

Constitutional Bench Update

**Assam Sanmilita Mahasangha v.
Union of India**

**Constitutional Validity of Section 6A
of Citizenship Act, 1955**



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Bench:

**Justices DY Chandrachud, Mr
Shah, Krishna Murari, Hima
Kohli, Ps Narasimha**

**Case Filed/Admitted on:
December 20, 2012 | Admitted -
November 5, 2015**

**Last Date of Hearing:
September 7, 2022**

**Next Date of Hearing:
November 1, 2022**

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Background:

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In 1985, the Assam Accord was signed between the Government and leaders of the Assam Agitation.

Section 6A was inserted in the Citizenship Act in 1985, as a legislative enactment of Assam Accord.

It classified the illegal immigrants of Indian origin who came into Assam from Bangladesh into three categories and prescribed cutoff dates for their regularization.

- who came into state before 1966 – Regularized Immediately
- who came into state between 1966 and 25th March, 1971 – Regularization after 10 years
- who came into the state post 25th March, 1971 - to be detected and expelled in accordance with law

The constitutional validity of this Section was challenged in 2012.

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Petitioners argued that there is no rational basis for having separate cutoff dates for regularizing illegal migrants who enter Assam as opposed to the rest of the country.

The Supreme Court bench of Justices Ranjan Gogoi and Rohinton Fali Nariman referred it to a larger bench in 2014.

In 2017, it was finally listed in front of a Constitution bench.

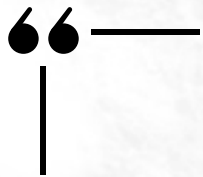
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Issues under Consideration:



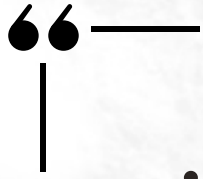
- Whether Articles 10 and 11 of the Constitution of India permit the enactment of Section 6A of the Citizenship Act in as much as Section 6A, in prescribing a cut-off date different from the cut-off date prescribed in Article 6, can do so without a “variation” of Article 6 itself; regard, in particular, being had to the phraseology of Article 4 (2) read with Article 368 (1)?
- Whether Section 6A of the Citizenship Act violates Articles 325 and 326 of the Constitution of India in that it has diluted the political rights of the citizens of the State of Assam





- What is the scope of the fundamental right contained in Article 29(1) of the Constitution? Is the fundamental right absolute in its terms? In particular, what is the meaning of the expression “culture” and the expression “conserve”? Whether Section 6A of the Citizenship Act violates Article 29(1) of the Constitution?
- Whether Section 6A of the Citizenship Act violates Article 355 of the Constitution? What is the true interpretation of Article 355 of the Constitution? Would an influx of illegal migrants into a State of India constitute “external aggression” and/or “internal disturbance”? Does the expression “State” occurring in this Article refer only to a territorial region or does it also include the people living in the State, which would include their culture and identity?





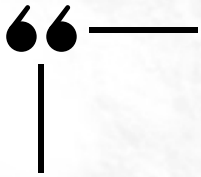
- Whether Section 6A of the Citizenship Act violates Article 14 of the Constitution in that, it singles out Assam from other border States (which comprise a distinct class) and discriminates against it. Also whether there is no rational basis for having a separate cut- off date for regularizing illegal migrants who enter Assam as opposed to the rest of the country; and
- (Whether Section 6A of the Citizenship Act violates Article 21 of the Constitution in that the lives and personal liberty of the citizens of Assam have been affected adversely by the massive influx of illegal migrants from Bangladesh.
- Whether delay is a factor that can be taken into account in moulding relief under a petition filed under Article 32 of the Constitution?





- Whether, after a large number of migrants from East Pakistan have enjoyed rights as Citizens of India for over 40 years, any relief can be given in the petitions filed in the present cases?
- Whether Section 6A of the Citizenship Act violates the basic premise of the Constitution and the Citizenship Act in that it permits Citizens who have allegedly not lost their Citizenship of East Pakistan to become deemed Citizens of India, thereby conferring dual Citizenship to such persons?
- Whether Section 6A of the Citizenship Act violates the fundamental basis of Section 5 (1) proviso and Section 5 (2) of the Citizenship Act (as it stood in 1985) in that it permits a class of migrants to become deemed Citizens of India without any reciprocity from Bangladesh and without taking the oath of allegiance to the Indian Constitution?





- Whether the Immigrants (Expulsion from Assam) Act, 1950 being a special enactment qua immigrants into Assam, alone can apply to migrants from East Pakistan/Bangladesh to the exclusion of the general Foreigners Act and the Foreigners (Tribunals) Order, 1964 made thereunder?
- Whether Section 6A violates the Rule of Law in that it gives way to political expediency and not to Government according to law?





- Whether Section 6A violates fundamental rights in that no mechanism is provided to determine which persons are ordinarily resident in Assam since the dates of their entry into Assam, thus granting deemed citizenship to such persons arbitrarily?



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