

**IN THE SUPREME COURT OF INDIA  
EXTRA ORDINARY ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO. .... OF 2019 (P.I.L.)  
PUBLIC INTEREST LITIGATION  
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**

**IN THE MATTER OF:**

**DEBABRATA SAIKIA & ORS.**

**...PETITIONERS**

**VERSUS**

**UNION OF INDIA & ORS**

**...RESPONDENTS**

**(PAPER-BOOK)**

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**ADVOCATE FOR PETITIONER: PYOLI**

## **SYNOPSIS**

The instant petition under Article 32 of the Constitution of India has been preferred to challenge the Citizenship (Amendment) Act, 2019, herein after referred to as the Act.

The petitioners are members of Parliament and Legislative Assembly from Assam. Petitioner No.1 Debabrata Saikia is the Leader of Opposition in Assam Legislative Assembly and is a Member of Legislative Assembly from Nazira Legislative Assembly Constituency of Assam. Petitioner No. 2 Abdul Khaleque is a Member of Parliament from Barpeta Lok Sabha Constituency of Assam. Petitioner No.3 Rupjyoti Kurmi is a Member of Legislative Assembly from Mariani Legislative Assembly Constituency of Assam. All the Petitioners are members of Indian National Congress.

The Citizenship (Amendment) Act, 2019 seeks to provide citizenship to persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian religions from Afghanistan, Bangladesh and Pakistan, who entered into India on or before the 31<sup>st</sup> December, 2014. On conferment of citizenship the Act grants general amnesty to illegal

migrants with regard to any proceeding pending against them in respect of illegal migration. The Act also seeks to reduce the requirement of “not less than eleven years” of continuous stay in the country to “not less than five years” to obtain citizenship by naturalisation by making the suitable amendment in the clause (d) of the Third Schedule of the Citizenship Act, 1955, hereinafter referred to as the Principal Act.

It is respectfully submitted that the Act is blatantly unconstitutional and is in direct contravention of the Constitution of India.

## **I. VIOLATIONS OF ARTICLE 14 OF THE CONSTITUTION OF INDIA**

1. The Act violates Article 14 of the Constitution, which guarantees equality to all persons, citizens and foreigners. Differentiating between the people along religious lines, especially when it comes to citizenship issues, would be in violation of the Constitution.

2. Article 14 forbids class legislation. According to it a legislation cannot be arbitrary, artificial or evasive and it should be based on an intelligible differentia, some real and substantial distinction which distinguishes persons or things grouped together in the class from others left out of it. As revealed from speech of Mr. Ripun Vora, M.P. (Rajya Sabha) the government while answering his question in Rajya Sabha has stated that there is no specific data about the religiously persecuted people in those three countries. In absence of such data intelligible differentia NOC made artificially and arbitrarily.
3. The Act fails the test of reasonable classification as set out in Article 14 of the Constitution as the classification sought is to differentiate between persons who will be granted relaxation in the domiciliary requirement and those who will not. Since, at

present, it excludes illegal immigrants only on religious grounds, with no reasonable explanation. The next test is on object sought to be achieved. Putting a qualification based on religion has no rational nexus to achieve that object; unless the object is to project India as a Hindu state.

4. The object of the Act is to 'protect those who have faced persecutions on religious ground in Afghanistan, Pakistan, and Bangladesh'. However, by excluding Muslims from the category of 'persecuted', the amendment is based on the false premise that only minorities face religious persecution in a Muslim-majority country. The amendment makes an easy - but untrue - classification between minority and majority religion. This assumption is similar to assuming that *all* Hindus in India are treated alike irrespective of caste. However, within the majority Muslim religion, there is persecution

based on sect. For example, in Pakistan, the Shias face religious persecution. Ahmadiyyas who align themselves with the Sunni school also face persecution. And in Afganistan the Hazara community faces persecution. Unless persecution of a sect within the majority religion is recognised, the classification - of majority and minority - will have no nexus with the object of protecting those who face religious persecution.

5. That the petitioner herein states that the country based classification violates Article 14 as it fails the “manifest arbitrariness” test laid down in *Shayara Bano v Union of India (2017) 9 SCC 1* as it is not based on any determining principle. The object of the Act states that the three selected countries provides for a specific state religion. As a result, many persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi and Christian communities have faced

persecution on grounds of religion in those countries. However Sri Lanka also has state religion. The classification might be limited to singling out persecuted *religious minorities*. However, on this logic, Sri Lankan Eelam Tamils must also be included, as the Tamil Eelams are persecuted based on religion (Hinduism) *and* ethnicity.

6. This Hon'ble Court in *Shayara Bano v Union of India* (2017) 9 SCC 1 had also noted that "And a constitutional infirmity is found in Article 14 itself whenever legislation is "manifestly arbitrary" i.e. when it is not fair, not reasonable, discriminatory, not transparent, capricious, biased, with favouritism or nepotism and not in pursuit of promotion of healthy competition and equitable treatment. Positively speaking, it should conform to norms which are rational, informed with reason and guided by public interest, etc." The country based classification of the The Act is manifestly arbitrary.

The impugned Section 2(1)(b) of the Act only permits the illegal migrant belonging to religious minorities, who faced persecution from the Afghanistan, Pakistan and Bangladesh would be entitled to benefit of naturalization by virtue of the Act.

7. This Hon'ble Court in Chiranjit Lal Chowdhury held that the legislature is free to recognize the degrees of harm and confine the classification to where harm is the clearest. However, if the Act is based on the degrees of harm then the Rohingyas of Myanmar ought to be included as the 2013 UN report states that the Rohingyas are the most persecuted in the world.
8. This Hon'ble Court in Navtej Singh Johar v Union of India, (2018)10 SCC 1, has held that "where a legislation discriminates on the basis of an intrinsic and core trait of an individual, it cannot form a reasonable classification based on an intelligible differentia". Similarly, the individuals belonging to

the class of Muslims must not be excluded from the benefit under Section 6B of the Act, on the basis of their religious identity. Therefore, the religious based classification is impermissible principle to be used for the purpose of classification.

## **II. ATTACK ON SECULARISM- A VIOLATION OF BASIC STRUCTURE OF THE CONSTITUTION OF INDIA**

1. This Hon'ble Court has held in S.R. Bommai and others vs. Union of India that secularism is basic structure of the Constitution of India. The Act is a blatant attack on the secular ethos of our Constitution by providing Citizenship on the basis of religion.
2. In S.R. Bommai and others vs. Union of India this Hon'ble Court has also observed that "... Citizenship is either by birth or domicile and not as a member of religion, caste, sect, region or language....."

### **III. COLOURABLE LEGISLATION**

1. That this a piece of colourable legislation, which primarily intends to include the non-Muslim left in the recently published Supreme Court monitored NRC in Assam.
2. The Act will also render National Register of Citizens (NRC) in Assam meaningless if a section of people who are left out of the Final list and granted citizenship In the past few decades Assam Border Police Organization and Election Commission of India have accused several lakhs people of being illegal migrants, large number them are prospective beneficiaries of the Act, this Act proposes to drop all charges against Non-Muslim illegal migrants. Effectively the Foreigners law will only apply on Muslims and Foreigners Tribunals will adjudicate only Muslims after the Act.

3. The Act by design and default ensures that the people excluded from the NRC list, who are belonging to the religion of Hindus, Sikhs, Buddhists, Jains, Parsis and Christians would be able to seek protection under the Act. However, the people excluded from the NRC list belonging to Muslim identity would face proceeding of Foreigner Tribunal. Therefore, the CA, Act 2019 ensures that the proceeding before the Foreigner Tribunal and detention would be directly targeted against the Muslims alone. This will only make the Foreigners Tribunal more arbitrary

#### **IV. VIOLATION OF ARTICLES 5 TO 11 OF THE CONSTITUTION OF INDIA**

The Principal Act, i.e. the Citizenship Act, 1955 provides detailed process of conferring citizenship in accordance with Articles 5 to 11 of the Constitution of India. It is respectfully submitted

that the entire objective of constitutional foundation of Indian Citizenship codified in Articles 5 to 11 is to allow the persons who were Indian citizens prior to 1947 to acquire citizenship of India even after 1947. It does not discriminate between Muslims, Hindus and persons of other religions as far as their “personality” is concerned. This objective, based on the secular credential of the Indian Republic, which is basic structure of the Constitution of India, has been breached by the Act.

**V. CONTRAVENTION OF THE ASSAM ACCORD & VIOLATION OF ARTICLE 21 OF THE CONSTITUTION OF INDIA**

1. The Act violates the Assam Accord which is a result of 6 years of agitation in the State of Assam. Clause 5.8 Assam Accord states *“Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law. Immediate and practical steps shall be*

*taken to expel such foreigners.”* By granting citizenship to illegal migrants based on religion who came to India before 31<sup>st</sup> December 2014, the Act contradicts the Assam Accord of 1985.

2. The Act is an attempt to destroy the fragile ethnicity and socio economic fabric of the State of Assam. This is in contravention of Clause 6 of the Assam Accord which states that *“Constitutional, legislative and administrative safeguards, as may be appropriate shall be provided to protect, preserve and promote the culture, social, linguistic identity and heritage of the Assamese people.”*

## **VI. NATIONAL SECURITY CONCERNS**

Concerns are raised by the India Security Agency, more particularly by the Research and Analysis Wing (RAW), that this Act could be misused by foreign agents to infiltrate India and thereby a great threat to the National Security of India.

## **LIST OF DATES AND EVENTS**

15.08.1947	India achieved independence.
26.01.1950	The Constitution of India was enacted. The entire objective of constitutional foundation of Indian Citizenship codified in Articles 5 to 11 is to allow the persons who were Indian citizens prior to 1947 to acquire citizenship of India even after 1947. It does not discriminate between Muslims, Hindus and persons of other religions as far as their “personality” is concerned. This objective is based on the secular credential of the Indian Republic, which is basic structure of the Constitution of India.
1955	The Citizenship Act, 1955 was passed. This Act provides detailed process of conferring citizenship in accordance with Articles 5 to 11 of the Constitution of India.
1979-1985	The Assam movement that started from 1979 till 1985 was a movement against illegal

immigrants. It started in 1979 when election officials found an abrupt increase in number of voters before the by-poll in Mangaldai constituency for Lok Sabha. The movement, under the leadership of All Assam Students Union (AASU), demanded permanent sealing of the Indo-Bangladesh border, expulsion of the names of faulty voters (outsiders) and all outsiders who had entered the state after 1951 should be sent back.

15.08.1985

The Assam Accord was a Memorandum of Settlement signed by the Governments of India and Assam, and the All Assam Students' Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP) in New Delhi on August 15, 1985, to meet the demands of the Assam Movement.

Clause 5.8 of the Assam Accord states *"Foreigners who came to Assam on or after March 25, 1971 shall continue to be*

*detected, deleted and expelled in accordance with law. Immediate and practical steps shall be taken to expel such foreigners.”*

Clause 6 of the Assam Accord states “Constitutional, legislative and administrative safeguards, as may be appropriate shall be provided to protect, preserve and promote the culture, social, linguistic identity and heritage of the Assamese people.”

2016

The then NDA Government tabled the Citizenship (Amendment) Bill, 2016 which fell through due to vociferous objections from the opposition parties.

2018

The Joint Parliamentary Committee dealing with the proposed amendments to the Citizenship Act, 1955 failed to reach consensus as the opposition parties, including the Indian National Congress, were opposed to granting and withholding citizenship on the basis of religion.

- 09.12.2019 As per a news report dated 09.12.2019 published in web portal [www.thewire.in](http://www.thewire.in), concerns are raised by the Research and Analysis Wing (RAW), that this Act could be misused by foreign agents to infiltrate India and thereby a great threat to the National Security of India.
- 12.12.2019 The Citizenship (Amendment) Act, 2019 was given presidential assent and notified on 12.12.2019 after being passed by both the houses of Parliament.
- .12.2019 Hence the present Petition.

IN THE SUPREME COURT OF INDIA  
EXTRA ORDINARY ORIGINAL JURISDICTION  
WRIT PETITION (CIVIL) NO. .... OF 2019 (P.I.L.)  
PUBLIC INTEREST LITIGATION  
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

1. DEBABRATA SAIKIA

R/O ASSAM LEGISLATIVE ASSEMBLY

HOSTEL, DISPUR,

GUWAHATI, ASSAM

...PETITIONER NO.1

2. ABDUL KHALEQUE,

R/O VILLAGE BARTARI,

P.O. CHANDMAMA P.S.KALGACHIA,

DISTRICT BARPETA, ASSAM

... PETITIONER NO.2

3. RUPJYOTI KURMI,

R/O KATHALGURI, SHANTIPUR,

MARIANI, DISTRICT- JORHAT,

ASSAM

....PETITIONER NO.3

VERSUS

1. UNION OF INDIA

THROUGH ITS SECRETARY,  
MINISTRY OF LAW & JUSTICE

NEW DELHI-110001                      ...RESPONDENT NO.1

2. STATE OF ASSAM

THROUGH ITS CHIEF SECRETARY

GOVERNMENT OF ASSAM

P.O. ASSAM SACHIVALAYA

GUWAHATI- 781006                      ...RESPONDENT NO.2

TO:

The Hon'ble Chief Justice of India  
And His Lordships Companion Judges  
of the Supreme Court of India

The humble petition of the

Petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. That the instant petition under Article 32 of the

Constitution of India has been preferred to challenge the Citizenship (Amendment) Act, 2019, herein after referred to as the Act. The Citizenship (Amendment) Act, 2019 seeks to provide citizenship to persons belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian religions from Afghanistan, Bangladesh and Pakistan, who entered into India on or before the 31st December, 2014. On conferment of citizenship the Act grants general amnesty to illegal migrants with regard to any proceeding pending against them in respect of illegal migration. The Act also seeks to reduce the requirement of “not less than eleven years” of continuous stay in the country to “not less than five years” to obtain citizenship by naturalisation by making the suitable amendment in the clause (d) of the Third Schedule of the Citizenship Act, 1955, hereinafter referred to as the Principal Act. It is respectfully submitted that the Act is blatantly unconstitutional and is in direct contravention of the Constitution of India. A true

copy of the Citizenship (Amendment) Act, 2019 dated 12.12.2019 is annexed herewith as **Annexure P1.**

2. The petitioners are members of Parliament and Legislative Assembly from Assam.

Petitioner No.1 Debabrata Saikia is the Leader of Opposition in Assam Legislative Assembly and is a Member of Legislative Assembly from Nazira Legislative Assembly Constituency of Assam. Petitioner No. 2 Abdul Khaleque is a Member of Parliament from Barpeta Lok Sabha Constituency of Assam.

Petitioner No.3 Rupjyoti Kurmi is a Member of Legislative Assembly from Mariani Legislative Assembly Constituency of Assam.

All the Petitioners are members of Indian National Congress.

### **3.THE CASE IN BRIEF AND FACTS CONSTITUTING THE CAUSE OF ACTION**

- (i) India achieved independence on 15.08.1947. on 26.01.1950 The Constitution of India was enacted. The entire objective of constitutional foundation of Indian Citizenship codified in Articles 5 to 11 is to allow the persons who were Indian citizens prior to 1947 to acquire citizenship of India even after 1947. It does not discriminate between Muslims, Hindus and persons of other religions as far as their “personality” is concerned. This objective is based on the secular credential of the Indian Republic, which is basic structure of the Constitution of India.
- (ii) The Citizenship Act, 1955 was passed. This Act provides detailed process of conferring citizenship in accordance with Articles 5 to 11 of the Constitution of India.
- (iii) The Assam movement that lasted from 1979 till 1985 was a movement against illegal immigrants. It started in 1979 when election

officials found an abrupt increase in number of voters before the by-poll in Mangaldai constituency for Lok Sabha. The movement, under the leadership of All Assam Students Union (AASU), demanded permanent sealing of the Indo-Bangladesh border, expulsion of the names of faulty voters (outsiders) and all outsiders who had entered the state after 1951 should be sent back.

- (iv) The Assam Accord was signed by the Governments of India and Assam, and the All Assam Students' Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP) in New Delhi on August 15, 1985, to meet the demands of the Assam Movement.

Clause 5.8 of the Assam Accord states *"Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law."*

*Immediate and practical steps shall be taken to expel such foreigners.”*

Clause 6 of the Assam Accord states *“Constitutional, legislative and administrative safeguards, as may be appropriate shall be provided to protect, preserve and promote the culture, social, linguistic identity and heritage of the Assamese people.”*

A true copy of the Assam Accord dated 15.08.1985 is annexed herewith as **Annexure P2.**

- (v) The then NDA Government tabled the Citizenship (Amendment) Bill, 2016 which fell through due to vociferous objections from the opposition parties. The said Bill was referred to a Joint Parliamentary Committee.
- (vi) The Joint Parliamentary Committee dealing with the proposed amendments to the Citizenship Act, 1955 failed to reach consensus as the opposition parties, including the Indian National

Congress, were opposed to granting and withholding citizenship on the basis of religion.

- (vii) The Respondent No.1 again introduced the impugned Act after certain changes as the Citizenship (Amendment) Bill, 2019. This was followed by heated debate in both houses of parliament. 1. As revealed from speech of Mr. Ripun Vora, M.P. (Rajya Sabha) the government while answering his question in Rajya Sabha has stated that there is no specific data about the religiously persecuted people in those three countries. In absence of such data intelligible differentia NOC made artificially and arbitrarily. True Copy of the relevant extracts from the debate in the Rajya Sabha on the the Citizenship (Amendment) Bill, 2019 recording the speech of Sh. Ripun Bora, MP is annexed herewith as **Annexure P3**.
- (viii) As per a news report dated 09.12.2019 published in web portal [www.thewire.in](http://www.thewire.in),

concerns are raised by the Research and Analysis Wing (RAW), that this Act could be misused by foreign agents to infiltrate India and thereby a great threat to the National Security of India. True copy of the news report dated 09.12.2019 published in web portal [www.thewire.in](http://www.thewire.in) is annexed herewith as **Annexure P4.**

- (ix) The Citizenship (Amendment) Act, 2019 was given presidential assent and notified on 12.12.2019 after being passed by both the houses of Parliament. This has been followed by heated protests all over the country, especially in the states of Assam and Tripura. Internet services have been disconnected in these states. The entire State of Assam has erupted in spontaneous protests against this discriminatory and unconstitutional legislation and these democratic protests are being clamped down by both the central and the

state governments. Till the time of filing of this petition, four persons have lost their life due to firing by the Assam Police and/or paramilitary forces.

4. **Source of Information:** The Petitioner relies on Acts, Amendment Act, Rules and Amendment Rules passed by Parliament, published in Official Gazette by the Central Government, news reports published in news portals as well as personal knowledge and experience related to the history of Assam, in the their capacity as members of Parliament and Legislative Assembly from Assam.
5. **Details of Remedies Exhausted:** The Petitioners have not approached any court of authority for remedy against the issues raised in this Petition. That the Petitioner does not have any alternative equally efficacious remedy other than to approach this Hon'ble Court than by way of filing this writ petition under Article 32 of the Constitution of India.

6. That the present petition will be beneficial for the citizens of India in general and citizens of Assam in particular as the amendments to the Citizenship Act, 1955 are adversely affecting their fundamental rights.
7. **Nature of Personal Interest, if any, of the Petitioner:** The Petitioners have no personal interest in this Petition and it is being filed in Public Interest.
8. That the Petitioners have not filed any other writ petition same or similar to the present writ petition, neither in this Hon'ble Court nor in any other Court or forum across the land.
9. The Petitioner declares that the issue raised was neither dealt with nor decided by a Court of law at the instance of the petitioner or to the best of his knowledge, at the instance of any other person.
10. The Petitioners have not approached any authority for relief for the subject matter of this petition.

11. That the Petitioner is filing the instant Writ Petition inter alia on the following amongst other

**GROUND**

- A. Because the Act violates Article 14 of the Constitution, which guarantees equality to all persons, citizens and foreigners. Differentiating between the people along religious lines, especially when it comes to citizenship issues, would be in violation of the Constitution.
- B. Because Article 14 forbids class legislation. According to it a legislation cannot be arbitrary, artificial or evasive and it should be based on an intelligible differentia, some real and substantial distinction which distinguishes persons or things grouped together in the class from others left out of it. As revealed from speech of Mr. Ripun Vora, M.P. (Rajya Sabha) the government while answering his question in Rajya Sabha has stated that there is no specific data about the religiously persecuted people in those three countries. In

absence of such data intelligible differentia NOC made artificially and arbitrarily.

C. Because the Act fails the test of reasonable classification as set out in Article 14 of the Constitution as the classification sought is to differentiate between persons who will be granted relaxation in the domiciliary requirement and those who will not. Since, at present, it excludes illegal immigrants only on religious grounds, with no reasonable explanation. The next test is on object sought to be achieved. Putting a qualification based on religion has no rational nexus to achieve that object; unless the object is to project India as a Hindu state.

D. Because the object of the Act is to 'protect those who have faced persecutions on religious ground in Afghanistan, Pakistan, and Bangladesh'. However, by excluding Muslims from the category of 'persecuted', the amendment is based on the false premise that only minorities face religious

persecution in a Muslim-majority country. The amendment makes an easy - but untrue - classification between minority and majority religion. This assumption is similar to assuming that all Hindus in India are treated alike irrespective of caste. However, within the majority Muslim religion, there is persecution based on sect. For example, in Pakistan, the Shias face religious persecution. Ahmadiyyas who align themselves with the Sunni school also face persecution. And in Afganistan the Hazara community faces persecution. Unless persecution of a sect within the majority religion is recognised, the classification - of majority and minority - will have no nexus with the object of protecting those who face religious persecution.

E. Because the petitioner herein states that the country based classification violates Article 14 as it fails the “manifest arbitrariness” test laid down in *Shayara Bano v Union of India* (2017) 9 SCC 1

as it is not based on any determining principle. The object of the Act states that the three selected countries provides for a specific state religion. As a result, many persons belonging to Hindu, Sikh, Budhist, Jain, Parsi and Christian communities have faced persecution on grounds of religion in those countries. However Sri Lanka also has state religion. The classification might be limited to singling out persecuted religious minorities. However, on this logic, Sri Lankan Eelam Tamils must also be included, as the Tamil Eelams are persecuted based on religion (Hinduism) and ethnicity.

F. Because this Hon'ble Court in *Shayara Bano v Union of India (2017) 9 SCC 1* had also noted that *"And a constitutional infirmity is found in Article 14 itself whenever legislation is "manifestly arbitrary" i.e. when it is not fair, not reasonable, discriminatory, not transparent, capricious, biased, with favouritism or nepotism and not in*

*pursuit of promotion of healthy competition and equitable treatment. Positively speaking, it should conform to norms which are rational, informed with reason and guided by public interest, etc.”*

The country based classification of the Act is manifestly arbitrary. The impugned Section 2(1) (b) of the Act only permits the illegal migrant belonging to religious minorities, who faced persecution from the Afghanistan, Pakistan and Bangladesh would be entitled to benefit of naturalization by virtue of the Act.

G. Because this Hon'ble Court in *Chiranjit Lal Chowdhury* held that the legislature is free to recognize the degrees of harm and confine the classification to where harm is the clearest. However, if the Act is based on the degrees of harm then the Rohingyas of Myanmar ought to be included as the 2013 UN report states that the Rohingyas are the most persecuted in the world.

- H. Because this Hon'ble Court in *Navtej Singh Johar v Union of India*, (2018)10 SCC 1, has held that "where a legislation discriminates on the basis of an intrinsic and core trait of an individual, it cannot form a reasonable classification based on an intelligible differentia". Similarly, the individuals belonging to the class of Muslims must not be excluded from the benefit under Section 6B of the Act, on the basis of their religious identity. Therefore, the religious based classification is impermissible principle to be used for the purpose of classification.
- I. Because this Hon'ble Court has held in *S.R. Bommai and others vs. Union of India* that secularism is basic structure of the Constitution of India. The Act is a blatant attack on the secular ethos of our Constitution by providing Citizenship on the basis of religion.
- J. Because in *S.R. Bommai and others vs. Union of India* this Hon'ble Court has also observed that

*"... Citizenship is either by birth or domicile and not as a member of religion, caste, sect, region or language....."*

- K. Because this a piece of colourable legislation, which primarily intends to include the non-Muslim left in the recently published Supreme Court monitored NRC in Assam.
- L. Because the Act will also render National Register of Citizens (NRC) in Assam meaningless if a section of people who are left out of the Final list and granted citizenship In the past few decades Assam Border Police Organization and Election Commission of India have accused several lakhs people of being illegal migrants, large number them are prospective beneficiaries of the Act, this Act proposes to drop all charges against Non-Muslim illegal migrants. Effectively the Foreigners law will only apply on Muslims and Foreigners Tribunals will adjudicate only Muslims after the Act.

M. Because the Act by design and default ensures that the people excluded from the NRC list, who are belonging to the religion of Hindus, Sikhs, Buddhists, Jains, Parsis and Christians would be able to seek protection under the Act. However, the people excluded from the NRC list belonging to Muslim identity would face proceeding of Foreigner Tribunal. Therefore, the Act ensures that the proceeding before the Foreigner Tribunal and detention would be directly targeted against the Muslims alone. This will only make the Foreigners Tribunal more arbitrary.

N. Because the Principal Act, i.e. the Citizenship Act, 1955 provides detailed process of conferring citizenship in accordance with Articles 5 to 11 of the Constitution of India. It is respectfully submitted that the entire objective of constitutional foundation of Indian Citizenship codified in Articles 5 to 11 is to allow the persons who were Indian citizens prior to 1947 to acquire

citizenship of India even after 1947. It does not discriminate between Muslims, Hindus and persons of other religions as far as their “personality” is concerned. This objective, based on the secular credential of the Indian Republic, which is basic structure of the Constitution of India, has been breached by the Act.

- O. Because the Act violates the Assam Accord which is a result of 6 years of agitation in the State of Assam. Clause 5.8 Assam Accord states “Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law. Immediate and practical steps shall be taken to expel such foreigners.” By granting citizenship to illegal migrants based on religion who came to India before 31st December 2014, the Act a contradicts the Assam Accord of 1985.
- P. Because the Act is an attempt to destroy the fragile ethnicity and socio economic fabric of the

State of Assam. This is in contravention of Clause 6 of the Asam Accord which states that “Constitutional, legislative and administrative safeguards, as may be appropriate shall be provided to protect, preserve and promote the culture, social, linguistic identity and heritage of the Assamese people.”

Q. Because concerns are raised by the India Security Agency, more particularly by the Research and Analysis Wing (RAW), that this Act could be misused by foreign agents to infiltrate India and thereby a great threat to the National Security of India.

### **PRAYER**

In light of the aforesaid, the Petitioner, therefore, prays that this Hon’ble Court may kindly be pleased to:

(a) Pass an appropriate writ, order or declaration quashing the Citizenship (Amendment) Act, 2019 and declaring it as

unconstitutional and ultra vires Articles 14 and 21 of the Constitution of India;

- (b) Pass an appropriate writ, order or declaration declaring that the Citizenship (Amendment) Act, 2019 as ultra vires the Assam Accord, 1985 and the Constitution of India;
- (c) Pass an appropriate writ, order or declaration declaring that the Citizenship (Amendment) Act, 2019 is contrary to the law laid down by this Hon'ble Court in S.R. Bommai and others vs. Union of India and violative of the basic structure of the Constitution of India;
- (d) Pass any other or further order(s) which this Hon'ble Court deems fit in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE HUMBLE PETITIONERS SHALL EVER PRAY AS DUTY BOUND.

DRAWN BY:

FILED BY

PYOLI &  
SYED BURHANUR RAHMAN

**[PYOLI]**  
ADVOCATE FOR THE PETITIONER

Filed on: 13.12.2019