



CITIZENSHIP ACCQUISITION

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Abstract:

Citizenship is the status of a person recognized by law as a lawful member of a sovereign state or as a national of a nation. In India, Articles 5 - 11 of the Constitution deal with the concept of citizenship. The term citizenship implies full membership in a state where a citizen has civil and political rights.

Introduction:

Citizenship represents the relationship between the individual and the state.

As in any other modern state, there are two kinds of people in India - citizens and aliens. Citizens are full members of the Indian state and owe allegiance to it. They enjoy all civil and political rights.

Citizenship is an idea of exclusion, as it excludes non-citizens.

There are two well-known principles for conferring citizenship:

While 'jus soli' confers citizenship based on place of birth, 'jus sanguinis' recognises blood ties.

From the time of the Motilal Nehru Committee (1928), the Indian leadership advocated the enlightened concept of jus soli.

The racialist idea of jus sanguinis was also rejected by the Constituent Assembly, as it contradicted the Indian ethos.

What is citizenship?

»The word citizenship means it was a legal right to belong to a particular country.

»In other words citizenship best upon the individual's membership in a national political community.

»Citizens will enjoy the political and civil rights in a sovereign state.

Citizenship in India:

The legal provisions governing the acquisition and termination of Indian citizenship are contained in the Citizenship Act, 1955.

Indian citizenship may be acquired :

- 1) By Birth
- 2) By Descent
- 3) By Registration
- 4) By Naturalization
- 5) By Incorporation of territory
- 6) By Termination
- 7) By Renunciation
- 8) By Acquisition of another country
- 9) By Deprivation

1) Citizenship by Birth (section:3):

» Section 3 states that a person a person born in India on or after 3rd December 2004 is considered to be citizen of India by birth if both the parents are citizen of India or one of them is a citizen of India and the other is not an illegal migrant at the time of his birth.

2) Citizenship by Descent:

» Till 1992 a person whose is born outside India and had an Indian

Father was eligible for citizenship by descent. However December 2004 onwards a person is considered an Indian citizen if his/her birth is registered within one year.

3) Citizenship by registration (section:5) :

»It was subject to certain condition and restrictions, that a person of Indian origin or a woman married to citizen of Indian can be registered as the citizen of India.

4) Citizenship by Neutralization (section:6) :

» Citizenship of India by Neutralization can be acquired by the outsider of India it means a foreigner who have resided in India during the last 12 months and for 11 of the previous 14 years and satisfies other qualification was mentioned under the third schedule of the Act.

Section 6A:

It speaks about the special provisions as to citizenship of persons covered by the Assam.

5) Citizenship by acquiring territory (section:7):

» If a new territory becomes a part of the India the government of India specifies the persons of that territory who shall be citizens of India.

6) Citizenship by Termination:

» Citizenship is terminated by acquiring or renunciation citizenship of another country.

7) Citizenship by Renunciation:

» If a citizen of India of full age, who is also a citizen or national of another country, makes a declaration in the prescribed manner renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority, and on such registration such person shall cease to be a citizen of India. If such declaration + is made during a war in which India is engaged, the registration + shall be withheld until the Central Government otherwise directs.

» If any person ceases to be a citizen of India, every minor child of such person shall cease to be a citizen of India, provided that any such child may, within one year after attaining the age of majority, make a declaration that he or she wishes to resume Indian citizenship and thereupon become a citizen of India again.

» For purposes of this section. Any woman who is or has been married shall be deemed to have attained the age of majority

8) Citizenship by Acquisition of another country :

» Any Indian citizen who voluntarily acquires the citizenship of another country by naturalization, registration, or otherwise, or who voluntarily acquired such citizenship at any time between January 26, 1950, and the effective date of this Act, shall cease to be a citizen of India. Provided that this shall not apply to a citizen of India who voluntarily acquires the citizenship of another country during a war in which India is engaged, until the Central Government makes a determination

The government orders something else.

If the question arises whether, when, or how a person acquired the nationality of another country, it shall be decided by the authority in such manner and subject to such rules of evidence as may be prescribed in this behalf.

9) Citizenship by Deprivation:

» The Central Government may, under section 10 of the Indian Citizenship Act, 1955, deprive a citizen of his Indian citizenship if it is satisfied that

a. the registration or certificate of naturalization was obtained by fraud, misrepresentation, or concealment of material facts; or

b. such citizen has, by acts or utterances, shown himself disloyal or disaffected with the Constitution of India, as provided by law; or

c. such citizen has, during the war in which India may be engaged, unlawfully traded or communicated with an enemy or engaged in any business which, to his knowledge, was conducted in a manner which aided the enemy in such war; or

d. such national has been sentenced to a term of imprisonment of not less than two years in any country within five years after his registration or naturalization; or

e. The citizen has been ordinarily resident outside India for a continuous period of seven years and during that period has not been a student of any educational institution in any country outside India or in the service of any Government of India or of any international organization of which India is a member, nor has he given annual notice in the prescribed manner to any Indian consulate of his intention to resume his Indian citizenship.

f. The Central Government shall not deprive a person of his citizenship unless it is satisfied that it is not conducive to the public welfare for the person to continue to be a citizen of India.

Conclusion:

Granting a six-year residence permit based only on religion is contrary to the principles of secularism. This should be deleted to withstand the test of 'basic structure doctrine'.

India as a country following the ideology of 'Vasudhaiva Kutumbakam' should not take hasty decisions that can disenfranchise its citizens and contradict its age-old values.

The need of the hour is that the Union Government should clearly define the course of action regarding the fate of the people excluded from the final NRC of Assam and that the political parties should refrain from colouring the entire NRC process with election promises that could lead to communal violence.

An overly legalistic approach will only create more tensions, insecurity and fears.

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