 3-12-2004). (See Annexe 1)

Sec. 4]

(2) If the Central Government so directs, a birth shall be deemed for the purposes of this section to have been registered with its permission, notwithstanding that its permission was not obtained before the registration. (3) For the purposes of the proviso to sub-section (1), any [person] born

outside undivided India who was, or was deemed to be, a citizen of India at the commencement of the Constitution shall be deemed to be a citizen of India by descent only.

5. Citizenship by registration.— $^{2}[(1)$  Subject to the provisions of this section and such other conditions and restrictions as may be prescribed, the Central Government may, on an application made in this behalf, register as a citizen of India any person not being an illegal migrant who is not already such citizen by virtue of the Constitution or of any other provision of this Act if he belongs to any of the following categories, namely:-

(a) a person of Indian origin who are ordinarily resident in India for seven years before making an application for registration;

- (b) a person of Indian origin who is ordinarily resident in any country or place outside undivided India;
- (c) a person who is married to a citizen of India and is ordinarily Iresident in India for seven years before making an application for registration;
- (1) minor children of persons who are citizens of India;
- (e) a person of full age and capacity whose parents are registered as citizens of India under clause (a) of this sub-section or sub-section (1)
- (f) a person of full age and capacity who, or either of his parents, was of section 6; earlier citizen of independent India, and has been residing in India for one year immediately before making an application for registration;
- (g) a person of full age and capacity who has been registered as an overseas citizen of India for five years, and who has been residing in India for 3[one year] before making an application for registration.

STATEMENT OF OBJECTS AND REASONS [The Citizenship (Amendment) Act, 2005] To reduce the period of residence in India from two years to one year for the persons

registered as Overseas Citizens of India to acquire Indian citizenship. Explanation 1.—For the purposes of clauses (a) and (c), an applicant shall be

- deemed to be ordinarily resident in India if-(i) he has resided in India throughout the period of twelve months immediately before making an application for registration; and
  - (ii) he has resided in India during the eight years immediately preceding the said period of twelve months for a period of not less than six
  - Explanation 2.-For the purposes of this sub-section, a person shall be

deemed to be of Indian origin if he, or either of his parents, was born in undivided India or in such other territory which became part of India after the 15th day of August, 1947.]

- 1. Subs. by Act 39 of 1992, sec. 2, for "any male person" (w.e.f. 10-12-1992).
- 2. Subs. by Act 6 of 2004, sec. 5, for sub-section (1) (w.e.f. 3-12-2004). (See Annexe 1)
- 3. Subs. by the Citizenship (Amendment) Act, 2005, sec. 3, for "two years", (w.r.e.f. 28-6-2005).

[Sec. 4

(2) No person being of full age shall be registered as a citizen of India under sub-section (1) until he has taken the oath of allegiance in the form specified in the Second Schedule.

(3) No person who has renounced, or has been deprived of, his Indian citizenship or whose Indian citizenship has terminated, under this Act shall be registered as a citizen of India under sub-section (1) except by order of the Central Government.

(4) The Central Government may, if satisfied that there are special circumstances justifying such registration, cause any minor to be registered as a citizen of India.

(5) A person registered under this section shall be a citizen of India by registration as from the date on which he is so registered; and a person registered under the provisions of clause(b)(ii) of article 6 or article 8 of the Constitution shall be deemed to be a citizen of India by registration as from the commencement of the Constitution or the date on which he was so registered, whichever may be later.

<sup>1</sup>[(6) If the Central Government is satisfied that circumstances exist which render it necessary to grant exemption from the residential requirement under clause (c) of sub-section (1) to any person or a class of persons, it may, for reasons to be recorded in writing, grant such exemption.]

### COMMENTS

If a person satisfies the requirements of this section, he/she can be registered as a citizen of India. This section can be invoked by persons who are not citizens of India but are seeking citizenship by registration; National Human Rights Commission v. State of Arunachal Pradesh, AIR 1996 SC 1234: (1996) 1 SCC 742.

6. Citizenship by naturalisation.—(1) Where an application is made in the prescribed manner by any person of full age and capacity <sup>2</sup>[not being an illegal migrant] for the grant of a certificate of naturalisation to him, the Central Government may, if satisfied that the applicant is qualified for naturalisation under the provisions of the Third Schedule, grant to him a certificate of naturalisation:

Provided that, if in the opinion of the Central Government, the applicant is . a person who has rendered distinguished service to the cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions specified in the Third Schedule.

(2) The person to whom a certificate of naturalisation is granted under subsection (1) shall, on taking the oath of allegiance in the form specified in the Second Schedule, be a citizen of India by naturalisation as from the date on which that certificate is granted.

<sup>3</sup>[6A. Special provisions ds to citizenship of persons covered by the Assam Accord.—(1) For the purposes of this section—

- 2. Subs. by Act 6 of 2004, sec. 6, for "who is not a citizen of a country specified in the First Schedule (w.e.f. 3-12-2004).
- 3. Ins. by Act 65 of 1985, sec. 2 (w.e.f. 7-12-1985).

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<sup>1.</sup> Ins. by Act 6 of 2004, sec. 5 (w.e.f. 3-12-2004).

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- (a) "Assam" Imeans the territories included in the State of Assam immediately before the commencement of the Citizenship (Amendment) Act, 1985;
- (b) "detected to be a foreigner" means detected to be a foreigner in accordance with the provisions of the Foreigners Act, 1946 (31 of
- 1946) and the Foreigners (Tribunals) Order, 1964 by a Tribunal constituted under the said Order;
- (c) "specified territory" means the territories included in Bangladesh immediately before the commencement of the Citizenship
- (Amendment) Act, 1985; (d) a person shall be deemed to be of Indian origin, if he, or either of his parents for any of his grandparents was born in undivided India;
- (e) a person shall be deemed to have been detected to be a foreigner on
  - the date on which a Tribunal constituted under the Foreigners (Tribunals) Order, 1964 submits its opinion to the effect that he is a foreigner to the officer or authority concerned.

(2) Subject to the provisions of sub-sections (6) and (7), all persons of Indian origin who came before the 1st day of January, 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 the 1st day

(3) Subject to the provisions of sub-sections (6) and (7), every person of of January, 1966.

came to Assam on or after the Is! day of January, 1966 but before the Indian origin who-(a)

- 25th day of March, 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 in accordance with the rules made by the Central Government in this behalf under section 18 with such authority (thereafter in this sub-section referred to as the registering authority) as may be specified in such 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

Explanation.—In the case of every person seeking registration under this subbe deleted therefrom. section, the opinion of the Tribunal constituted under the Foreigners (Tribunals) Order, 1964 holding such person to be a foreigner, shall be deemed to be sufficient proof of the requirement under clause (c) of this sub-section and if any question arises as to whether such person complies with any other requirement

under this sub-section, the registering authority shall,-(i) if such opinion contains a finding with respect to such other

- requirement, decide the question in conformity with such finding; (ii) if such opinion does not contain a finding with respect to such other
- requirement, refer the question to a Tribunal constituted under the

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said Order hang jurisdiction in accordance with such rules as the Central Government may make in this behalf under section 18 and decide the question in conformity with the opinion received on such reference.

(4) A person registered under sub-section (3) shall have, as from the date on which he has been detected to be a foreigner and till the expiry of a period of ten years from that date, the same rights and obligations as a citizen of India (including the right to obtain a passport under the Passports Act, 1967 (15 of 1967) and the obligations connected therewith), 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 ten years.

(5) A person registered under sub-section (3) shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of ten years from the date on which he has been detected to be a foreigner.

(6) Without prejudice to the provisions of section 8,-

- (a) if any person referred to in sub-section (2) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985, for year a declaration that he does not wish to be a citizen of India, such person shall not be deemed to have become a citizen of India under that sub-section;
- (b) If any person referred to in sub-section (3) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement the Citizenship (Amendment) Act, 1985, for year or from the date on which he has been detected to be a foreigner, whichever is later, a declaration that he does not wish to be governed by the provisions of that sub-section and sub-sections (4) and (5), it shall not be necessary for such person to register himself under sub-section (3).

*Explanation.*—Where a person required to file a declaration under this subsection does not have the capacity to enter into a contract, such declaration may be filed on his behalf by any person competent under the law for the time being in force to act on his behalf.

- (7) Nothing in sub-sections (2) to (6) shall apply in relation to any person-
  - (a) who, immediately before the commencement of the Citizenship (Amendment) Act, 1985, for year is a citizen of India;
  - (b) who was expelled from India before the commencement of the r Citizenship (Amendment) Act, 1985, for year under the Foreigners Act, 1946 (31 of 1946).

(8) Save as otherwise expressly provided in this section, the provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force.]

### COMMENTS

Under suB-section (2) of section 6A two conditions are required to be satisfied—(i) persons who are of Indian origin (undivided India) came before 1-1-1966 to Assam from the specified territory, and (ii) have been "ordinarily resident" in Assam as it existed in 1985 since the date of entry in Assam; *State of Arunachal Pradesh v. Khudiram Chakma*, AIR 1994 SC 1961.

Sec. 6A]

7. Citizenship by incorporation of territory.—If any territory becomes a part of India, the Central Government may, by order notified in the Official Gazette, specify the persons who shall be citizens of India by reason of their connection with that territory; and those persons shall be citizens of India as from the date to be specified in the order.

### [OVERSEAS CITIZENSHIP]

<sup>2</sup>[7A. Registration of overseas citizens of India.--(1) The Central Government may, subject to such conditions and restrictions as may be prescribed, on an application made in this behalf, register any person as an overseas citizen of India-

(a) any person of full age and capacity,-

- (i) who is citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or
- (ii) who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or
- (iii) who is citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or
- (iv) who is a child or a grand-child of such a citizen; or
- (b) a person, who is a minor child of a person mentioned in clause (a):

Provided that no person, who is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by

(c) that person is a minor of a person mentioned in clause (a) or clause (b).

(2) The person registered as an overseas citizen of India under sub-section (1) shall be an overseas citizen of India as from the date on which he is so registered.

(3) No person who has been deprived of his Indian citizenship under this Act shall be registered as an overseas citizen of India under sub-section (1) except by an order of the Central Government.

Explanation .- For the purposes of this section and sections 7B, 7C and 7D, the expression "person of Indian origin" shall mean a citizen of another country who-

(i) was eligible to become a citizen of India at the time of the commencement of the Constitution;

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(Sec. 7

<sup>1.</sup> Ins. by Act 6 of 2004, sec. 7 (w.e.f. 3-12-2004).

<sup>2.</sup> Subs. by the Citizenship (Amendment) Act, 2005, sec. 4 (w.r.e.f. 28-6-2005), for section "7A. Registration of overseas citizens .- (1) The Central Government may, subject to such conditions and restrictions including the condition of reciprocity as may be prescribed, on an application made in this behalf, register any person as an overseas citizen of India if-

<sup>(</sup>a) that person is of Indian origin of full age and capacity who is a citizen of a specified country; or

<sup>(</sup>b) that person is of full age and capacity who has obtained the citizenship of a specified country on or after the commencement of the Citizenship (Amendment) Act, 2003 and who was a citizen of India immediately before such commencement; or

<sup>(</sup>ii) belonged to a territory that became part of India after the 15th day of August, 1947; and (iii) the children and grand-children of a person covered under clauses (i) and (ii); but does

not include a person who is or had been at any time a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify '

Sec. 781

notification in the Official Gazette, specify, shall be eligible for registration as an overseas citizen of India.]

### COMMENTS

The Central Government has specified the following rights to which the persons registered as Overseas Cltizens of India under section 7A of the Act shall be entitled, namely:-

- (a) grant of multiple entry lifelong visa for visiting India for any purpose;
- (b) exemption from registration with Foreign Regional Registration Officer or Foreign Registration Officer for any length of stay in India; and
- (c) parity with Non-Resident Indians in respect of all facilities available to them in economic, financial and educational fields except in matters relating to the acquisition of agricultural or plantation properties.

[Vide S.O. 542 (E), dated 11th April, 2005, published in the Gazette of India, Extra.,

Pt. II, Sec. 3(ii), dated 11th April, 2005.] <sup>1</sup>[7B. Conferment of rights on overseas citizens of India.--(1) Notwithstanding anything contained in any other law for the time being in force, an overseas citizen of India shall be entitled to such rights [other than the rights specified under sub-section (2)] as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) An overseas citizen of India shall not be entitled to the rights conferred on a citizen of India-

- (a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;
- (b) under article 58 of the Constitution for election as President:
- (c) under article 66 of the Constitution for election of Vice-President;
- (d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;
- (e) under article 217 of the Constitution for appointment as a Judge of the High Court;
- under section 16 of the Representation of the People Act, 1950 (43 of (f) 1950) in regard to registration as a voter;
- (g) under sections 3 and 4 of the Representation of the People Act, 1951 (43 of 1951) with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

(h) under sections 5, 5A and 6 of the Representation of the People Act, 1951 (43 of 1951) with regard to the eligibility for being a member of

- the Legislative Assembly or a Legislative Council, as the case may be, of a State;
- (i) for appointment to public services and posts in connection with the affairs of the Union or of any State except for appointment in such services and posts as the Central Government may by special order in that behalf specify.

(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament.]

1. Ins. by Act 6 of 2004, sec. 7 (w.e.f. 3-12-2004).

(Sec. 7C

17C. Renunciation of overseas citizenship.-(1) If any overseas citizen of India of full age and capacity makes in the prescribed manner a declaration renouncing his overseas citizenship of India, the declaration shall be registered by the Central Government, and; upon such registration, that person shall cease

(2) Where a person ceases to be an overseas citizen of India under sub-section to be an overseas citizen of India. (1), every minor child of that person registered as an overseas citizen of India,

shall thereupon cease to be an overseas citizen of India.] 17D. Cancellation of registration as overseas citizen of India.—The Central Government may, by order, cancel the registration granted under sub-section (1)

(a) the registration as an overseas citizen of India was obtained by of section 7A if it is satisfied that-

- means of fraud) false representation or the concealment of any
- (b) the overseas citizen of India has shown disaffection towards the Constitution of India as by law established; or
- (c) the overseas citizen of India 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

(d) the overseas citizen of India has, within five years after registration assist an enemy in that war; or under sub-section (1) of section 7A has been sentenced to

imprisonment for a term of not less than two years; or (e) it is necessary so to do in the interest 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.]

TERMINATION OF CITIZENSHIP 8. Renunciation of citizenship.-(1) If any citizen of India of full age and capacity, <sup>2</sup>[\*\*\*] makes in the prescribed manner a declaration renouncing his Indian Citizenship, the declaration shall be registered by the prescribed authority; and, upon such registration, that person shall cease to be a citizen of

Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central

(2) Where  ${}^{3}$ [a person] ceases to be a citizen of India under sub-section (1) Government otherwise directs. every minor child of that person shall thereupon cease to be a citizen of India:

Provided that any such child may, within one year after attaining full age,

make a declaration 4[in the prescribed form and manner] that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India.

### 5[\*\*\*]

A person who gives up his claim to Indian citizenship cannot claim right of residence on the basis of his domicile; A.H. Magermans v. S.K. Ghose, AIR 1966 Cal 552.

2. The words "who is also a citizen or national of another country", omitted by Act 6 of 2004.

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- 3. Subs. by Act 39 of 1992, sec. 3, for "a male person" (w.e.f. 10-12-1992). 4. Ins. by Act 6 of 2004, sec. 8 (w.e.f. 3-12-2004). 5. Sub-section (3) omitted by Act 6 of 2004, sec. 8 (w.e.f. 3-12-2004). (See Annexe 1)

9. Termination of citizenship.—(1) Any citizen of India who by naturalisation, registration otherwise voluntarily acquires, or has at any time between the 26th January, 1950 and the commencement of this Act, voluntarily acquired the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India:

Provided that nothing in this sub-section shall apply to a citizen of India who, during any war in which India may be engaged, voluntarily acquires, the citizenship of another country, until the Central Government otherwise directs.

(2) If any question arises as to whether, when or how any <sup>1</sup>[citizen of India] has acquired the citizenship of another country, it shall be determined by such authority, in such manner, and having regard to such rules of evidence, as may be prescribed in this behalf.

### COMMENTS

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Section 9 is a complete code as regards the termination of Indian citizenship on the acquisition of the citizenship of a foreign country; *Bhagwali Prasad Dixit 'Ghorewala'* v. *Rajeev Gandhi*, AIR 1986 SC 1534.

10. Deprivation of citizenship.—(1) A citizen of India who is such by naturalisation or by virtue only of clause (c) of article 5 of the Constitution or by registration otherwise than under clause (b) (ii) of article 6 of the Constitution or clause (a) of sub-section (1) of section 5 of this Act, shall cease to be a citizen of India, if he is deprived of that citizenship by an order of the Central Government under this section.

(2) Stibject to the provisions of this section, the Central Government may, by order, deprive any such citizen of Indian citizenship, if it is satisfied that—

- (a) the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact; or
- (b) that citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution of India as by law established; or
- (c) Ihat citizen 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 that was to his knowledge carried on in such manner as to assist an enemy in that war; or
- (d) that citizen has, within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than two years; or
- (e) that citizen has been ordinarily resident out of India for a continuous period of seven years, and during that period, has neither been at any time a student of any educational institution in a country outside India or in the service of a Government in India or of an international organisation of which India is a member, nor registered annually in the prescribed manner at an Indian consulate his intention to retain his citizenship of India.

1. Subs. by Act 6 of 2004, sec. 9, for "person" (w.e.f. 3-12-2004).

Sec. 10]

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[Sec. 10

(3) The Central Government shall not deprive a person of citizenship under this section unless it is satisfied that it is not conducive to the public good that the person should continue to be a citizen of India.

(4) Before making an order under this section, the Central Government shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and, if the order is proposed to be made onlany of the grounds specified in sub-section (2) other than clause (e) thereof, of his right, upon making application therefor in the prescribed manner, to have his case referred to a committee of inquiry under this

(5) If the order is proposed to be made against a person on any of the section. grounds specified in sub-section (2) other than clause (e) thereof and that person so applies in the prescribed manner, the Central Covernment shall, and in any other case it may, refer the case to a Committee of Inquiry consisting of a chairman (being a person who has for at least ten years held a judicial office) and two other members appointed by the Central Government in this behalf.

(6) The Committee of Inquiry shall, on such reference, hold the inquiry in such manner as may be prescribed and submit its report to the Central Government; and the Central Government shall ordinarily be guided by such report in making an order under this section.

### COMMENTS

Certificate of Registration cannot be cancelled unless fraud, false, representation or suppression of material fact exists; Fazal Dad v. State of Madhya Pradesh, AIR 1964 MP 272.

## SUPPLEMENTAL

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11. Commonwealth citizenship.-[Rep. by the Citizenship (Amendment) Act,

2003 (6 of 2004), sec. 10.] 12. Power to confer rights of Indian citizen or citizens of certain countries.-[Rep. by the Citizenship (Amendment) Act, 2003 (6 of 2004), sec. 10.]

13. Certificate of Citizenship in case of doubt.-The Central Government

may, in such cases as it thinks fit, certify that a person, with respect to whose citizenship of India a doubt exists, is a citizen of India; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

14. Disposal of application under "sections 5, 6 and 7Al.-(1) The prescribed authority or the Central Government may, in its discretion, grant or refuse an application under <sup>2</sup>[section 5, 6 or section 7A] and shall not be required to assign any reasons for such grant or refusal.

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- 1. Subs. by Act 6 of 2004, sec. 11, for "sections 5 and 6" (w.e.f. 3-12-2004). 2. Subs. by Act 6 of 2004, sec. 11, for "section 5 or section 6" (w.e.f. 3-12-2004). Ed. section 11
- of the Act 6 of 2004, states that for the words and figures "sections 5 and 6", the words, figures and letter "sections 5, 6 and 7A" shall be substituted. The words "sections 5 and 6" appear in the heading and not in the body, but in the body the text has been changed according to its construction.

Sec. 15A]

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(2) Subject to the provisions of section 15 the decision of the prescribed authority or the Central Government on any such application as aforesaid shall

be final and shall not be called in question in any court. 1[14A. Issue of national identity cards.-(1) The Central Government may compulsorily register every citizen of India and issue national identity card to

(2) The Central Government may maintain a National Register of Indian him. Citizens and for that purpose establish a National Registration Authority.

(3) On and from the date of commencement of the Citizenship (Amendment) Act, 2003, the Registrar General, India, appointed under sub-section (1) of section

3 of the Registration of Births and Deaths Act, 1969 (18 of 1969) shall act as the National Registration Authority and he shall function as the Registrar General of Citizen Registration. 1

(4) The Central Government may appoint such other officers and staff as may be required to assist the Registrar General of Citizen Registration in discharging

his functions and responsibilities. (5) The procedure to be followed in compulsory registration of the citizens of

India shall be such as may be prescribed.] 15. Revision.—(1) Any person aggrieved by an order made under this Act by the prescribed authority or any officer or other authority (other than the Central

Government) may, within a period of thirty days from the date of the order, make an application to the Central Government for revision of that order:

Provided that the Central Government may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was

prevented by sufficient cause from making the application in time. (2) On receipt of any such application under sub-section (1), the Central

Government shall, after considering the application of the aggrieved person and any report thereon which the officer or authority making the order may submit, make such order in relation to the application as it deems fit, and the decision of the Central Government shall be final.

<sup>2</sup>[15A. Review.—(1) Any person aggrieved by an order made by the Central Government, may within thirty days from the date of such order, make an

application for review of such order: Provided that the Central Government may entertain application after the expiry of the said period of thirty days, if it is satisfied that the applicant was

prevented by sufficient cause from making the application in time: Provided further that an application for a review of an order passed in terms

of the provisions of section 14A shall be disposed of in the manner provided for in the procedure as may be laid down under clause (ia) of sub-section (2) of

(2) On receipt of an application under sub-section (1), the Central section 18. Government shall, make such order as it deems fit, and the decision of the Central Government on such review shall be final.]

1. Ins. by Act 6 of 2004, sec. 12 (w.e.f. 3-12-2004). 2. Ins. by Act 6 of 2004, sec. 13 (w.e.f. 3-12-2004).

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(Sec. 16

16. Delegation of power. The Central Government may, by order, direct that any power which is conferred on it by any of the provisions of this Act other than those of section 10 and section 18 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority as may be so specified.

17. Offences.—Any person who, for the purpose of procuring anything to be done or not to be done under this Act, knowingly makes any representation which is false in a material particular shall be punishable with imprisonment for a term which may extend to '[five years], or 2[with fine which may extend to fifty

thousand rupees], or with both. 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 authorized under this Act to be registered, and the conditions and restrictions in regard to such
  - registration;  $^{3}$ (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
    - (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 authorized to be given by any
    - person under this Act; (e) the cancellation of the registration of, and the cancellation and amendment of certificate 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 (b) of section 6A shall be submitted and other matters connected with such
      - (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;

<sup>1.</sup> Subs. by Act 6 of 2004, sec. 14, for "six months" (w.e.f. 3-12-2004).

<sup>2.</sup> Subs. by Act 6 of 2004, sec. 14, for "with fine" (w.e.f. 3-12-2004).

<sup>3.</sup> Ins. by Act 6 of 2004, sec. 15 (w.e.f. 3-12-2004).

<sup>4.</sup> Ins. by Act 65 of 1985, sec 3 (w.e.f. 7-12-1985).

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- (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 court;
- <sup>1</sup>[(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
     1 such applications; and
  - (k) any other matter which is to be, or may be, prescribed under this Act.

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

<sup>2</sup>[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.]

<sup>3</sup>[(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 the 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.]

19. Repeals.—[Repealed by the Repealing and Amending Act, 1960 (Act 58 of 1960), sec. 2 and the First Schedule (w.e.f. 26-10-1960).]

## 4[\*\*\*]

## <sup>5</sup>[THE SECOND SCHEDULE [See sections 5(2) and 6(2)] OATH OF ALLEGIANCE

I, A/B......do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.]

2. Ins. by Act 6 of 2004, sec. 15 (w.e.f. 3-12-2004).

- 3. Subs. by Act 4 of 1986, sec. 2 and Sch. (w.e.f. 15-5-1986).
- 4. The First Schedule omitted by Act 6 of 2004, sec. 16 (w.e.f. 3-12-2004). (See Annexe)
- 5. Subs. by Act 6 of 2004, sec. 17, for the Second Schedule (w.e.f. 3-12-2004). (See Annexe)

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Sch. 1]

<sup>1.</sup> Ins. by Act 65 of 1985, sec. 3 (w.e.f. 7-12-1985).

[Sch. 1

## THE THIRD SCHEDULE

[See section 6(1)]

## QUALIFICATIONS FOR NATURALISATION

The qualifications for naturalisation of a person 1[\*\*\*] 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, <sup>2</sup>[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;
- (d) that during the <sup>3</sup>[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 4[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 <sup>5</sup>[fifteen years] before the date of the application to be reckoned in computing the aggregate mentioned in clause (d) above.
- 1. The words "who is not a citizen of a country specified in the First Schedule" omitted by Act 6 of 2004, sec. 18 (w.e.f. 3-12-2004).
- 2. Subs. by Act 6 of 2004, sec. 18, for "he has renounced the citizenship of that country in accordance with the law therein in force in that behalf and has notified such renunciation to the Central Government" (w.e.f. 3-12-2004).
- 3. Subs. by Act 6 of 2004, sec. 18, for "twelve years" (w.e.f. 3-12-2004).
- 4. Subs. by Act 6 of 2004, sec. 18, for "nine years" (w.e.f. 3-12-2004)
- 5. Subs. by Act 6 of 2004, sec. 18, for "thirteen years" (w.e.f. 3-12-2004).

## The Citizenship Act, 1955 l ![\*\*\*]

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Sch. 4]

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1. Ins. by Act 6 of 2004, sec. 19 (w.e.f. 3-12-2004) and omitted by he Citizenship (Amendment) Act, 2005 sec. 5 (w.e.f. 28-6-2005).

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Prior to ommission it stood as: "THE FOURTH SCHEDULE [See section 2(1)(gg)] 1. Australia 2. Canada 3. Finland 4. France ł 5. Greece 1 6. Ireland 7. Israel 8. Italy 9. Netherlands 10. New Zealand 11. Portugal 12. Republic of Cyprus 13. Sweden 1 14. Switzerland 15. United Kingdom 16. United States of America."

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ANNEX P/2

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## f India 0 Gazette असाधारण

EXTRAORDINARY भाग II—खण्ड 3—उप-खण्ड (i) PART II-Section 3-Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY नई दिल्ली, मंगलवार, सितम्बर 8, 2015/भाद्र 17, 1937

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सं. 553]	NEW DELHI, TUESDAY, SEPTEMBER 8, 2015/BHADACI 11/	
No. 553]	NEW DELTH, TOLAND	
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## गृह मत्रालय

अधिसूचना

नई दिल्ली, 7 सितम्बर, 2015

**सा.का.नि. 685(अ).** —केन्द्रीय सरकार, पासपोर्ट (भारत में प्रवेश) अधिनियम, 1920 (1920 का 34) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पासपोर्ट (भारत में प्रवेश) नियम, 1950 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है,

1. (1) इन नियमों का संक्षिप्त नाम पासपोर्ट (भारत में प्रवेश) संशोधन नियम, 2015 है। अर्थात् :-

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

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2. पासपोर्ट (भारत में प्रवेश) नियम, 1950 के नियम 4 के उप नियम(1) के खंड (ज) के पश्चात् निम्नलिखित खंड अंत:स्थापित

"(जक) बंगलादेश और पाकिस्तान में अल्पसंख्यक समुदायों के व्यक्तियों अर्थात् हिंदू, सिक्ख, बौद्ध, जैन, पारसी और ईसाई जो 31 दिसंबर, 2014 को या उससे पूर्व भारत में धार्मिक उत्पींडन या धार्मिक उत्पींडन के भय के कारण भारत में आश्रय लेने के लिए

बाध्य थे-

(i) बिना किसी विधिमान्य दस्तावेजों के जिसके अंतर्गत पासपोर्ट या कोई अन्य यात्रा दस्तावेज भी हैं ; या (ii) विधिमान्य दस्तावेजों के साथ जिसके अंतर्गत पासपोर्ट या कोई अन्य यात्रा दस्तावेज भी है और ऐसे दस्तावेजों की

विधिमान्यता समाप्त हो गई है:

परंतु इस खंड का उपबंध राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से प्रभावी होगा।"

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[फा. सं. 25022/50/2015-एफ.1]

जी. के. द्विदी, संयुक्त सचिव

टिप्पणः मूल नियम संख्यांक 4/5/49-एफ.आई, तारीख 25 अप्रैल, 1950 को प्रकाशित किए गए थे और अंतिम संशोधन सा.का.नि. . संख्यांक 132(अ), तारीख 26 फरवरी, 1992 द्वारा किया गया ।

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## MINISTRY OF HOME AFFAIRS

## NOTIFICATION

New Delhi, the 7th September, 2015 G.S.R. 685(E).-In exercise of the powers conferred by section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920), the Central Government hereby makes the following rules further to amend the Passport (Entry into India)

1. (1) These rules may be called the Passport (Entry into India) Amendment Rules, 2015. Rules, 1950, namely:-

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(2) They shall come into force on the date of their publication in the Official Gazette. In the Passport (Entry into India) Rules, 1950, in rule 4, in sub-rule (1), after clause (h), the following

2. clause shall be inserted, namely:-

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"(ha) persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31st December, 2014-

- without valid documents including passport or other travel documents; or
- with valid documents including passport or other travel document and the validity of (i) (ii)

Provided that provision of this clause shall take effect from the date of publication of this notification any of such documents has expired: in the Official Gazette.

[F. No. 25022/50/2015-F.I] G. K. DWIVEDI, Jt. Secy.

[PART II-SEC. 3(i)]

Note: The principal rules were published vide number 4/5/49-F.f. dated the 25th April, 1950 and last amended vide number G.S.R. 132(E), dated the 26th February, 1992.

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प्रदान की जाती है।"

### आदेश

## नई दिल्ली, 7 सितम्बर, 2015

सा.का.नि. 686(अ).---केन्द्रीय सरकार, विदेशियों विषयक अधिनियम, 1946 (1946 का 31) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, विदेशियों विषयक आदेश, 1948 का और संशोधन करने के लिए निम्नलिखित आदेश करती है, अर्थात् :-

1. (1) इस आदेश का संक्षिप्त नाम विदेशियों विषयक (संशोधन) आदेश, 2015 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे ।

2. विदेशियों विषयक आदेश, 1948 के पैरा 3 के पश्चात्, निम्नलिखित पैरा अंत:स्थापित किया जाएगा, अर्थात् :-"(3क) विदेशियों के कतिपय वर्ग को छूट- (1) बंगलादेश और पाकिस्तान में अल्पसंख्यक समुदायों के व्यक्तियों अर्थात हिंदू, सिक्ख, बौद्ध, जैन, पारसी और ईसाई जो 31 दिसंबर, 2014 को या उससे पूर्व भारत में धार्मिक उत्पीड़न या धार्मिक उत्पीड़न

के भय के कारण भारत में आश्रय लेने के लिए बाध्य थे-(क) बिना किसी विधिमान्य दस्तावेजों के जिसके अंतर्गत पासपोर्ट या कोई अन्य यात्रा दस्तावेज भी हैं और जो पासपोर्ट (भारत में प्रवेश) अधिनियम, 1920 (1920 का 34) की धारा 3 के अधीन बनाए गए पासपोर्ट (भारत में प्रवेश) नियम, 1950 के

नियम 3 के उपबंधों से नियम 4 के अधीन छूट प्राप्त हैं; या (ख) विधिमान्य दस्तावेजों के साथ जिसके अंतर्गत पासपोर्ट या कोई अन्य यात्रा दस्तावेज भी है और ऐसे दस्तावेजों की

विदेशियों विषयक अधिनियम, 1946 और, यथास्थिति, ऐसे दस्तावेओं के बिना या उन दस्तावेजों की समाप्ति के पश्चात् भारत में 

[फा. सं. 25022/50/2015-एफ. 1]

जी. के. द्विदी,संयुक्त सचित्र

**टिप्पण**ः मूल आदेश भारत के राजपत्र, में सं. 9/9/46 राजनीतिक, (ईडब्ल्यू) तारीख 14 फरवरी 1948 में प्रकाशित किया गया था और अंतिम संशोधन सा. का. नि. सं. 56(अ), तारीख 24 जनवरी, 2008 द्वारा किया गया ।

[ 뷔퍼 II-खण्ड 3(i)]

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#### ORDER

## New Delhi, the 7th September, 2015

G.S.R. 686(E).—In exercise of the powers conferred by section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners Order, 1948, namely:—

1. (1) This Order may be called the Foreigners (Amendment) Order, 2015.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Foreigners Order, 1948, after paragraph 3, the following paragraph shall be inserted, namely:---

"3A. Exemption of certain class of foreigners. (1) Persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs. Buddhists, Jains, Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31st December, 2014-

- (a) without valid documents including passport or other travel documents and who have been exempted under rule 4 from the provisions of rule 3 of the Passport (Entry into India) Rules, 1950, made under section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920); or
- (b) with valid documents including passport or other travel document and the validity of any of such documents has expired,

are hereby granted exemption from the application of provisions of the Foreigners Act, 1946 and the orders made thereunder in respect of their stay in India without such documents or after the expiry of those documents, as the case may be, from the date of publication of this order in the Official Gazette."

[F. No. 25022/50/2015- F.I]

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G. K. DWIVEDI, Jt. Secy.

Note: The principal Order was published in the Gazette of India vide No.9/9/46-Political (EW), dated the 14th February, 1948 and last amended vide number GSR 56(E), dated the 24th January, 2008.

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EXTRAORDINARY

भाग ॥-- खण्ड ३-- उप- खण्ड (!) PART II-Section 3-Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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अधिसूचना

नई दिल्ली. 18 जुलाई, 2016

सा.का.नि. 702(व).--केन्द्रीय सरकार, पासपोर्ट (भारत में प्रवेश) अधिनियम, 1920 (1920 का 34) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पासपोर्ट (भारत में प्रवेश) नियम, 1950 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:---

1. (1) इन नियमों का संक्षिप्त नाम पासपोर्ट (भारत में प्रवेश) संशोधन नियम, 2016 है

(2) ये राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे ।

2. पासपोर्ट (भारत में प्रवेश) नियम, 1950 के नियम 4 के उपनियम (1) के खंड (जक) में "बंगलादेश" शब्द के म्थान

पर, "अफगानिस्तान, बंगलादेश" शब्द रखे जाएंगे।

[फा. म. 25022/50/2015-एफ.1]

जी. के. द्विवेदी, मंयुक्त मचिव

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ट-- भाष: मूल नियम संख्यांक 4/5/49-एफ.1, तारीख 25 अप्रैल, 1950 को प्रकाशित किए गए थे और अंतिम प्रकाशन मा.का.नि. 685(अ), तारीख 7 सितंबर, 2015 दारा किया गया।

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# MINISTRY OF HOME AFFAIRS

# NOTIFICATION

# New Delhi, the 18th July, 2016

G.S.R. 702(E).-In exercise of the powers conferred by section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920), the Central Government hereby makes the following rules further to amend the Passport (Entry into India) Rules, 1950, namely:---

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IPART II

- 1. (1) These rules may be called the Passport (Entry into India) Amendment Rules, 2016.
  - (2) They shall come into force on the date of their publication in the Official Gazette.
- 2. In the Passport (Entry into India) Rules, 1950, in clause (ha) of sub-rule (1) of rule 4, for the word "Bangladesh", the words "Afghanistan, Bangladesh" shall be substituted.

[F. No. 25022/50/2015-F.I]

G. K. DWIVEDI, Jt. Secy.

Note: The principal rules were published vide number 4/5/49-F.I, dated the 25th April, 1950 and last amended vide notification number G.S.R. 685(E), dated the 7th September, 2015.

### জাইস

## नई दिल्ली, 18 जलाई, 2016

सा.का.नि. 703(व).--केन्द्रीय सरकार, विदेशियों विषयक अधिनियम, 1946 (1946 का 31) की धारा 3 द्वारा ं शक्तियों का प्रयोग करते हुए, विदेशियों विषयक आदेश, 1948 का और संशोधन करने के लिए निम्नलिखित आदेश करती है, अर्थात्:---

1. (1) इन नियमों का संक्षिप्त नाम विदेशियों विषयक (संशोधन) आदेश, 2016 है।

(2) ये राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. विदेशियों विषयक आदेश, 1948 के पैरा 3क में "बंगलादेश" शब्द के स्थान पर, "अफगानिस्तान, वंगलादेश" शब्द रखे जाएंगे ।

[फा. से. 25022/50/2015-एफ.1]

जी. के. द्विवेदी, संयुक्त मचिव

टिप्पण: मूल आदेश भारत के राजपत्र संख्यांक 9/9/46- राजनीतिक (ईडव्ल्यू), तारीख 14 फरवरी, 1948 को प्रकाशित किया गया था और अंतिम संशोधन सा.का.नि. 325(अ), तारीख 18 मार्च, 2016 द्वारा किया गया ।

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#### ORDER

# New Delhi, the 18th July, 2016

G.S.R. 703(E).-In exercise of the powers conferred by section 3 of the Foreigners Act. 1946 (31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners Order. 1948, namely:---

1. (1) This Order may be called the Foreigners (Amendment) Order, 2016.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Foreigners Order, 1948, in paragraph 3A, for the word "Bangladesh", the words "Afghanistan, Bangladesh" shall be substituted.

[F. No. 25022/50/2015-F. I]

G. K. DWIVEDI, Jt. Secy.

Note: The principal Order was published in the Gazette of India vide No. 9/9/46-Political (EW), dated the 14th February, 1948 and last amended vide number G.S.R. 325(E), dated the 18th March, 2016.

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58 ANNEX P/4 REGD. NO. D. L.-33004/99

रजिस्ट्री सं॰ डी॰ एल॰-33004/99

# HRAGENTE OF India

EXTRAORDINARY धाग II—खण्ड 3—उप-खण्ड (i) PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

<del>~</del>	नई दिल्ली, शुक्रवार, दिसम्बर 23, 2016/पौष 2, 1938
सं. 880]	is the state of th
No. 880]	NEW DELHI, FRIDAY DECEMBER 23, 2016/ PAUSA 2, 1938
NO. 000[	New Deeni, TRIDAT DECLIDENT,

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 23 दिसम्बर, 2016

सा.का.नि.1168(अ).—नागरिकता अधिनियम 1955 (1955 का 57) की धारा 18 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार नागरिकता नियम, 2009 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

1. (1) इन नियमोंका संक्षिप्त नाम नागरिकता (संशोधन) नियम, 2016 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. नागरिकता नियम, 2009 (जिसे इसमें इसके पश्चात् उक्त नियम कहा गया है) में नियम 11 के उप नियम (3) में, निम्नलिखित परन्तुक अंत:स्थापित किया जाएगा, अर्थात्:-

ैपरन्तु यह और कि अफगानिस्तान, बांग्लादेश और पाकिस्तान के अल्पसंख्यक समुदायों(अर्थात् हिन्दु, सिक्ख, बौद्ध, जैन, पारसी और ईसाई) से संबंधित किसी व्यक्ति द्वारा प्रस्तुत आवेदन की बाबत कलेक्टर की अनुपस्थिति में, कलक्टर द्वारा लिखित में प्राधिकृत कोई अधिकारी जो उप-खंड मजिस्ट्रेट की पंक्ति से कम का न हो आवेदक को राज्य निष्ठा की शपथ दिलाएगा।"

3. उक्त नियम के नियम 38 के उप-नियम (1) में, परन्तुक के पश्चात् निम्नलिखित परन्तुक अंत:स्थापित किया जाएगा, अर्थात्:-

"परन्तु यह और कि अफगानिस्तान, बांग्लादेश और पाकिस्तान के अल्पसंख्यक समुदायों (अर्थात् हिन्दू, सिक्ख, बौद्ध, जैन, पारसी और ईसाई) से संबंधित किसी व्यक्ति द्वारा प्रस्तुत आवेदन की बाबत कलेक्टर, उप-आयुक्त अथवा जिला मजिस्ट्रेट की अनुपस्थिति में, आवेदन अथवा घोषणा, यथास्थिति, कलेक्टर, उपायुक्त अथवा जिला मजिस्ट्रेट द्वारा लिखित में प्राधिकृत कोई अधिकारी जो उप-खंड मजिस्ट्रेट की पंक्ति से कम का न हो, की उपस्थिति में हस्ताक्षरित की जाए या शपथ दिलाई जाए।"

4. उक्त नियमोंकी अनुसूची 1 में,-

ì

(क) प्रारुष 2 में,-

5883 GI/2016

(1)

[PART II-SEC. 3(i)]

(i) "(\*नागरिकता नियम...... जिला मजिस्ट्रेट)" शब्दोंके स्थान पर "\*\* नागरिकता नियम, 2009 के नियम 38 के अधीन प्राधिकृत अधिकारी के हस्ताक्षर और पदाभिदान" शब्द रखें;

(ii) "आवेदक द्वारा आवेदन के साथ संलग्न किए जाने वाले दस्तावेज" शीर्षक और उससे संबंधित प्रविष्टियोंका लोप करें;

(ख) प्रारुप 3 में, -

 (i) "(\*नागरिकता नियम...... जिला/मजिस्ट्रेट)" शब्दों के स्थान पर "\*\*नागरिकता नियम, 2009 के नियम 38 के अधीन प्राधिकृत अधिकारी के हस्ताक्षर और पदाभिदान" शब्द रखें;

(ii) "आवेदक द्वारा आवेदन के साथ संलग्न किए जाने वाले दस्तावेज" शीर्षक और उससे संबंधित प्रविष्टियों का लोप करें;

(ग) प्रारुष 4 में, -

(i) "(\* नागरिकता नियम...... जिला मजिस्ट्रेट)" शब्दोंके स्थान पर "\*\* नागरिकता नियम, 2009 के नियम 38 के अधीन प्राधिकृत अधिकारी के हस्ताक्षर और पदाभिदान" शब्द रखें;

(ii) "आवेदक द्वारा आवेदन के साथ संलग्न किए जाने वाले दस्तावेज" शीर्षक और उससे संबंधित प्रविष्टियोंका लोप करें;

(घ) प्रारुप 5 में,

(i) "(\* नागरिकता नियम....... जिला मजिस्ट्रेट)" शब्द ोंके स्थान पर "\*\* नागरिकता नियम, 2009 के नियम 38 के अधीन प्राधिकृत अधिकारी के<sub>/</sub>हस्ताक्षर और <sup>प</sup>दाभिदान" *शब्द* रखें;

(ii) "आवेदन द्वारा आवेदन के साथ संलग्न किए जाने वाले दस्तावेज" शीर्षक और उससे संबंधित प्रविष्टियोंका लोप करें;

(ड.) प्रारुष 6 में, -

(i) "(\* नागरिकता नियम....... जिला मजिस्ट्रेट)" शब्दों के स्थान पर "\*\*नागरिकता नियम, 2009 के नियम 38 के अधीन प्राधिकृत अधिकारी के हस्ताक्षर और पदाभिदान" शब्द रखें;

(ii) "आवेदक द्वारा<sup>i</sup> आवेदन के साथ संलग्न किए जाने वाले दस्तावेज" शीर्षक और उससे संबंधित प्रविष्टियों का लोप करें;

(च) प्रारुप 7 में, - ।

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(i) "(\* नागरिकता नियम....... जिला मजिस्ट्रेट)" शब्दोंके स्थान पर "\*\*नागरिकता नियम, 2009 के नियम 38 के अधीन प्राधिकृत अधिकारी के हस्ताक्षर और पदाभिदान" शब्द रखे;

(ii) "आवेदक द्वारा आवेदन के साथ संलग्न किए जाने वाले दस्तावेज" और उससे संबंधित प्रविष्टियोंका लोप करें;

(छ) प्रारुप 8 में, "आवेदक द्वारा आवेदन के साथ संलग्न किए जाने वाले दस्तावेज" प्रविष्टियोंके अधीन, पैरा 3 का लोप करें।

5. उक्त नियमोंकी अनुसूची 4 में, क्र. सं. 1 और क्र.सं. के और उससे संबंधित प्रविष्टियों 2स्थान पर निम्नलिखित क्रम संख्याएं और प्रविष्टियाँ रखी जाएगी, अर्थात् :-

		वह विषय जिसमें फीस ली जानी है	फीस की रकम	
क्र.सॅ		461444 1944 1944 1944 1944	भारत में (रु.)	अन्यत्र (रु.)
1.		अधिनियम की धारा 5 के अधीन भारत के नागरिक के रूप में		
		रजिस्ट्रीकरण –		
		(1) धारा 5(1) (क) और धारा 5(1) (ख) के अधीन –		
		(क) अफगानिस्तान, बांग्लादेश और पाकिस्तान में अल्पसंख्यक		
		समुदाय (अर्थात् हिन्दू, सिक्ख, बौद्ध, जैन, पारसी तथा ईसाई) से		
		संबंध रखने वाले व्यक्तिय ोंकी बाबत –	_	
	:	(i) आवेदन के साथ	100	
	l	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	100	
		(ख) उपरोक्त (क) के अधीन न आने वाले सभी अन्य व्यक्ति –		
		(i) आवेदन के साथ	500	
		(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	5,000	
		/ (2) धारा 5(1) (ग) के अधीन		1
		(क) अफगानिस्तान, बांग्लादेश और पाकिस्तान में अल्पसंख्यक		
		समुदाय (अर्थात् हिन्दु, सिक्ख, बौद्ध, जैन, पारसी तथा ईसाई) से		

3(i)]	भारत का राजपत्र : असाधारण			3
······································				
	संबंध रखने वाले व्यक्तियोंकी बाबत -			
	(i) आवेदन के साथ	100 100		
	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	100		
	(ख) उपरोक्त (क) के अधीन न आने वाले सभी अन्य व्यक्ति -	500		
í	(l) आवेदन के साथ	10,000	500	
	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	10,000	15,000	
	(3) धारा 5(1) (घ) और धारा 5(4) के अधीन –			
	(क) अफगोनिस्तान, बांग्लादेश और पाकिस्तान में अल्पसंख्यक			
	समुंदाय (अर्थात् हिन्दु, सिक्ख, बौद्ध, जैन, पारसी तथा ईसाई) से संबंध रखने वाले व्यक्तियोंकी दशा में		3	
	(i) आवेदन के साथ	100		
	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	100		
	(ख) उपरोक्त (क) के अधीन न आने वाले सभी अन्य व्यक्ति –			
	(i) आवेदन के साथ	250	500	
ł	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	3,000	4,000	
	(4) धारा 5(1) (ड.) और धारा 5(1) (च) के अधीन –			
	(क) अफगानिस्तान, बांग्लादेश और पाकिस्तान में अल्पसंख्यक			
	समुदाय (अर्थात् हिन्दु, सिक्ख, बौद्ध, जैन, पारसी तथा ईसाई) से			
	संबंध रखने वाले व्यक्तियोंकी बाबत –	100		
	(i) आवेदन के साथ	100		
	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	100	1	
	(ख) उपरोक्त (क) के अधीन न आने वाले सभी अन्य व्यक्ति –			
1	(i) आवेदन के साथ	500		
	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	5,000		
	(5) धारा 5(1) (छ) के अधीन –			
	(j) आवेदन के साथ	500		
	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	5,000		
			1	
2.	अधिनियम की धारा 6(1) के अधीन भारत के नागरिक के रूप में देशीयकरण –			
	(क) अफगानिस्तान, बांग्लादेश और पाकिस्तान में अल्पसंख्यक			
	समुदाय (अर्थात् हिन्दु, सिक्ख, बौद्ध, जैन, पारसी तथा ईसाई) से			
	संबंध रखने वाले व्यक्तियोंकी बाबत	100		
	(i) आवेदन के साथ			
	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	100		
	(ख) उपरोक्त (क) के अधीन न आने वाले सभी अन्य व्यक्ति –	4 500		
	(i) आवेदन के साथ	1,500		
	(ii) रजिस्ट्रीकरण प्रमाणपत्र प्रदान करना	13,500		

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[भाग ]]-खण्ड 3(i)]

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[फा. सं. 26030/266/2014-आई सी- II]

मुकेश मित्तल, संयुक्त सचिव

[PART II-SEC. 3(i)]

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टिप्पणी - मूल नियम भारत के राजपत्र, असाधारण में अधिसूचना सं. सा. का. नि. 124(अ), सारीख 25 फरवरी, 2009 द्वारा संशोधन किए गए थे और तत्पश्चात्, अधिसूचना सं......और आ.का.नि. 35(अ), तारीख 16 जनवरी, 2015 द्वारा संशोधन किए गए।

#### MINISTRY OF HOME AFFAIRS NOTIFICATION

## New Delhi, the 23rd December, 2016

G.S.R.1168(E). In exercise of the powers conferred by section 18 of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby makes the following rules further to amend the Citizenship Rules, 2009, namely:---

1. (1) These rules may be called the Citizenship (Amendment) Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Citizenship Rules, 2009 (hereinafter referred to as the said Rules), in rule 11, in sub-rule (3), the following proviso shall be inserted, namely;---

"Provided that in respect of an application submitted by any person belonging to minority community in Afghanistan, Bangladesh and Pakistan (namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians), in the absence of the Collector, an officer not below the rank of the Sub-Divisional Magistrate authorised in writing by the Collector, may administer to the applicant the oath of allegiance.".

3. In rules 38 of the said Rules, in sub-rule (1), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that in respect of an application submitted by any person belonging to minority community in Afghanistan, Bangladesh and Pakistan (namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians), in the absence of the Collector, Deputy Commissioner or the District Magistrate, the application or declaration may be signed in the presence of, or the oath administered by, an officer not below the rank of the Sub-Divisional Magistrate authorised in writing by the Collector, or Deputy Commissioner or the District Magistrate, as the case may be.".

4. In Schedule I to the said Rules,-

(a) in Form II,-

(i) in the sentence under asterisk (\*) marks, the words and brackets "before whom the registration, declaration or oath of allegiance is made or taken (i.e. the Collector, Deputy Commissioner, District Magistrate)" shall be omitted;

(ii) under the entries relating to Documents to be attached with the application by the applicant, paragraph 4 shall be omitted;

(b) in Form III,-

(i) in the sentence under asterisk (\*) marks, the words and brackets "before whom the registration, declaration or oath of allegiance is made or taken (i.e. the Collector, Deputy Commissioner, District Magistrate)" shall be omitted;

(ii) under the entries relating to Documents to be attached with the application by the applicant, paragraph 5 shall be omitted;

(c) in Form IV,-

(i) in the sentence under asterisk (\*) marks, the words and brackets "before whom the registration, declaration or oath of allegiance is made or taken (i.e. the Collector, Deputy Commissioner, District Magistrate)" shall be omitted;

(ii) under the entries relating to Documents to be attached with the application by the applicant, paragraph 4 shall be omitted;

(d) in Form V, -

(i) in the sentence under asterisk (\*) marks, the words and brackets "before whom the registration, declaration or oath of allegiance is made or taken (i.e. the Collector, Deputy Commissioner, District Magistrate)" shall be omitted;

(ii) under the entries relating to Documents to be attached with the application by the applicant, paragraph 4 shall be omitted;

(e) in Form VI, ---

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## [भाग ]]-खण्ड 3(i)]

5.

(i) in the sentence under asterisk (\*) marks, the words and brackets "before whom the registration, declaration or oath of allegiance is made or taken (i.e. the Collector, Deputy Commissioner, District Magistrate)" shall be omitted;

(ii) under the entries relating to Documents to be attached with the application by the applicant, paragraph

4 shall be omitted;

(i) in the sentence under asterisk (\*) marks, the words and brackets "before whom the registration, (f) in Form VII, declaration or oath of allegiance is made or taken (i.e. the Collector, Deputy Commissioner, District Magistrate)"

(ii) under the entries relating to Documents to be attached with the application by the applicant, paragraph shall be omitted;

(g) in Form VIII, under the entries relating to Documents to be attached with the application by the applicant,

In Schedule IV to the said Rules, for serial numbers 1 and 2 and the entries relating thereto, the following serial numbers and

entries shall be substituted, namely:-Amount of fee Matter in which fee is to be taken Elsewhere SI. In India (Rs.) No. (Rs.) Registration as a citizen of India under section 5 of the Act-**~1.** (1) Under section 5(1)(a) and 5(1)(b)-(a) in respect of persons belonging to minority community in Afghanistan, Bangladesh and Pakistan (namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians)-100 (i) With the application 100 (ii) Grant of certificate of registration (b) for all others not covered under (a) above-500 (i) With the application 5,000

(ii) Grant of certificate of registration	5,000	
<ul> <li>(2) Under section 5(1)(c)—</li> <li>(a) in respect of persons belonging to minority community in</li> <li>(a) in respect of persons belonging to minority community, kindus, Sikhs,</li> </ul>		
Afghanistan, Bangladesh and Fullesh and Fulleshire (Buddhists, Jains, Parsis and Christians)—	100	• •
<ul><li>(i) With the application</li><li>(ii) Grant of certificate of registration</li></ul>	100	
(b) for all others not covered under (a) above	500	500
(i) With the application (ii) Grant of certificate of registration	10,000	15,000
<ul> <li>(3) Under section 5(1)(d) and 5(4)—</li> <li>(a) in respect of persons belonging to minority community in Afghanistan, Bangladesh and Pakistan (namely Hindus, Sikhs, Bangladesh and Bangladesh</li></ul>		
(i) With the application	100 100	
(ii) Grant of certificate of registration		

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[PART II-SEC. 3(i)]

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	250	500
(i) With the application	3,000	4,000
(ii) Grant of certificate of registration		
A Charles and 19 (25) diversion of the second		
Buddhists, Jains, Parsis and Christians)	100	
(i) With the application	100	
(ii) Grant of certificate of registration		
(h) for all others not covered under (a) above—	500	
(i) With the application	5,000	
(ii) Grant of certificate of registration		
(5) Under section $5(1)(g)$ —	500	
(i) With the application	5,000	
(ii) Grant of certificate of registration		
2. Naturalisation as a citizen of India under section 6(1) of the Act-		
the ing to minority community in		
A fabanistan Bangladesh allu rakistun (interes)		
Buddhists, Jains, Parsis and Christians)	100	
(i) With the application	100	
(ii) Grant of certificate of registration		
(b) for all others not covered under (a) above—	1,500	
(i) With the application	13,500	
(ii) Grant of certificate of registration	[F.No. 2603	0/266/2014-

## MUKESH MITTAL, Jt. Secy.

Note.—The principal rules were published in the Gazette of India, Extraordinary, vide notification number G.S.R. 124(E), dated the 25th February, 2009 and subsequently amended vide notification numbers \_\_\_\_\_\_ and G.S.R. 35(E), dated the 16th January, 2015.

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Nishok Kumar Paria by 2016.12.23

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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITYसं. 4172]गई दिल्ली, बुधवार, अक्तूबर 24, 2018/कार्तिक 2, 1940No. 4172]NEW DELHI, WEDNESDAY, OCTOBER 24, 2018/KARTIKA 2, 1940

गृह मंत्रालय

आदेश

नई दिल्ली, 23 अक्तूबर, 2018

का.या. 5377(य).—केन्द्रीय सरकार, नागरिकता अधिनियम, 1955 (1955 का 57) की धारा 16 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि छत्तीसगढ़, गुजरात, मध्यप्रदेश, महाराष्ट्र, राजस्थान, उत्तर प्रदेश राज्यों और दिल्ली संघ राज्य क्षेत्र में रह रहे अफगानिस्तान, बांग्लादेश और पाकिस्तान के अल्पसंख्यक समुदाय अर्थात् हिंदु, सिक्ख, और दिल्ली संघ राज्य क्षेत्र में रह रहे अफगानिस्तान, बांग्लादेश और पाकिस्तान के अल्पसंख्यक समुदाय अर्थात् हिंदु, सिक्ख, और दिल्ली संघ राज्य क्षेत्र में रह रहे अफगानिस्तान, बांग्लादेश और पाकिस्तान के अल्पसंख्यक समुदाय अर्थात् हिंदु, सिक्ख, बौद्ध, जैन, पारसी और ईसाई (जिसे इस आदेश में "आवेदक" कहा गया है) से संबंधित किसी व्यक्ति की बाबत नागरिकता बौद्ध, जैन, पारसी और ईसाई (जिसे इस आदेश में "आवेदक" कहा गया है) से संबंधित किसी व्यक्ति की बाबत नागरिकता अधिनियम, 1955 की धारा 5 के अधीन किसी व्यक्ति को भारत के नागरिक के रूप में रजिस्ट्रीकरण के लिए या धारा 6 के अधीन देशीयकरण प्रमाणपत्र अनुदत्त करने के लिए प्रयोक्तव्य शक्तियों का निम्नलिखित द्वारा भी प्रयोग किया जाएगा –

(क) निम्न जिलों के संबंध में कलक्टर, जिसकी अधिकारिता के भीतर आवेदक साधारण रूप से निवासी है -

- (i) छत्तीसगढ़ राज्य में रायपुर;
  - (ii) गुजरात राज्य में अहमदाबाद, गांधीनगर तथा कच्छ;
  - (iii) मध्य प्रदेश राज्य में भीपाल तथा इंदौर;

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- (iv) महाराष्ट्र राज्य में नागपुर, मुम्बई, पुणे तथा ठाणे;
- (v) राजस्थान राज्य में जोधपुर, जैसलमेर तथा जयपुर;
- (vi) उत्तर प्रदेश राज्य में लखनऊ ; और
- (vii) दिल्ली संघ राज्य क्षेत्र में पश्चिमी दिल्ली तथा दक्षिणी दिल्ली ; और

(ख) खंड (क) के अधीन नहीं आने वाले जिलों के संबंध में, राज्य या संघ राज्य क्षेत्र में, यथास्थिति, गृह विभाग का सचिव, जिसकी अधिकारिता के भीतर आवेदक साधारण रुप से निवासी है,

गणतभा आवर्णारभा र गायर ने प्रति हसमें इसके पश्चात् उक्त नियम कहा गया है) के उपबंधों के अनुसार निम्नलिखित शर्तों के नागरिकता नियम, 2009 (जिसे इसमें इसके पश्चात् उक्त नियम कहा गया है) के उपबंधों के अनुसार निम्नलिखित शर्तों के अध्यधीन प्रयोग किया जाएगा, अर्थात् :-

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PART II-SEC	<u>. 3(µ)]</u>
THE GAZETTE OF INDIA : EXTRAORDINARY	
2	ह करुप 🗸 🌶
2         THE GAZETTE OF RODAL : 2000           2         (क)         उक्त नियमों के अधीन आवेदक द्वारा भारत के नागरिक के रुप में रजिस्ट्रीकरण या भारत के नागरिव (क)           (क)         उक्त नियमों के अधीन आवेदक द्वारा भारत के नागरिक के रुप में रजिस्ट्रीकरण या भारत के नागरिव में देशीयकरण प्रमाणपत्र प्रदान किए जाने के लिए आवेदन आनलाइन किया जाएगा ; में देशीयकरण प्रमाणपत्र प्रदान किए जाने के लिए आवेदन द्वारा जिला एवं राज्य स्तर पर साथ-सा	
(क) उक्त नियमा भ जयान सामग्रे प्रदान किए जाने के लिए आवेदन आनेलाइन भिषी गए ()	रू किंग्र
(क) उक्त गर्भसार में देशीयकर्रण प्रमाणपत्र प्रदान किए जाने के लिए आवदन जागागर राज्य में देशीयकर्रण प्रमाणपत्र, यथास्थिति, कलक्टर अथवा सचिव द्वारा जिला एवं राज्य स्तर पर साथ-सा (ख) आवेदक का सत्यापन, यथास्थिति, कलक्टर अथवा सचिव द्वारा जिला एवं राज्य स्तर पर साथ-सा (ख)	य (प्रभा
आवेटक का सत्यापन, यथास्थिति, कलक्टर अथवा साथप द्वारा को एक साथ आनलाइन पटिल पर	उपलब्ध
(ख) आवेदक का सत्यापन, यथास्थिति, कलक्टर अथवा सचिव द्वारा जिला एव राज्य स्तर पर ता ज (ख) जाएगा तथा आवेदन एवं उससे संबंधित रिपोर्ट केन्द्रीय सरकार को एक साथ आनलाइन पोर्टल पर जाएगा तथा आवेदन एवं उससे संबंधित रिपोर्ट केन्द्रीय सरकार को एक साथ आनलाइन पोर्टल पर	
	भारत्यक
कराइ जाएगा,	आवरपग ———————————
कराई जाएगी; कराई जाएगी; (ग) आवेदक की उपयुक्तता को अभिनिश्चित करने के लिए, यथास्थिति, कलक्टर अथवा सचिव जैसा (ग) आवेदक की उपयुक्तता को अभिनिश्चित करने के लिए उस आवेदन को आनलाइन ऐसे अभिव	रणा का
भराइ जाए !! (ग) आवेदक की उपयुक्तता को अभिनिश्चित करने के लिए, यथास्थिति, कलक्टर अथवा सायप जा (ग) आवेदक की उपयुक्तता को अभिनिश्चित करने के लिए अपेक्षित हो और इस समझे वैसी जांच कराएगा तथा उस प्रयोजन के लिए उस आवेदन को आनलाइन ऐसे अभिन समझे वैसी जांच कराएगा तथा उस प्रयोजन के लिए उस आवेदन को आनलाइन ऐसे अभिन	संबध म
समझ वसा आप गिया के लिए भेजेगा जो ऐसी जाच पूर्ण करने के लिए भेजेगा जो ऐसी जाच पूर्ण करने के लिए गाय क्षेत्र और जि	ाला द्वारा
(ग) आवेदक की उपयुक्ततों को आमापायस पर्पत समझे वैसी जांच कराएगा तथा उस प्रयोजन के लिए उस आवेदन को आनलाइन एस जापन समझे वैसी जांच कराएगा तथा उस प्रयोजन के लिए उस आवेदन को आनलाइन एस जापन सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन और टिप्पणियों के लिए भेजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन के लिए भागत के लिए भोजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और जि सत्यापन के लिए भागत का जांच पात्र के लिए भोजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो और इस सत्यापन के लिए भागत के लिए भोजेगा जो ऐसी जांच पूर्ण करने के लिए अपेक्षित हो के लिए भागत के लिए के लिए जांच के लिए लिए के लिए के लिए के लिए के लिए के लि सत्य के लिए	
केन्द्रीय सरकार द्वारा समयपान ने व	
करोर अत्यालन किया आदगढ	n41 9111
कन्द्रोय सरफार द्वार्थ जाएगा; कठोर अनुपालन किया जाएगा; (घ) खंड (ग) में उल्लिखित अभिकरणों की टिप्पणियों को ऐसे अभिकरणों द्वारा आनलाइन अपलोड बि हैं तथा इन्हें, यथास्थिति, कलक्टर अथवा सचिव और केन्द्रीय सरकार को उपलब्ध कराया जाना है हैं तथा इन्हें, यथास्थिति, कलक्टर अथवा सचिव और केन्द्रीय सरकार को उपयक्तता के संबंध में संतुष्ट	5
(घ) खड (ग) में जल्पायल कलक्टर अथवा सचिव और केन्द्रीय सरकार पा जनाव के गंग	होते पर
<ul> <li>(घ) खड (ग) म जागाय कि लिक्टर अथवा सचिव आर कन्द्राय सरफार का जगाय हैं तथा इन्हें, यथास्थिति, कलक्टर अथवा सचिव आवेदक/आवेदिका की उपयुक्तता के संबंध में संतुष्ट</li> <li>(ङ) यथास्थिति, कलक्टर अथवा सचिव आवेदक/आवेदिका की उपयुक्तता के संबंध में संतुष्ट (ङ)</li> </ul>	्ण र और उक्त
ह तथा ३ <sup>२</sup> ०, न तिरित्र अथवा सचिव आवेदक/आवेदिका की उपयुक्तता के संबंध न तछुट (ङ) यथास्थिति, कलक्टर अथवा सचिव आवेदक/आवेदिका की उपयुक्तता के संबध न तछुट आवेदक/आवेदिका को रजिस्ट्रीकरण अथवा देशीयकरण द्वारा भारत की नागरिकता प्रदान करेग आवेदक/आवेदिका को रजिस्ट्रीकरण अथवा देशीयकरण द्वारा भारत की नागरिकता प्रदान करेग	
	तलकटर या
नियमा म समाक्षरित, यथास्थिति, रजिस्ट्रीकरण यो देशीयफरेज का जाता के	क रजिस्टर
साचव द्वारा हरणाया रण	न रागरम् नकियों का
(च) उक्त नियमों के अनुसार, कलक्टर और सचिव द्वारा एक आनलाइन/ डिजिटल के साथ-साथ भौति (च) उक्त नियमों के अनुसार, कलक्टर और सचिव द्वारा एक आनलाइन/ डिजिटल के साथ-साथ भौति भी रखा जाएगा जिसमें भारत के नागरिक के रुप में इस प्रकार रजिस्ट्रीकृत अथवा देशीयकृत व भी रखा जाएगा जिसमें भारत की एक प्रति ऐसे रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व	साक्तपा भर सन्तरि ने
(च) उक्त नियमों के अनुसार, कलक्टर जार ता से के रुप में इस प्रकार रजिस्ट्रीकृत अर्थवा देशायरुप भी भी रखा जाएगा जिसमें भारत के नागरिक के रुप में इस प्रकार रजिस्ट्रीकृत अर्थवा देशायरुप भी भी रखा जाएगा जिसमें भारत के नागरिक के रुप में इस प्रकार रजिस्ट्रीकृत अर्थवा देशायरुप भी की सात दिन व ब्यौरा होगा तथा उस रजिस्टर की एक प्रति ऐसे रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व ब्यौरा होगा तथा उस रजिस्टर की एक प्रति ऐसे रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व ब्यौरा होगा तथा उस रजिस्टर की एक प्रति ऐसे रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व ब्यौरा होगा तथा उस रजिस्टर की एक प्रति ऐसे रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व क्यौरा होगा तथा उस रजिस्टर की एक प्रति ऐसे रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व का प्रति के सात दिन वी के सात के के रुप में इस प्रकार रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व क्यौरा होगा तथा उस रजिस्टर की एक प्रति ऐसे रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व का प्रति के सात के के सात के सात के के सात प्रति ऐसे रजिस्ट्रीकरण अथवा देशीयकरण के सात दिन व के सात के के सात के सात के सात के सात के के सात के के सात के के के के सात के के के के के सात के	त अवाध क
ब्यौरा होगा तथा उस रजिस्टर का एक प्रात एस रायद्र है. भीतर केंद्रीय सरकार को भेजी जाएगी ।	

यह आदेश दिनांक 22 दिसंबर, 2018 से प्रवृत्त होगा और अगले आदेश तक वैध रहेगा।

[फा. सं. 26030/266/2014-आईसी-II (एस.ओ.)]

अनिल मलिक, संयुक्त सचिव

[PART II-SEC. 3(ii)]

# MINISTRY OF HOME AFFAIRS

## ORDER

# New Delhi; the 23rd October, 2018

S.O. 5377(E).—In exercise of the powers conferred by section 16 of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby directs that powers exercisable by it, for registration as a citizen of India under section 5 or for grant of certificate of naturalisation under section 6 of the Citizenship Act, 1955, in respect of any person belonging to minority community in Afghanistan, Bangladesh and Pakistan, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians(herein this Order referred to as "the applicant"), residing in the States of Chhattisgarh, Gujarat, Madhya Pradesh, Mahahrashtra, Rajasthan, Uttar Pradesh and

Union Territory of Delhi, shall also be exercisable bythe Collector, within whose jurisdiction the applicant is ordinarily resident, in relation to the districts

(a) of---

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- Raipur in the State of Chhattisgarh;
- (ii) Ahemdabad, Gandhinagar and Kutch in the State of Gujarat;
- (iii) Bhopal and Indore in the State of Madhya Pradesh; '
- (iv) Nagpur, Mumbai, Pune and Thane in the State of Maharashtra;
- (v) Jodhpur, Jaisalmer and Jaipur in the State of Rajasthan;
- (vi) Lucknow in the State of Uttar Pradesh; and (vii) West Delhi and South Delhi in the Union territory of Delhi; and

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- (b) the Secretary of the Department of Home of the State or the Union territory, as the case may be, within whose jurisdiction the applicant is ordinarily resident, in relation to districts not covered under clause (a), in accordance with the provisions of the Citizenship Rules, 2009 (hereinafter referred to as the said rules), subject to the following conditions, namely:-
  - (A) the application for registration as citizen of India or grant of certificate of naturalisation as citizen of India under the said rules is made by the applicant online;
  - (B) the verification of the application is done simultaneously by the Collector or the Secretary, as the case may be, at the district level and the State level and the application and the reports thereon shall be made accessible simultaneously to the Central Government on online portal;
  - (C) the Collector or the Secretary, as the case may be, makes such inquiry as he considers necessary for ascertaining the suitability of the applicant and for that purpose forwards the application online to such agencies for verification and comments as may be required for completing such an inquiry and the instructions issued by the Central Government from time to time in this regard shall be strictly complied with by the State or Union Territory and District concerned.
  - (D) the comments of the agencies referred to in clause (C) are uploaded online by such agencies and accessible to the Collector or the Secretary, as the case may be, and the Central Government;
  - (E) the Collector or the Secretary, as the case may be, on being satisfied with the suitability of the applicant, grants him/her the citizenship of India by registration or naturalisation and issue a certificate of registration or naturalisation, as the case may be, duly printed from online portal and signed by the Collector or the Secretary, as the case may be, in the Form as prescribed in the said rules; and
  - (F) the Collector and the Secretary shall maintain an online/digital as well as physical register, in accordance with the said rules, containing the details of persons so registered or naturalised as a citizen of India and furnish a copy thereof to the Central Government within seven days of such registration or naturalization.

2. This Order shall come into force with effect from the 22<sup>nd</sup> December, 2018 and shall remain in force until further order.

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[F. No. 26030/266/2014-IC-II (S.O.)]

ANIL MALIK, Jt. Secy.

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67 ANNEXNRE/P-6

REGISTERED NO. DL-(N)04/0007/2003-19

रजिस्टी सं॰ डी॰ एल॰---(एन)04/0007/2003---19

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## असाधारण EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

संग् 71] नई दिल्ली, बृहस्पतिवार, दिसम्बर 12, 2019/अग्रहायण 21, 1941 (शक) No. 71] NEW DELHI, THURSDAY, DECEMBER 12, 2019/AGRAHAYANA 21, 1941 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

### MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 12th December, 2019/Agrahayana 21, 1941 (Saka)

The following Act of Parliament received the assent of the President on the 12th December, 2019, and is hereby published for general information:—

## THE CITIZENSHIP (AMENDMENT) ACT, 2019

No. 47 of 2019

[12th December, 2019.]

## An Act further to amend the Citizenship Act, 1955.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:----

1. (1) This Act may be called the Citizenship (Amendment) Act, 2019.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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## THE GAZETTE OF INDIA EXTRAORDINARY

Amendment of section 2.

2. In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, 57 of 1955. in sub-section (1), in clause (b), the following proviso shall be inserted, namely:----

"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 34 of 1920. Foreigners Act, 1946 or any rule or order made thereunder, shall not be treated as 31 of 1946. illegal migrant for the purposes of this Act;".

3. After section 6A of the principal Act, the following section shall be inserted, Insertion of new section 6B. namely:-

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

> Amendment of section 7D.

Amendment

of section 18.

'6B. (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.'.

Reg. 5 of 1873.

4. In section 7D of the principal Act,-

(i) after clause (d), the following clause shall be inserted, namely:---

"(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";

(ii) after clause (f), the following proviso shall be inserted, namely:-

"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.".

5. In section 18 of the principal Act, in sub-section (2), after clause (ee), the following clause shall be inserted, namely:-

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

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[PART II-

# THE GAZETTE OF INDIA EXTRAORDINARY

6. In the Third Schedule to the principal Act, in clause (d), the following proviso shall be inserted, namely:—

Amendment of Third Schedule.

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'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".'

> DR. G. NARAYANA RAJU, Secretary to the Govt. of India.

UPLOADED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI-110002 AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI-110054.

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# IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION I.A. NO. OF 2019

## WRIT PETITION (C) NO. OF 2019 IN THE MATTER OF:

PRASENJIT BOSE

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... PETITIONER

.... RESPONDENTS

## VERSUS

## UNION OF INDIA & ORS

# APPLICATION FOR STAY

## TO THE CHIEF JUSTICE OF INDIA AND HIS LORDSHIP'S COMPANION JUSTICES OF THE HON'BLE SUPREME COURT OF INDIA

The humble petition of the Petitioner named above:

 The Petitioner, a public interest litigant is filing the present Writ Petition against the Respondent seeking relief of declaration that the Citizenship Amendment Act, 2019 (Act No. 47 of 2019) (hereinafter called the "CAA") is *ultra vires* the Constitution. The CAA is violative of Articles 5,6,7,8,10,11, 14, 19 and 21 of the Constitution of India. That the Petitioner is also challenging the validity of:

(a) Notification Order No. GSR 685 (E) dated 08.09.2015;

(b) Notification/ Order G.S.R. 686(E) dated 08.09.2015,

(c) G.S.R. 702(E) dated 18.07.2016,

(d) G.S.R. 703(E) dated 18.07.2016.

(e) GSR 1186 (E) dated 23.12.2016

(f) GSR 5377(E) dated 23.10,2018

- 2. That the facts leading to the present Writ Petition are setout in the Writ Petition and so are the grounds which are not repeated herein for the sake of brevity.
- 3. That the Petitioner has established a prima facie case and irreparable harm would be caused unless the impugned orders are stayed by this Hon'ble Court.
- 4. That no irreparable harm would be caused to anyone if the prayers sought for are granted as the Citizenship Amendment Act disrupts the Constitutional promise.

## PRAYER

For the facts and reasons aforestated, this Hon'ble Court may graciously be pleased to

- the operation and implementation of Citizenship A. Stay (Amendment) Act, 2019 (Act No. 47 of 2019) during the pendency of the present proceedings;
- B. Stay all proceedings in relation to National Register of Citizens purportedly under S.14A of the Citizenship Act, 1955 (as amended from time to time) during the pendency of these proceedings;

FILED BY

Talha Abdul Rahman Advocate for the Petitioner

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