

NOTE ON PREPARATION / UPDATION OF NRC

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In the midnight of 15th August, 1985, Assam Accord was signed among All Assam Student Union (AASU), State Government and Central Government. In connection with implementation of Assam Accord a tripartite meeting among AASU, State Government and Central Government was held on 5th May/2005 at New Delhi in which it was decided to update National Register of Citizens (NRC), 1951 as per Citizenship Act 1955, Section 6A and according to the Citizenship (Registration of Citizens of National Identity cards) Rules 2003, Section 4A.

To carry out the NRC process a cabinet sub-committee was constitute on 30th August/2007 headed by Dr. Bhumidhar Barman, the then revenue Minister to examine the modalities for updating NRC. Recommendations made by this cabinet subcommittee were accepted by state cabinet and send the same to the government of India in the month of June/2008. Based on this modalities Registrar general of India notified to carry out a pilot project in two circles namely Barpeta in the Barpeta district and Chay Gaon in the Kamrup district in June/2010. Due to complexity of modalities a protest march was called by All Assam Minorities Students' Union on 21st July/2010. During the protest march Assam Police opened fire killing four persons and subsequently pilot project was stopped.

Again a new cabinet subcommittee was constituted on 21st July/2011 headed by sri Prithvi Maji, the then revenue minister which has framed a simplified modalities in consultation with all stake holders, which was approved and forwarded to the Government of India on 5th July/2013 by the state Government. Based on the recommendation of the State Government, Union of India has prescribed modalities on 22nd November/2014 for carrying out NRC updation in the State of Assam.

As per above modalities eligibility for inclusion in the updated NRC has to be established on production of the following documents:-

- 1) The first requirement is collection of documents of any of the following documents of List A issued before midnight of 24th March/1971 where name of self or ancestor appears (to prove residence in Assam up to midnight of 24th March/1971.)

LIST A :

- | | |
|-----------------------------------------|-------------------------------------------------|
| 1. 1951 NRC OR | 8. LIC OR |
| 2. Electoral Roll(s) up to 1971 OR | 9. Any Govt. Issued License/ Certificate OR |
| 3. Land & tenancy Records OR | 10. Govt. Service/Employment Certificate |
| 4. Citizenship certificate OR | 11. Bank/ Post Office Accounts OR |
| 5. Permanent Residential Certificate OR | 12. Birth Certificate OR |
| 6. Refugee Registration Certificate OR | 13. Board/University Educational Certificate OR |
| 7. Passport OR | 14. Court Records/ Processes |

Further two other documents viz (1) Circle officers/GP secretary Certificate in respect of married women migrating after marriage (can be of year or after 24th March 1971 can be adduced

as supporting documents. However, those two documents shall be accepted only if accompanied by any of the documents listed above.

- 2) The Second requirement arises if name in any of the documents of List A is not that of applicant himself/herself but the name appearing in List A is that of an ancestor namely father or mother or grandfather or grandmother or great grandfather or grandmother (and so) of the applicant. In such cases the applicant shall have to submit documents as in List B below to establish relationship with such ancestor i.e. father or mother or grandfather or grandmother or great grandfather or grandmother etc. appearing in List A. such document shall have to be a legally acceptable document which clearly proves such relationship

LIST B :

1. Birth Certificate OR
2. Land Document OR
3. Board/University Educational Certificate
4. Bank/LIC/Post Office Accounts OR
5. Circle Officer/GP Secretary in case of married women OR
6. Electoral Roll OR
7. Ration Card OR
8. Any other legally acceptable document.

For example, the Birth certificate gives the name of the father/mother and the child together in one place and can prove the parent child relationship. Similarly, a land mutation document carrying the name of both the child and the father/mother can used to prove a parent child relationship. Electoral Roll also may carry the name of the father and child together and can be used to establish the parent child relationship.

Hon'ble Supreme Court has issued an order dated 17/12/2014 against case a WP (C) No. 562/2012, WP (C) No. 274/2009 and WP (C) No. 876/201; directing all concerned to complete NRC updation within a fixed timeframe as per approved modalities. In the same order Chief justice was requested to constitute a Constitutional Bench to take up some matters pertaining these cases, from 11th May/2017 by the Constitutional Bench. The Constitutional Bench of Hon'ble Supreme Court has started hearing in the matters relating to the constitutional validity of Section 6A, of Citizenship Act 1955, Rule 4A of Citizenship Rule 2003 regarding updation/preparation of NRC process etc.

At the field level updation of NRC process has been started by the NRC authority (RGI, State Coordinator etc.) as per allotted task in the schedule given in the order mentioned above under the monitoring of the Hon'ble Supreme Court from February/ 2015.

As per operating procedure after setting up an establishment for the preparation/updation of NRC, the task like publication of records, issue and receipt of applications, verifications, publication of 1st partial draft etc. have been completed as mentioned below:

- 1) **Publication of documents:** The NRC authority is to publish documents like NRC 1951, Voter Lists up to 1971. The authority published documents like NRC 1951, Voter List of 1965/66 and Voter List of 1970/71 only in the computerized form namely Legacy Data that too partially as because this documents are not available in all the places throughout the State uniformly. The Voter lists other than 1965/66, 1970/71 starting from 1952 to 1971 have not been published by the NRC authority.

- 2) **Receipt of applications:** After house to house distribution of prescribed Application Form by the authority, an over whelming response has been shown by the people of the state. About 68 Lakh families comprising of 3.29 Crore applicants have applied for inclusion of their name in the NRC. Only a small number of people remain outside from applying.
- 3) **Verification of the Applications:** Two types of verifications namely official verification and field verification have been carried out by the NRC authority. Official verification of the document submitted by the applicants has been carried out at the source of issue of the documents online. It is understood that response/cooperation from other states in respect of official verifications of records was not up to the mark.

SOME MAJOR EVENTS DURING VERIFICATIONS:

i. Introduction of Family Tree:

A new device named as “Family Tree” has been introduced by the NRC authority during verification phase. The provision of Family Tree was not included in the modalities. The Family Tree verification detects the misuse of Legacy Data as well as it establishes linkage among the members of all the Families using the same Legacy Data.

ii. Cancelation and Restoration of Panchayat Link Certificate:

A new document for married women has been created for establishing linkage for married women with their parents issued by Panchayat Secretary countersigned by CO/BDO popularly known as Panchayat link certificate. During the ongoing verification process, Hon’ble Gauhati High Court issued an order dated 28th February /2017 in an individual Foreigner Case No. WP (C) No. 2634/2016 of Monora Bewa alias Monora Bewa declaring link certificate issued by the GP Secretary Countersigned by the Revenue Officer/ BDO as private document, which was prescribed as supporting documents in the approved modalities for married women who has migrated from one village to another after marriage. About 30 lacs married women have submitted the GP Certificate as Link Certificate along with their application.

As many as 7 numbers of SLPs were filed in the Hon’ble Supreme Court challenging Gauhati High Court order on 5th December/2017 {SLP (C) NO. 13256/2017}. Supreme Court restores the legal validity of the Panchayat Link certificate subject to verification of its content.

iii. Identification of Original Inhabitant and inclusion in the updated NRC:

The Hon’ble Supreme Court passed an order on 24th August 2017 in SLP (Civil) No. 13256/2017 relating to the matter of admissibility of GP Secretary Certificate for married women for establishing linkage to their ancestors for updation of National Registrar of Citizen (NRC). IN PURSUANCE OF THE Hon’ble Supreme Court order the State Coordinator, NRC, Assam has issued instructions to all concern for identification and segregation of original inhabitant (“OI”) for coverage under clause 3 of the schedule to the Citizenship Rule 2003 (Registration of Citizen and issue of National Identity Card).

It is to be mentioned here that there is no definition of “OI” is made/available in Citizenship Rule 2003.Citizenship Act 1955 or in the Constitution of India. Whereas the NRC authority has carried out the identification and segregation of “OI” for their names in the updated NRC arbitrarily based upon caste, creed, religion, traditions, food habits, dress code etc, without considering any proof and without issuing any

guideline so as to make the process free, fair and uniform. About 1.30 Crores applicants were included in the partial Draft NRC as "OI" Excluding Muslims.

iv. Publication of 1st Draft :

In the mid night of 31st December/2017 a partial draft covering 1.90 crore applicants has been published. Though, the number of inclusion were to be 2.38 crore as per submission of the state coordinator, NRC in the Supreme Court.

v. Verification of Panchayat certificate :

The Hon'ble Supreme Court has accepted the validity of Panchayat certificate with an instruction to examine the authenticity and contents of the same. Accordingly, standard Operating Procedure (SOP). Public notice etc. has been issued by state coordinator for conducting free, fair and transparent verification of the Panchayat Certificate.

As per report from field level as well as media that some verifying officers are not following guideline issued through SOP in letter and Spirit. Verifying officers are insisting applicants for production of alternate documents issued of or before December/2015. It is understood that verifying officers are reluctant to record statement of legacy person or other descendants of the legacy person to substantiate applicant's claim of linkage. This is a clear violation of SOP and thus it is also the violation of the Hon'ble Supreme court order. This type of anomaly in verification is likely to keep a sizeable number of genuine citizens out of complete draft NRC

vi. Family Tree verification:

Family tree verification of about 47 lakhs applicants are in progress. The concerned families are attending hearing from one part of the state to other part as notified by authority introduction of family tree has made the system of checking misuse of legacy data water tight Matching of family tree also establishes linkage among the members of the family.

vii. Weak Document :

On the 1st May, 2018, a Letter No. SPMU/NRC/Dist-Co-Equip/68/2015/Pt-IV/177, has been issued to all DRCRs from NRC state Coordinator regarding eligibility determination in case of weak documents such as Affidavit, Gaonburah (Village Headman) Certificate, Private School/College Certificate, Immunization records, Ration Cards etc. in this regard, we would like to bring to your kind notice that as "Family Tree" has been verified to check the misuse of Legacy Data so undoubtedly, the Family Tree is a scientific device which has checked the misuse of Legacy Data. At the same time, it has also established linkage among the members of the family. As the Family Tree has been utilized for checking the misuse of legacy data. The same can also be used in establishing linkage particularly in case of application who have used weak documents, Panchayat certificate.

It has been stated in the SOP (Standard Operating Procedure) for verification of Panchayat Certificate that Panchayat Certificate used by the Males and unmarried women are to be verified by DMIT. But in contradiction to above statement in SOP. It has been stated in said letter GP/LM/CO certificate submitted by the males and unmarried women cannot be considered legally admissible at all for NRC purpose.

Under the circumstances, findings of Family Tree verification or DMIT verification prior to rejection of any application who have used weak documents

should be utilized, otherwise, a large number of genuine Indian Citizens likely to be excluded from the complete draft of NRC. Moreover, after exhaustion of all documentary evidences DNA test of the applicants prior to exclusion of their names from the updated NRC should be carried out.

It is also seen in the letter dated 1st May, 2018 "Record of 1951 NRC, 1971 Electoral Rolls up to 24th March (midnight), 1971 backend of which are not available with the Deputy Commissioner submitted as List A – such case will be treated as "No List A" document cases. In such cases, the LRCR may record "NO" as LRCR decision with LRCR Remakes as "NO List A"." We would like to mention that non availability of office record with the Deputy Commissioner cannot be the cause of non inclusion of persons who applied with valid documents in complete NRC draft.

viii. Enforcement/Implementation of Citizenship Act, 1955 and Citizenship Rule, 2003 and High Court {WP (C) No. 360 and 1610 of 2017} Order :

In contradiction to letter no. SPMU/NRC/Dist-Co-Equip/68/2015/Pt-3/93 dated 16/10/2017, another letter No. SPMU/NRC/HC-FT/537/2018/15 dated 02/05/2018 has been issued by the NRC state coordinator. In this regard, the following few points may be mentioned.

It is a fact that preparation of NRC is carried out in the state as per the relevant section of Citizenship Act, 1955 and Citizenship Registration Rule, 2003 under the monitoring of Hon'ble Supreme Court. The NRC authority is empowered to update NRC as per Citizenship Act and Rule. In the letter dated 2nd May, 2018 state coordinator has cited an order of Gauhati High Court {WP (C) No. 360 and 1610 of 2017} which was passed one year ago in an individual foreigner case> in the said order Hon'ble High Court has directed SP Border to cause enquiry in respect of brothers, sisters and other family members of the declared foreigner and thereafter to make a reference to the competent Foreigner Tribunal.

The point is that the High Court has not stopped NRC authority to verify applications placed under Citizenship Act, 1955 and Citizenship Registration Rule 2003 by the brothers, sisters and other family members of the declared foreigner for inclusion of their names in the updated NRC. As the section 3 of Citizenship Act, 1955 regarding the Acquisition of Citizenship is still in force, therefore, the application of brothers, sister and other family members of declared foreigner should be verify as per section 3 and 6 A of the citizenship Act, 1955 as state coordinator has already instructed all DRCRs vide his letter No. SPMU/NRC/Dist-Co-Equip/68/2015/Pt-3/93 dated 16/10/2017. Otherwise a sizeable number of genuine citizens are likely to be left out in the complete draft of NRC.

ix. Non receipt/delayed receipt Notices for attending Verifications of NRC updation:

Authority has displayed verification schedule by mentioning of the verification date and venue in their website. The LRCRs are to serve Notices to the applicants for attending verifications. There are many cases where date and venues have been displayed in the website for attending verification but they have not received notice from the concerned LRCRs. No verification has been carried out for those who are not notified by LRCR though verification date or venue has been displayed in the website.

x. With huge anomalies final draft of NRC was published on 30th July. 40 lakh people were not included in the National Register of Citizen. Lakhs of genuine Indian Citizens hadn't got equal opportunities in verification process. Many of the officers engaged for NRC duties misuse their quasi judicial power to exclude maximum names from final draft. This happened mostly in CRCR level on the name of scrutiny (special verification and quality check). After the publication of final draft when excluded applicants want to know the causes of their exclusion as per the norms of NRC, the grassroots level officer LRCRs could not give them proper reply. In many cases they give some absurd and arbitrary replies to their queries such as Technical error, ask to resubmit the link document (no proper cause of rejection), Declare foreigner (DF), Siblings of DF, descendents DF, Doubtful Voter (DV), Descendant of DV, Family Tree not matched, GP Certificate rejected, Link certificate not correct and so on. In maximum cases the excluded applicants couldn't be satisfied with the answers given by the NRC authorities. In more cases applicants did everything correctly yet intentionally their names were being dropped. In case of persons showing reasons of DF and DV never noticed earlier from FT, no enquiry was done earlier by Election officer or Border Police. They are regular in Voter list and casting their votes regularly. Suddenly when they have got their reply from LRCRs follow up of their queries that they are DF or DV and going to be deprived from NRC with their family members, they become surprised and helpless.

In Claims and Objection Phase, persons kept in HOLD category can't reapply or Claim for inclusion of their names in final NRC. They are DF, Siblings of DF, descendants of DF, descendants of DV until and unless their citizenship is cleared by the competent Foreigner Tribunals.

So, we feel at this stage that few of the officers trying to exclude maximum genuine Indian citizens from final NRC by not giving them the chance of Claim.

Regarding all these anomalies stakeholders, Civil Societies and Political parties and other social organizations concerned with the issue has been submitting memorandum the NRC authorities, filing Writ Petition and IAs to the apex court but remedial measure has yet to come out.

xi. Lastly when NRC state coordinator Mr. Prateek Hajela remarked in general about trading of Legacy Data without pointing the traders, it makes the total exercise meaningless. Simultaneously when he put forward the suggestions to the Apex Court to exclude five most important Legacy documents out of fifteen, prescribed in NRC Modality on which the very exercise of NRC stands, it creates question of sincerity on the NRC authority. Out of those proposed five excluded documents, two documents i.e. NRC 1951 and Voter List up to 1971 were mentioned in Citizenship Rule itself and these were the very much foundation of the NRC, which has been violated.
