BLOGS

Understanding Citizenship Rights and Recent Amendments in India

Indrasish Majumder · 31 Jan 2025

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Introduction

Citizenship is a fundamental and intrinsic concept that exists within the framework of every nation, serving as a means of differentiation between individuals who possess the status of citizens and those who are classified as aliens.

Citizens are afforded specific rights and privileges that are not granted to individuals who are classified as aliens. The rights and responsibilities of citizens are delineated in **Part II** of the Constitution of India, while **Article 11** confers upon the Parliament the power to enact legislation pertaining to citizenship.

The Citizenship Act, enacted in 1955, establishes a framework outlining the procedures for the acquisition and termination of Indian citizenship. In the year 2019, the Lok Sabha successfully enacted the Citizenship (Amendment) Bill, thereby introducing modifications to the prevailing citizenship provisions.

This article provides a comprehensive examination of various forms of citizenship, the procedures involved in obtaining citizenship, and recent legislative changes.

Distinction between Persons and Citizens

The Indian Constitution establishes a discernible differentiation between the categories of “persons” and “citizens.” While certain fundamental rights are universally applicable to all individuals, irrespective of their citizenship status, certain rights, such as freedom of speech and

freedom of trade, are specifically granted to Indian citizens.

The Supreme Court in the case of **State Trading Corporation of India v. Commercial Tax Officer, Vishakhapatnam**, reaffirmed this distinction. The court placed significant emphasis on the **universality of certain fundamental rights**, such as the right to life and freedom of religion, asserting that these rights are applicable to all individuals regardless of their citizenship status. Nevertheless, **certain rights**, such as the freedom of speech and the freedom of trade, are explicitly conferred upon individuals who hold Indian citizenship.

Classification of Citizens

Indian citizens are classified into three distinct classes.

To begin with, there are individuals who are considered citizens based on their domicile, as outlined in **Article 5**. This classification encompasses individuals who are native-born in India, those with at least one parent who is native-born in India, or individuals who have maintained a regular residence in India for a minimum of five years prior to the initiation of the Constitution.

The Supreme Court emphasizes that India only recognizes a single domicile, specifically the domicile of India, which clarifies the concept of domicile.

The case of **Sharafat v. State of Madhya Pradesh** elucidated the principle that the domicile of a minor is derived from their father, whereas a married woman acquires the domicile of her husband (**Karinum Nisa v. State of Madhya Pradesh**).

Furthermore, the court provided clarification that while India does not recognize a distinct state citizenship, it does acknowledge the existence of a distinct state domicile, as established in the precedent of **Joshi v. Madhya Bharat**. The Representation of the Peoples Act, 1951, initially required domicile in the State concerned to get elected to the Council of States. This was deleted in 2003 via **Kuldip Nayar v. Union of India**.

Furthermore, in accordance with **Article 6**, individuals referred to as citizens by migration are those who relocated to India prior to the commencement of the Constitution. The objective of this provision was to provide for the needs of individuals who relocated during the partition of India.

In the matter of **Shanno Devi v. Mangal Sain**, the court provided clarification that Article 6 exclusively pertains to migration occurring prior to the initiation of the Constitution and does not encompass migration subsequent to that juncture.

Lastly, individuals who obtain Indian citizenship through the registration process are referred to as citizens by registration, as outlined in **Article 8**. This provision delineates the criteria and protocols for the registration in question.

Acquisition and Termination of Citizenship

- The Citizenship Act of 1955 encompasses five distinct methods through which individuals can acquire Indian citizenship. These methods include acquisition by birth, acquisition by descent, acquisition by registration, acquisition by naturalization, and acquisition through the incorporation of territory into India. Each method possesses distinct eligibility criteria and requirements.
- The acquisition of citizenship by birth is conferred upon individuals who are born within the territorial boundaries of India, as stipulated in the relevant legislation.
- Citizenship by descent is conferred upon individuals who are born outside the territorial boundaries of India yet possess at least one parent who holds Indian citizenship.
- Citizenship by registration is a provision that is applicable to individuals who do not meet the criteria for citizenship by birth or descent but satisfy specific conditions outlined in the legislation.
- This category encompasses individuals who have resided in India for a specified duration, individuals who are legally married to Indian citizens, or individuals who possess Indian ancestry.
- The grant of citizenship by naturalization is contingent upon individuals having resided in India for a designated duration and having satisfied additional criteria as stipulated in the legislation.
- This procedure entails submitting an application to the relevant governing bodies and making a determination based on the individual’s qualifications and compliance with the stipulated criteria.

Parliament’s Authority and the Citizenship Act

- The process of incorporating territory into India pertains to the granting of citizenship to individuals who reside in regions that are integrated into the sovereign boundaries of India. This provision enables the inclusion of individuals who are citizens of territories such as India.

- According to the Act, an individual cannot hold Indian citizenship if they willingly obtain citizenship of another nation, effectively prohibiting dual citizenship. The inclusion of Article 9 strengthens the aforementioned provision even further.
- Article 11 confers upon the Parliament the authority to enact legislation pertaining to citizenship, encompassing the processes of acquisition, termination, and other associated facets.
- The Parliament passed the Citizenship Act of 1955 in accordance with the relevant authority, creating a legal framework for citizenship issues in India.

Recent Amendments: The Citizenship (Amendment) Bill

- The Lok Sabha passed the Citizenship (Amendment) Bill in 2019, which made changes to the current citizenship provisions. The legislation specifically pertains to the eligibility criteria for migrants originating from Pakistan, Bangladesh, and Afghanistan who identify as members of specific religious minority groups.
- As per the legislation, individuals belonging to the Jain, Sikh, Parsi, and Christian communities from the specified countries who have entered India without possessing valid travel documents would not be classified as unauthorized immigrants.
- The proposed legislation seeks to grant accelerated naturalisation to individuals belonging to specific religious communities, taking into account their purported persecution in their countries of origin.
- Nevertheless, the legislation sparked substantial discourse and received significant scrutiny. Critics contended that the aforementioned entity exhibited exclusionary characteristics and potentially contravened the principles of equality and secularism enshrined within the Indian Constitution.

Conclusion

The concept of citizenship in India encompasses a diverse range of rights, responsibilities, and modes of acquisition. In conjunction with the Citizenship Act of 1955, the Constitution establishes the legal framework for issues relating to citizenship. The recently proposed Citizenship (Amendment) Bill encompasses amendments that seek to provide accelerated citizenship to specific religious minorities, thereby eliciting both endorsement and contention within the nation.