



## IMPORTANCE OF CITIZENSHIP AMENDMENT BILL: A STUDY

### Law

**Neel Kamal  
Basumatary**

BA. LLB. (Hons), Uttaranchal University, Law College, Dehradun

### ABSTRACT

This article is a general study about the Citizenship Amendment Bill, 2016. It is so introduced and passed by the Lok Sabha. It seeks to amend the Citizenship Act, 1955 and provide to grant citizenship to six religion of Pakistan, Bangladesh, and Afghanistan, who are minorities in those countries after six years continuously residing within the territory of the country. The bill seeks to change the definition of illegal migrant. The very nature of the bill is controversial. Due to the introduction of the bill, there has been a protest in the north-eastern region of India. Ten northeastern political parties unanimously oppose the bill. The bill is regarded as violative of the provision of the constitution and the provision of the Assam Accord.

### KEYWORDS

Citizenship; Citizenship Amendment Bill, 2016; Illegal migrants; Migrant Workers.

### INTRODUCTION

Due to the illegal influx of a group of people from Bangladesh in the north-eastern region of India, there was a six-year agitation demanding identification and deportation of illegal immigrants which was launched by the All Assam Students' Union in 1979. Finally, on 15<sup>th</sup> of August, 1985 the government of India, government of Assam, All Assam Students' Union (AASU), All Assam Gana Sangram Parishad (AAGSU) signed a Memorandum of Settlement which came to be known as the Assam Accord, 1985. The 1951 NRC complied exclusively for Assam, the State however witness a steady influx of migrants in Assam even during the British rule between 1826 to 1947. The last update of the NRC was in 1951 and it was never updated, although with the increasing influx of migrants from Bangladesh and neighboring areas the government felt the need to update the NRC.

### Citizenship

The term "Citizenship" determines the status of a person so recognized under any law or custom of a sovereign nation is a legal member of that nation or sovereign state. Status of multiple citizenships may be acquired or may have by a single person. A person who has no citizenship or acquires citizenship of a sovereign state is regarded as a stateless. While a person who lived in border areas of a sovereign state or nation, whose territorial status is yet to be determined or is uncertain, is said to be border-lander. In case of international law or notably in international law, the term "nationality" is used often as a synonym in order to determine the status of citizenship of a person belonging to a particular nation or sovereign state. The term "nationality" is used some time to understand in order to denote a person's legal status of a sovereign state or of a large ethnic group. However, in some countries like the United States, the United Kingdom, there is a difference in the meaning of the terms, "nationality" and "citizenship". Regarding granting of citizenship to a person of a foreign country or granting of citizenship status to a person who is an alien or granting citizenship status to and immigrants, each and every sovereign nation has its own policies, laws, rules, regulation and criteria plays as a determining factor for granting citizenship to a person who is an alien or an immigrant whether that person is eligible or is entitled to acquiring the citizenship status of that country where he or she is currently residing.

On a number of bases, a person can be granted citizenship by a sovereign state. Usually, citizenship status can be acquired by a person automatically by birth. However, in other cases, an application may be required.

Following are the certain criteria which are also a determining factor to acquire citizenship of a sovereign state:

1. Citizenship by birth, (jus sanguinis) a person is eligible to acquire citizenship status by birth.
2. Citizenship by marriage, (jus matrimonii) a person can acquire the citizenship status of a foreign nation by marriage. In countries, which are the destination for immigration often have regulations in order to try and detect sham marriages, it is a kind of marriage were a citizen marries a non-citizen or a foreigner of another

country typically for payment and with having no intention to live together. For example: if a woman who is an Indian citizen, marries an American man with an intention to live together, she shall be eligible to acquire the citizenship status of her husband's country

3. Naturalization, a person through naturalization also can acquire the citizenship status of a country. Normally, the state recognizes or grant citizenship status to people who have legally entered the country and granted the permit to stay or granted political asylum and also happens to live in that country for a specified time period as mentioned or as is specified in the Act so enacted by that country or sovereign state.<sup>1</sup>

### Citizenship Amendment Bill, 2016

On 19<sup>th</sup> July 2016, the Citizenship Amendment Bill was introduced in Lok Sabha. On 12<sup>th</sup> of August of the aforementioned year, this Bill was referred to the Joint Parliamentary Committee. The report of the Committee was submitted on January 7<sup>th</sup>, 2019 and thereby was passed in Lok Sabha on 8<sup>th</sup> of same month and year. On 13<sup>th</sup> of February, it was listed for introduction in Rajya Sabha. The Bill, seeks to amend the Citizenship Act of 1955 in order to make eligible for citizenship status to a group of people belonging to classes of religion which is six in total as mentioned in the Bill those are Hindu, Sikh, Buddhist, Jain, Parsi and Christian, who are illegal migrants (undocumented immigrants) from Afghanistan, Bangladesh and Pakistan. It tends to relax the criteria to be eligible for citizenship by naturalization, to a group of people belonging to six religion, who are non-Muslims of the above-mentioned countries by decreasing the requirement of continuous residence in India to 6 years from 11 years. The Bill which is so proposed or introduced in Lok Sabha, if passed in Parliament, all those who are illegal migrants belonging to the minority community and are non-Muslims coming from Afghanistan, Pakistan, and Bangladesh shall be eligible for Indian citizenship excluding Muslim community. The very prospect of citizenship for illegal Bangladeshi migrants has triggered deep anxieties in the mind of the indigenous people, including fears of demographic change, loss of livelihood opportunities and employment opportunities and extinction of the indigenous culture. On account of the introduction or proposed of this Bill, there have been many protests in Assam. The Bill was so introduced with an aim to re-define the term 'illegal migrants', and seek to amend the Citizenship Act of 1955, in order to provide Citizenship to illegal migrants from the neighboring countries of India, namely: Pakistan, Afghanistan and Bangladesh, people belonging to non-Muslim communities who are considered as minorities in those countries. The Bill of 2016, excluded Muslim communities and it seeks to reduce the period of the requirement for continuous stay in the country from eleven years to six years, making the non-Muslims communities of Pakistan's, Bangladesh's and Afghanistan's eligible to obtain citizenship by naturalization. According to the Citizenship Act of 1955, an illegal immigrant is a person who enters India without any valid passport or with any forged documents or any persons who stay in the country beyond the visa permit. All Assam Gana Sangram Parishad (AAGSP) considers the Bill to be against the cultural and linguistic identity of the indigenous people of the State of Assam. The

Opposition parties, including the Congress and the All India United Democratic Front(AIUDF) have opposed granting of citizenship status to an individual on the basis of religion. It is also being argued that in case the Bill is made into an Act, it shall nullify the updated National Registration of Citizenship(NRC). The National Register of Citizen (NRC) is a process that is meant to identify a bona fide citizen of India. It ostensibly clarifies the existence of large numbers of non-Muslims in the State. In other words, as per the order of the Supreme Court of India, NRC is being updated in Assam in order to detect illegal immigrants of Bangladesh or Bangladeshi nationals who illegally entered into the State after midnight of 24<sup>th</sup> March of 1971, it was decided in the Assam Accord of 1985, which is a memorandum of settlement signed or accorded between AASU, AAGP, and the Central and State Government. In Independent India, the first NRC was published after the 1951 census. The first draft of the updated NRC list was concluded by 31<sup>st</sup> December of 2017 and the second draft is yet to be released. The Bill is so designed to grant citizenship status to non-Muslim refugees, who are persecuted in the neighboring countries but NRC does not differentiate migrants on the basis of religion. Any person or persons who have entered into the state illegally post 24<sup>th</sup> March of 1971, irrespective of their religion shall be subject to deportation. In case the Bill becomes an Act, the non-Muslims shall be eligible to obtain citizenship status without going through any such process, which is discriminatory against Muslims identified as undocumented immigrants. A raging controversy had raised in the north-eastern regional state of India over the introduction of the amendment Bill of citizenship. The indigenous communities of the north-eastern region of India protested against the citizenship Bill at Khumulwang, which is twenty-five kilometers from Agartala. The government has been moving fast on issues of granting autonomy to tribal bodies and recognition of tribal groups and rights. The Union Cabinet approved scheduled tribe status to six Assam communities. The Bill envisages citizenship rights to six religious communities, who are non-Muslims fleeing their homeland due to religious persecution. In the north-eastern region of India concern raised as to Bengali Hindus fleeing from Bangladesh and making it to north-eastern states, as has happened in the past will be accorded citizenship rights and turn the demographics against indigenous populations. The Chief Ministers of the ruling party of Nagaland, Meghalaya and Mizoram and an ally of the BJP Government in Tripura declared their unilateral, united and unhesitating opposition to the Citizenship Amendment Bill of 2016. As it seeks to fast track citizenship to migrants of Hindu and five other non-Muslims groups from Bangladesh, Afghanistan, and Pakistan. Amid the din of street protests across Assam and elsewhere, reference is made time and again to the Assam Accord of 1985, which laid down the criteria, strategy, and structure for the deeply foreigner's issue in the State. The Accord sought to calm a movement against illegal migration that had erupted into bloodshed and confrontation taking thousands of lives between 1979 to 1985. The key concerns that the Accord sought to address, through an agreement between the Central government, the State government, All Assam Students Union(AASU) and All Assam Gana Sangram Parishad(AAGSU), involve not only illegal immigration from Bangladesh but also constitutional safeguards for citizens and economic initiatives for States growth. The Assam Accord of 1985 placed the cutoff year for deportation of undocumented immigrants at 1971, when Bangladesh was created. On 29<sup>th</sup> January 2019 eight NGOs of the Chakma community approached the ministry of Home Affairs to submitted a memorandum, seeking inclusion of Chin refugees in India by further amending the Citizenship (Amendment) Bill of 2016. The Joint Parliamentary Committee had rejected to include minorities from Myanmar and Sri Lanka after a series of discussions with stakeholders. The US-based Human Rights Watch made a memorandum on the basis of a January 2009 report titled as 'The Chin People of Burma: Unsafe in Burma, Unprotected in India'. As per the report, there are an estimated 100,000 Chins in Mizoram, which is 20 % Chin population in Myanmar. About four thousand Chin refugees are registered with the United Nations High Commissioner for Refugees office in New Delhi. The UNHCR decided to cancel their 'refugee status' on the ground that Myanmar has now become "stable and secure" therefore, they do not need "international protection" and it is safe for them to return home. Mr. Chakma, appealed to include Myanmar along with Afghanistan, Pakistan, and Bangladesh to the Central government by further amending the Bill of 2016.<sup>2</sup> In the northeastern region of India ten political parties, in a meeting unanimously decided to oppose jointly the Citizenship Amendment Bill of 2016. The meeting was held in order to address the very sentimental issue which concerns the people of the north-eastern region of India.<sup>3</sup> The Bill violates the provisions of the Assam Accord

and provisions of the constitution as it wants to grant or provide an opportunity of non-Muslims community of three neighboring countries to be eligible to acquire citizenship status on the basis of religion to anyone who has come to India till 31st, December 2014. Political parties and students group, as well as other, protested against the Bill on the grounds that the Bill seeks to grant nationality to non-Muslims who have come to or entered India till December 31<sup>st</sup>, 2014, which increase the deadline from 1971 as per Assam Accord. According to Assam Accord, all illegal immigrants who have come after 1971 irrespective of their religion shall be deported, as the bill seeks to grant nationality to non-Muslims on the grounds of religion, it is violative of Assam Accord of 1985.

### Illegal Migrants

**Migrants** are those people who migrate to another country in search of better employment opportunity or work, those people are considered as migrant workers. Illegal migrants are those group of people whose visa or permit to stay has expired or any person who stays in a country not of their own without any valid document.

### Definition of Migrant Workers

As per the International Convention on the Protection of Rights of All Migrant Workers and Members of their Families, the term Migrant Worker has been defined under Article 2 of the Convention as a person who is to be engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. The term "migrant workers" is used to denote those migrants who are a particular group of vulnerable people who find their rights routinely violated. A convention was adopted by the General Assembly on December 18, 1990 in order to eliminate discrimination against the migrant workers and members of their families which is spread widely and is known as the International convention on the Protection of Rights of All Migrant Workers and Members of their families.<sup>4</sup>

### Self-Observation

Generally, the citizenship bill was introduced in and passed by the Lok Sabha to enable the non-Muslims communities with a view to make those people who are minorities religiously in Pakistan, Afghanistan and Bangladesh be eligible to acquire citizenship after continuously stay for six years in the country and fled their native land due to religious persecution, which was eleven years as per the Citizenship Act, 1955. The bill seeks to amend the Citizenship Act of 1955, and grants an opportunity to six religion of non-Muslims communities, which excludes Muslims communities enabling or make eligible to those six religious communities namely Sikhs, Parsees, Christian, Jains, Buddhists, and Hindus, to acquire Indian citizenship.

Since the introduction of the bill protest against the bill was seen mainly in the north-eastern region of India. As the bill is violative of the provisions of the Indian constitution and provisions of the Assam Accord, 1985, raging controversy raised due to the introduction of the bill stating that it is purely based on religion, most importantly in the north-eastern region of India. The bill so introduced does not state any reasonable ground for the implementation of the bill. The very reason of protest against the bill in the north-eastern region of India that seeks to grant citizenship status to the religious minorities of the aforementioned, neighbouring countries of India who are non-Muslims and fled due to religious persecution and seeks to amend the Citizenship Act of 1955 is that it seeks to grant or make eligible to apply for citizenship status after residing for six years continuously instead of eleven years as per the Citizenship Act, 1955. The very reason that the bill was not a success, as it seeks to grant citizenship status to the minority communities of Pakistan, Bangladesh, and Afghanistan on the ground of religion.

### CONCLUSION

It is the duty, a responsibility of the government as being the representative of the people to priorities the interest of its citizens and safeguard their rights from any internal as well as external threat. The grant of citizenship status to illegal migrants from Pakistan, Bangladesh, and Afghanistan should not be solely based on religion as it is discriminatory in nature and against the Constitution and Assam Accord of 1985. Rather, citizenship should be granted to those people who have proper legal document and all the persons who does not possess required legal document no matter from which religion they belong must be deported. From a humanitarian perspective, the stand is justifiable as being religiously persecuted from their native country due to being the minority in that country as countries like Pakistan,

Bangladesh and Afghanistan are Islamic state. One of the major drawbacks of the bill is that it seeks to give opportunity to six non-Muslims religious communities after residing for six years continuously instead of eleven years to be eligible to acquire citizenship of India.

#### REFERENCES

1. Wikipedia, available at <https://en.m.wikipedia.org/wiki/Citizenship>
2. Rahul Karmakar, Include Chin refugees in citizenship Bill: Chakma NGOs, the Hindu, January 30, 2019.
3. Press Trust of India, 10 N-E parties stand against the bill, Hindustan Times, January 30, 2019.
4. Dr. H.O. Agarwal, International Law, and Human Rights, pp 865, 866.