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(57 of 1955)

with

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- The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003
as amended by Amendment Rules, 2010

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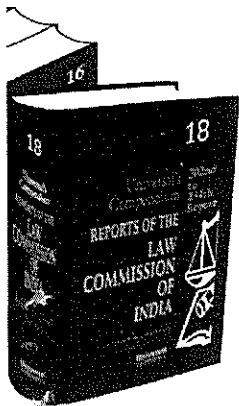
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SHORT NOTES



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THE CITIZENSHIP ACT, 1955

INTRODUCTION

On twenty-sixth day of November, 1949 the Constituent Assembly adopted and enacted the Constitution of India. Part II of the Constitution relates to Citizenship of India. Articles 5 to 9 of the Constitution determine who are Indian citizens at the commencement of the Constitution. Article 10 provides for their continuance as such citizens subject to the provisions of any law that may be made by Parliament. Article 12 provides that nothing in the provisions of Part II of the Constitution 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. There being no law in existence with respect to the acquisition and termination of citizenship it was necessary to make such a law to supplement the provisions of the Constitution. To achieve this object the Citizenship Bill was introduced in the Parliament.

STATEMENT OF OBJECTS AND REASONS

Articles 5 to 9 of the Constitution determine who are Indian citizens at the commencement of the Constitution and article 10 provides for their continuance as such citizens subject to the provisions of any law that may be made by Parliament. The Constitution does not, however, make any provision with respect to the acquisition of citizenship after its commencement or the termination of citizenship or other matters relating to citizenship. Under article 11, the Constitution expressly saves the power of Parliament to make a law to provide for such matters. It is obviously necessary to make such a law to supplement the provisions of the Constitution and this Bill seeks to achieve this object.

This Bill provides for the acquisition of citizenship, after the commencement of the Constitution, by birth, descent, registration, naturalisation and incorporation of territory. It also makes necessary provisions for the termination and deprivation of citizenship under certain circumstances. The Bill also seeks to formally recognize Commonwealth citizenship and permit the Central Government to extend on a reciprocal basis such rights of an Indian citizen as may be agreed upon to the citizens of other Commonwealth countries and the Republic of Ireland.

The notes on clauses appended to the Bill explain some of the important provisions thereof.

ACT 57 OF 1955

The Citizenship Bill having been passed by both the Houses of Parliament received the assent of the President on 30th December, 1955. It came on the Statute Book as THE CITIZENSHIP ACT, 1955 (57 of 1955).

LIST OF AMENDING ACTS

1. The Citizenship (Amendment) Act, 1957 (65 of 1957).
2. The Repealing and Amending Act, 1960 (58 of 1960).
3. The Citizenship (Amendment) Act, 1985 (65 of 1985).
4. The Delegated Legislation Provisions (Amendment) Act, 1985 (4 of 1986).
5. The Citizenship (Amendment) Act, 1986 (51 of 1986).
6. The Citizenship (Amendment) Act, 1992 (39 of 1992).
7. The Citizenship (Amendment) Act, 2003 (6 of 2004).
8. The Citizenship (Amendment) Act, 2005 (32 of 2005).

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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 follows:—

385 (4 of 1986).

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

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

(a) “a Government in India” means the Central Government or a State Government;

¹[(b) “illegal migrant” means a foreigner who has entered into India—

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

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

(d) “Indian consulate” means the office of any consular officer of the Government of India where a register of births is kept, or where there is no such office, such office as may be prescribed;

(e) “minor” means a person who has not attained the age of eighteen years:

²[(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;

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

³[***]

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

(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. 3-12-2004).

2. Subs. by Act 32 of 2005, sec. 2, for clause (ee) (w.r.e.f. 28-6-2005). Clause (ee), before substitution, stood as under:

“(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-section (1) of section 7A;

3. Clause (gg) omitted by Act 32 of 2005, sec. 2 (w.r.e.f. 28-6-2005). Earlier clause (gg) was inserted by Act 6 of 2004, sec. 2 (w.e.f. 31-2-2004). Clause (gg), before omission by Act 32 of 2005, stood as under:

“(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 entry therein:

Provided further that every notification issued under this clause shall, as 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.

COMMENTS

(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

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

- (a) on or after the 26th day of January, 1950, but before the 1st day of July, 1987;
- (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;
- (c) on or after the commencement of the Citizenship (Amendment) Act, 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,

shall be a citizen of India by birth.

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

- (a) either his father or mother possesses such immunity from suits and legal 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, 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).

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

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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:

be of full age
ind.

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:

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e Constitution;
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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 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 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:

State Trading

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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:

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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.

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(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.]

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oreign power
case may be,

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

(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 ¹[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 resident in India for seven years before making an application for registration;
- (d) 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) of section 6;
- (f) a person of full age and capacity who, or either of his parents, was 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.

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 years.

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).
3. Subs. by Act 32 of 2005, sec. 3, for "two years", (w.r.e.f. 28-6-2005).

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(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.

¹[(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 ²[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 sub-section (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.

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

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

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).

- (a) "Assam" means 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 of January, 1966.

(3) Subject to the provisions of sub-sections (6) and (7), every person of Indian origin who—

- (a) came to Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the specified territory; 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 (hereafter 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 be deleted therefrom.

Explanation.—In the case of every person seeking registration under this sub-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 has 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.

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(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 of 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 sub-section 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 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.

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.

¹[OVERSEAS CITIZENSHIP]

²[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 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 citizens 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

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

2. Subs. by Act 32 of 2005, sec. 4, for section 7A (w.r.e.f. 28-6-2005). Earlier section 7A was inserted by Act 6 of 2004 (w.e.f. 3-12-2004). Section 7A, before substitution by Act 32 of 2005, stood as under:

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—

- (a) that person is of Indian origin of full age and capacity who is a citizen of a specified country; or
- (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
- (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;
- (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.