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News: SC upholds Section 6A of Citizenship Act as valid law

- A Constitution Bench of the Supreme Court, in a 4:1 majority judgment on Thursday, upheld the constitutionality of Section 6A of the Citizenship Act, 1955, which permits immigrants from Bangladesh residing in Assam to secure Indian citizenship.
- According to the court, the principle of fraternity cannot be selectively applied to one section living in Assam while another lot are labelled “illegal immigrants”.
- The petitioning NGO argued to court that Section 6A threatened Assamese people's right to preserve their political, linguistic, and cultural identity by bringing illegal immigrants and altering its demography.

Ruling of Supreme Court

- **Reaffirming Constitutional Validity:** The court ruled that Section 6A does not violate Articles 6 and 7 of the Constitution, which set 26th January 1950, as the cut-off for granting citizenship to migrants from East and West Pakistan.
- Section 6A applies from a much later date, so it operates separately from the earlier constitutional provisions.

- The cutoff date of 24th March 1971 is justified, as the Pakistani Army initiated Operation Searchlight to suppress the Bangladeshi nationalist movement in East Pakistan on 26th March 1971.
- The Court stated that the petitioners failed to prove that the Assamese people's ability to safeguard their culture was compromised by Section 6A.
- The Court emphasised that constitutional and statutory provisions already protect Assam's cultural and linguistic interests.
- **Power of Union:** Parliament enacted Section 6A under its powers from Article 246 and Entry 17 of the Union List, which addresses citizenship, naturalization, and aliens.
- Assam's special citizenship law does not violate Article 14 (Equality), as the state's migrant situation was distinct from the rest of India.
- **Acknowledging the Issue:** The court affirmed that the ongoing migration from Bangladesh has placed a significant burden on Assam.
- It was emphasized that a nation can simultaneously accommodate immigrants and refugees while focusing on sustainable development and ensuring an equitable distribution of resources.
- **Clarifying Responsibility:** It was emphasised that Section 6A should not be solely blamed for this situation.

- The government's failure to detect and deport post-1971 immigrants from Bangladesh in a timely manner was a major contributing factor.
- **Criticizing the System:** The court found that the current mechanisms and Tribunals responsible for identifying illegal immigrants in Assam are inadequate.
- These systems are not sufficient for the timely enforcement of Section 6A and related laws, such as the Immigrants (Expulsion from Assam) Act, 1950, and the Foreigners Act, 1946.
- **Need for Oversight:** The enforcement of immigration and citizenship laws requires judicial supervision and cannot be left to the discretion of authorities.
- The Court asked the CJI to constitute a Bench for monitoring the implementation of these laws in Assam.

Section 6 A of Citizenship Act

- The Section 6 A of Citizenship Act was enacted as part of the Citizenship (Amendment) Act, 1985, following the Assam Accord of 1985.
- It grants Indian citizenship to immigrants who entered Assam from Bangladesh before 1st January 1966.

- Those who entered between 1st January 1966 and 25th March 1971 can be conferred citizenship after fulfilling certain prescribed procedures and conditions.
- The section, however, denies citizenship to immigrants who arrived in Assam after 25th March 1971.

The Assam Accord

- The Assam Accord was a tripartite agreement between the Central Government, the State Government of Assam, and the leaders of the Assam Movement. It sought to end the influx of illegal migrants from Bangladesh.
- It introduced Section 6A into the Citizenship Act, of 1955, exclusively for Assam.
- This provision addresses the issue of large-scale migration preceding the 1971 Bangladesh Liberation War.
- It mandates the detection and deportation of foreigners who entered Assam after 25th March 1971, marking the creation of Bangladesh.
- The introduction of Section 6A reflects the specific historical and demographic challenges faced by Assam during this critical period.

Implications of this Judgement

- **Immigrant Recognition:** By upholding Section 6A, the judgment grants continued legal protection and citizenship rights to immigrants from Bangladesh (entered Assam before 25th March 1971).
- This reinforces India's commitment to protecting those displaced by the Bangladesh Liberation War.
- **Assamese Identity Preservation:** The majority opinion dismisses the notion that the presence of immigrants automatically infringes upon the cultural and linguistic rights of the Assamese people.
- This means that despite demographic changes, the Assamese community's rights are protected through existing constitutional safeguards (Article 29(1)), allowing them to preserve their identity.
- **Tensions on Demographic Shift:** Critics argue that continued immigration strains Assam's demographic balance, threatening its cultural identity and economic resources.
- This could fuel local demands for stricter immigration controls or even political mobilisation around cultural preservation.
- **Resource Allocation:** Immigrants continue to be eligible for citizenship and the resources and rights that come with it, potentially increasing strain on Assam's already limited economic resources.

- This may necessitate more robust policies to ensure equitable resource distribution and prevent further economic disparities.
- **Pressure on Immigration Laws:** The judgment stresses the need for more effective implementation of immigration laws, particularly the detection and deportation of illegal immigrants who entered after the 1971 cut-off date.
- **Bangladesh Relations:** By not recognizing post-1971 immigrants as Indian citizens, the judgement could lead to tensions with Bangladesh, as it may be seen as India pushing responsibility for these immigrants onto its neighbour, potentially straining diplomatic ties.
- The decision could impact regional cooperation on border management, migration control, and security, complicating India-Bangladesh relations.