

Citizenship

Description

Citizenship

What is citizenship?

Citizenship is an identity which gives us a special place and facilities in the world.

Citizenship is not a separate concept but it is linked to nationalism, democracy, fundamental civil rights, freedom, etc.

The Constitution of India provides for single citizenship for the whole of India. Every person who at the time of the commencement of the Constitution (January 26, 1950) was a resident in the territory of India and (a) was born in India or (b) one of his parents was born in India or (c) who for at least five years ordinarily resided in India; He became a citizen of India. The Citizenship Act, 1955 deals with acquisition, determination and cancellation of Indian citizenship after the commencement of the Constitution.

Note:

Those people who are full members of a country and who have allegiance to the state **are called** citizens. Such people enjoy all the civil and political rights of the country. When the same right is not given to the citizen of another country, then he **is called a foreigner**.

This foreigner is a citizen of some country and has loyalty to that country, so he has the passport of that country.

If a person wants to go to another country, then usually he has to first get permission from that country, which **is called** a visa

If someone is living in another country without or without an illegal visa and passport, then he **is called an illegal migrant**.

¾ Those who have fled war, violence, conflict or persecution and cross the international border to seek refuge in another country **are called refugees**.

For example, in India it is a rule that a child born here is a citizen of India only if either both parents are citizens of India at the time of his birth or one of the two is a citizen of India and the other **is not an illegal migrant**.

Rights of Foreigners in the Context of India

Part 3 of the Constitution of India (Articles 12 to 35) deals with Fundamental Rights. Foreigners do not have the following rights in India.

1Article 15- Right against discrimination on grounds of religion, race, caste, sex or place of birth;

Foreigners do not get it. That is, foreigners can be discriminated against on these grounds.

2. Right to equality in matters of public employment under Article 16; Foreigners do not get it. That is, foreigners can be discriminated against in government jobs.

Under Article 17, the right to liberty is also not available to foreigners. That is, he cannot come to our country and enjoy the level of freedom that we do.

Articles 29 and 30- Cultural and educational rights; Foreigners do not get it. That is, whether the language, script or culture of these people should survive in India or not, our Constitution has no meaning.

Apart from this, these people cannot participate in the voting process, cannot contest elections, these people do not even have to pay taxes and do not have to be committed to protecting the country.

Constitutional Provisions of Citizenship

Citizenship is described in **Part II of the Constitution** of India, under which there are a **total of 7 articles from Article 5 to 11**.

Article 5 – Citizenship at the commencement of the Constitution

Every person resident in India shall be a citizen of India if he satisfies one of the following conditions:- (1) he must be born in India, or (2) either of his parents must be born in India, or (3) he must have been residing in India for more than five years before the commencement of the Constitution.

Article 6 – Rights of citizenship of persons coming to India from Pakistan

If a person has come to India from Pakistan, he can become a citizen of India. If his parents or grandparents were born in undivided India and if he had come to India before 19th July 1948 for the purpose of residence.

Article 7 – Rights of citizenship of persons who went from India to Pakistan and came back to India

A person who migrated from India to Pakistan after March 1, 1947, but later returns to India for resettlement, can get citizenship of India but he will have to give an application to the Government of India and after that he will have to reside in India for 6 months.

Article 8 – Rights of citizenship of certain persons of Indian origin residing outside India

It is for those whose parents or grandparents are born in undivided India but who has been residing marginally elsewhere outside India, can also become a citizen of India. But he will have to apply for registration for citizenship to an Indian diplomat present in that country. So overall, these are the four types of people who were

given citizenship till the implementation of the Constitution. Let us now understand the next three paragraphs.

Article 9 – Persons voluntarily acquiring citizenship of a foreign State shall not be citizens of India

A person who voluntarily acquires citizenship of another country will not be considered a citizen of India. This is to say that India does not recognize dual citizenship. If a person acquires citizenship of another country, then he will be deprived of citizenship of India.

Article 10 – Continuance of the rights of citizenship

This Article gives an assurance that those who have been given citizenship under Articles 5, 6, 7, and 8 will continue to be citizens in India. That is, citizenship will not be taken away from such people.

Article 11 – Parliament to regulate the right of citizenship by law

Under this article, Parliament has the right to make any rule or law related to the acquisition and termination of citizenship or in connection with it. This is to say that this article gives Parliament the power to make laws regarding citizenship.

The Constitutional provision from Articles 5 to 11 is just that. Obviously, there is nothing clear about citizenship in the future, because it focuses only on the circumstances at the time of the implementation of the Constitution. That is why the **Citizenship Act was brought in 1955** to remove all the shortcomings related to citizenship. This is the most important document regarding citizenship, so it is very important to understand it.

Citizenship Act 1955

There are 18 sections in this act, out of which sections 3 to 7 have been described in 5 ways to get citizenship of India respectively, which is as follows –

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1. Citizenship by birth

Every such person by birth shall be a citizen of India by birth **who was born in India on or after the 26th day of January, 1950, but before the 1st day of July, 1987.**

In India, this system further aggravated the problem of illegal migrants (especially in the case of illegal migrants from Bangladesh), so in 1986, the Citizenship Act 1955 was amended and a condition was added to it.

A person born after July 1, 1987 will get citizenship of India only if at the time of birth of that person, either of his parents is a citizen of India.

In 2003, through another amendment in the Citizenship Act 1955, some conditions were added to it. A person by birth can become a citizen of India by birth if **(i) both parents were citizens of India** at the time of his birth, or **(2) one of the parents was a citizen of India** and the other was not an illegal migrant.

2. Citizenship by Descent

A person born outside India on or after January 26, 1950, but before December 10, **1992**, is a citizen of India by

descent if his father is an Indian citizen by birth at the time of his birth.

However, if the father of the child born is an Indian citizen only on the basis of descent, then his child will have to register with the Indian Embassy located in that country within 1 year. In 1992, the Citizenship Act (Section 4) 1955 was amended to provide that a child born outside India on or after December 10, 1992, is a citizen of India if either of his parents is a citizen of India by birth at the time of his birth.

If the parent of the child born is an Indian citizen only on the basis of descent, then his child will have to register with the Indian Embassy located in that country within 1 year.

In 2003, the Citizenship Act 1955 was amended and now it is arranged that no child born outside India after December 3, 2004 will get citizenship on the basis of descent unless registered with the Indian Embassy in that country within one year of birth. (One of his/her parents must be an Indian citizen at the time of his/her birth)

3. Citizenship by registration

The Central Government, on receipt of an application, may register a legal migrant as a citizen of India under Section 5 of the Citizenship Act 1955, if he falls in any one of the following categories-

(1) A Person of Indian Origin is ordinarily resident in India for 7 years prior to making an application for registration.

Must have resided in India for the entire period of exactly one year preceding the date of applying for registration, and must have resided in India for at least 6 years out of the 8 years preceding this 1 year. The same provision applies even if a person is married to a citizen of India.

(2) A person of Indian origin who is residing in any other country outside undivided India.

(3) Minor children of citizens of India.

(4) A person of full age and capacity and his parents are registered as citizens of India.

(5) A person who is of full age and capacity and either of his parents was previously a citizen of independent India and is ordinarily resident in India for exactly one year prior to making an application for registration.

(6) A person of full age and capacity holding OCI card issued by the Government of India for the last 5 years and ordinarily residing in India for exactly 1 year prior to making an application for registration.

4. Citizenship by naturalization

The Government of India may, on receipt of an application, grant naturalised citizenship to a person provided he is not an illegal migrant, and possesses the following qualifications:

(a) the person does not belong to any country where Indian citizens cannot become citizens by naturalization.

(b) if he is a citizen of any other country, he will have to renounce the citizenship of that country on acquiring Indian citizenship.

(c) If a person is residing in India continuously for at least one year prior to the filing of the citizenship application and has resided in India for at least 11 years out of the 14 years preceding this one year.

(d) He/she should be good in the eyes of the Government of India and should be well-versed in any of the languages mentioned in the Eighth Schedule of the Constitution.

5. Citizenship by incorporation of territory

When any foreign territory is acquired by India, people living within that particular territory are given citizenship of India. For example, when Pondicherry and Goa were included in India, their people were given citizenship of India.

Provisions for termination of citizenship

1. Voluntary renunciation

According to Section 8 of the Citizenship Act, an Indian citizen of full age and capacity can renounce his citizenship if he wishes to renounce his citizenship. But if a person declares to renounce Indian citizenship at a time when India is engaged in a war, his registration shall be fixed until the Central Government gives directions.

2. By Termination

According to Section 9, if an Indian citizen voluntarily acquires the citizenship of another country, his Indian citizenship will automatically be forfeited.

3. By depriving

The Central Government shall deprive a person of Indian citizenship if;

(1) citizenship obtained by fraudulent means, (2) if the citizen has shown disrespect to the Constitution, (3) if the citizen has unlawfully established relations with the enemy during war or has given him any anti-national information, (4) The citizen has been imprisoned in any country for two years during the five years of registration or naturalized citizenship. (5) The citizen should ordinarily be residing outside India for seven years.

Overseas Citizen of India

With the aim of providing dual citizenship to the persons of Indian origin, some schemes were launched by the Government of India so that they can do Indian citizenship without leaving the citizenship of any other country.

The Citizenship Act 1955 itself was amended to include Section 7A, Section 7B, Section 7C and Section 7D.

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Author

firstcareer-in