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26.08.2018

To,

1. Shri Sailesh
ORGI - Registrar General & Census Commissioner India
2A, Man Singh Road, New Delhi -110011
2. Shri Prateek Hajela
State Coordinator, National Register of Citizens,
Achyut Plaza, Bhangagarh, Bharalupar, Guwahati-5

Sub: Representation on discrepancies & infirmities in the NRC updating process.

Sir(s),

1. I seek to bring to your notice and attention discrepancies and infirmities in the NRC updating process, which has had the effect of including a large number of foreigners or persons who would have otherwise not been included in the combined draft list published on 31st December 2017 and 31st July 2018.
2. The discrepancies and flaws in the updating process can be briefly summarized as follows:-
 - a. Short fall in numbers of those excluded, compared to official estimates of infiltrators.
 - b. Border districts, showing the maximum increase in population having least exclusion in NRC, far below the state average of 12.15%.
 - c. Fundamental flaws at the institutional and verification level, by inclusion of a large number of foreigners, particularly from border districts, migrant dominated areas in other districts:-
 - Inclusion of large number of declared foreigners by Foreigner Tribunals, in thousands in Dhubri alone, where paper work and field verification reports gave all clear for inclusion in draft NRC.
 - ManowaraBewa declared foreigner by Tribunal and High Court, appeal before Supreme Court on admissibility of GaonPanchayat Certificate, Combined Verification Report (CVR) gives all clear on documents and field verification, excluded only when alert official detects 200 Foreigner admitted by DC Morigaon to have been included..

- Inclusion of persons, whose cases pending before Foreigner Tribunals, required to be excluded and in Dhubri alone 4354 are included, where paper work and field verification reports gave all clear for inclusion in draft NRC.
 - Inclusion of D-Voters, required to be excluded.
- d. Field verification under Rule 3 (4) of Schedule, popularly known as District Magistrate Investigation Team (DMIT) for those whose records are not available shows glaring discrepancies:-
- Persons included only on the basis of statements of three neighbours identifying applicants, without any verification of either witnesses or documents.
 - Village Headman (Gaonbura) and Panchayat certificates otherwise not List 'B' documents, accepted without complying with the requirement "*the contents of the certificate are found to be established on due and proper enquiry and verification*" (Hon'ble Supreme Court's requirement).
 - Newly established Villages not in existence during 1951 or 71, the certificates of Headman / Panchayat cannot have any value, nevertheless accepted.
 - Fraud in changing the name of the legacy persons in List-'A', by mere statements during field verification, to bring about identity of the original legacy person with that available in the linkage documents in List-'B'.
 - Continuing from the above, there are standard format printed forms which have a sentence saying "*the name _____ and _____ are one and the same person and this is certified to by the following persons.*" This fraud is institutionalised.
- e. Field verification reports, were not subjected to any quality check beyond the circle level. While all documentation has been digitized, however, the field verification report at the time of preparation of first draft under rule 2(3) and Rule 3(4) i.e. DMIT Investigation have not been digitized. This appears to be a fundamental flaw. It is believed that had there been quality check at the time of initial inclusion, this could have precluded large scale inclusion of foreigners in the final draft.
- f. The sensitivities of border districts and migrant dominated area have not been accounted for, with foreigners identifying citizen, or those from the same ethnic stock which have continuously objected and stalled identification process, best example being the stalling of the pilots NRC Project in Barpeta in 2010 by attacking and burning the Deputy Commissioner's Office.

- g. Poor quality of personnel deployed shows up in the results, unanimous opinion of senior officials is that Type-II verification of family tree at the circle level was carried out by newly recruited persons from amongst college / school teachers including departmental personnel , who with a few days of training could not perform adequately and a lot of errors consequently.
- h. Reports from a large number of centres that significant number of applicants rejected at the NSK or other district have been included in the final draft list, showing that data entry operators keyed in wrong data.

NUMBER EXCLUDED, SHORT OF OFFICIAL ESTIMATES

3. The figure released regarding the number of those excluded 40.07 lakhs is far short of the official estimates over the last few decades. On 10th April, 1992, the then Chief Minister of Assam Shri Hiteswar Saikia had given a statement in the Assembly that there were 33 lakh infiltrators from Bangladesh in Assam, which was retracted after a few days. On 14th July, 2004, Sriprakash Jaiswal, Union Minister of State for Home makes a statement in Parliament that as on 31st December 2001 there are 50 lakh Bangladeshi infiltrators in Assam. This fact is extracted in the judgment of the Hon'ble Supreme Court rendered in the case of Assam SanmilitaMahasangha of 17th December, 2014, to the following effect:-

"On 14th July 2004 in response to an unstarred question pertaining to deportation of illegal Bangladeshi migrants, the Minister of State, Home Affairs, submitted a statement to Parliament indicating therein that the estimated number of illegal Bangladesh immigrants into India as on 31st December, 2001 was 1.20 crores, out of which 50 lakhs were in Assam."

4. On 16th November, 2017 Sh. Kiren Rijiju, Union Minister of State for Home makes a statement in Parliament that there were 2 crore Bangladesh infiltrators in India, no breakup for Assam is given, but if we take 40% which is the proportion in terms of the earlier statement of 2004, the number works out to 80 lakhs.
5. The Centre for Policy studies has upon analysis of the increase Muslim population between 1971 to 2011 has significantly found that increase in this period is equivalent to the increase between 1911 – 1941, owing to migration. According to the authors there was huge migration between 1971 to 2011 and the numbers much larger than the earlier period as it was on a large base of Muslim population in 1971. The key findings in the study are extracted:-

"2. There has been an accretion of 3.3 percentage points in the share of Muslims during 2001-11; this is not only the largest accretion compared to all other States, it is also the largest experienced since Independence and the second largest since the beginning of the Census period."

3. *The share of Muslims in Assam has now gone up to 34.2 percent; it was 15.1 percent in 1901, 24.7 percent in 1951 and 24.6 percent in 1971. Thus, in the four decades between 1971 and 2011, the accretion to the Muslim share has been exactly equal to what was added to their share in the five decades of the pre-Independence period of 1901-51. In both the periods, Muslims have added 9.6 percentage points to their share. In absolute terms, the rise of the latter period is much bigger than that of the pre-Independence period, because it has taken place on a much larger base of Muslim population."*
6. The final draft will have a far smaller figure as a large number of cases reportedly excluded relate to one or two members of the family being left out, when others have been included. This shortfall is extremely significant and it is essential that reasons for such shortfall need to be investigated. It has been said in some quarters that fewer persons applied and hence the shortfall. This however is erroneous as according to 2011 census, the total population of Assam was 3.11 crores. According to yourselves, 3.29 crores applicants applied in 2015 which is approximately 6% more than the census figures

DISCREPANCY- DISTRICT WISE

7. The state average of exclusion of total number of applicant is 12.15%, surprisingly the border districts and a few other which have seen the maximum increase in population, have average rates of exclusion far below the state average. If the decadal increases in population for these districts from 1971 to 2011 are juxtaposed against the percentage of exclusion, the pictures are reversed. Border districts have given figures of exclusion which are far below the state average with Dhubri at 8.25%, Karimganj at 8.17% and South Salmara at 6.79%. The decadal growth rate of population in the border districts of Dhubri, Goalpara, Barpeta, Karimganj, Nagaon and Morigaon, has been between 21%, 24% for the decades between 1991-2001 to 2001-2011, against a state average of increase by 18.19% for 1991-2001 and 16.93% in 2001-2011. The exclusions in NRC are totally contrary to this unnatural growth of population in these districts. The Table below clearly brings out the discrepancy:-

Sr. No	District	Percentage of applicant excluded from NRC	Decadal population growth	
			1991-2001	2001-2011
	Assam	12.15%	18.19%	16.93%
1	Dhubri	8.25%	22.97%	24.40%
2	Goalpara	11.82%	23.03%	22.74%
3	Barpeta	13.69%	19.62%	21.40%
4	Morigaon	14.67%	21.35%	23.39%
5	Nagaon	15.08%	22.6%	22.09%

6	Karimganj	8.17%	21.87%	20.74%
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Another surprising district is Nalbari where percentage of exclusion is 4.97%, equivalent to that of Jorhat at 4.58%. But the decadal growth of population of Nalbari, particularly in the period 1971-1991 was 75.78% and Jorhat was 33.10% as against a state average of 53.26% for the same period, though figures for 1991 till 2011 periods are slightly below the state average. However, the percentage of exclusion in respect of Nalbari is disproportionately low considering that it has an increase of more than 40% above the state average during 1971-1991. The complete chart of district wise breakup of figures and percentage of exclusion and decadal increase in population growth sourced from the Economic Survey Assam 2013-2014 is annexed with this letter.

8. Most of the reports and information regarding discrepancies and infirmities are particularly from border districts, migrant dominated areas in other districts. The primary flaw appears to have been on the ground verification process, both under Rule 2(3) and 3(4) of the Schedule to the 2003 Rules under the Citizenship Act, 1955, persons included in the list even in the absence of the exhaustive list of List 'A' & List 'B' documents and merely on the oral statements of three neighbours, even during the family mismatch hearings. A large number of claimants to a common legacy person but who did not show one another as part of the same family "reconciled" and mere statements from both the sides that they knew one another are taken on record overlooking documents filed along with the application. While dealing with specific issues, a brief summary of the process followed is set out, for the sake of clarity.

PROCEDURE SUMMARY

9. In the NRC updating process, there are fundamentally two sets of documents, List A and List-B' documents. List-'A' documents are those which antedate 25 March 1971 showing the presence of the person if he's the applicant and if it is his descendants, relying on such presence of their ancestor's presence before prescribed date on such document(s) and the linkage established through List B documents to establish linkage with ancestor. In terms of the Rule 2(1) of the Schedule to Rule 4(A)(4) of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rule 2003, the List-'A' documents specified are a National Register of Citizen 1951 and electoral rolls published upon the midnight of 27 March 1971. However, this list of documents was expanded to include land records, citizenship certificates, passport, LIC policy, license etc prior to 24 March 1971. Even as far as the List B documents are concerned, establishing linkage claimed with the person mentioned in the list A document (legacy person) it was specified in the guidelines dated 19 October 2017 that it had to be a public documents in terms of the Indian Evidence Act, forming part of official records, extensive guidelines have been laid down in this

communication as to the determination of the linkages between list B and List A document.

10. The possibility of any applicant falsely seeking to establish linkage with a pre 1971 ancestor was sought to be precluded by including requirements of furnishing family trees of every applicant tracing ancestry to a pre1971 ancestor whose List A documents had been furnished in support. Only those applications were accepted which had List A documents. The challenge was to verify that the ancestor relied upon in the List A document was in actual fact the true ancestor.
11. It is the verification process in the cases of inadequate or scanty documentation in respect of list B documents, both at the initial stage of inclusion as well as in the final stages of doubtful cases referred by the State Co-ordinator's office, where there have been gaps. Though, there were copious guidelines setting out the manner of verification, but field level reports demonstrate that at the end of the day a large number of persons, were included on the basis of statements of three of their neighbours saying that they were who they claimed to be. This is regardless of the fact, that because of inadequate list B/linkage document did not support their claims, but overridden by oral statements of neighbours.
12. The biggest and most glaring instance of field verification is that of Manowara Bewa case of declared foreigner and in detention camp travelled all the way to the Hon'ble Supreme Court on the issue of admissibility of Gaon Panchayat Certificate and decided so by the Hon'ble Court on 05th December 2017 in Civil Appeal No. 20859-63 / 17 (Copy enclosed). Her case as declared foreigner should not have proceeded at all. However, not only was an application entertained, the combined verification report marks her positive in satisfying all criteria in terms of List-'A' & List - 'B' documents and interestingly there is a finding of a photo ID match, part of the ground verification report which matches the photograph with that of the applicant at site and that too when Manowara Bewa is in detention camp for the last 4 years! But for an alert official, she would have been included in the NRC. (CVR). It is obvious that the field verification is a sham only benefiting foreigners.

On the other hand there are cases of other Declared Foreigners (DFs) who have been

included like Naseruddin Sekh a Declared Foreigner (DF) included with two other family members. The surprising fact is that Naseruddin Application passed all checks of List-A, List -B, Family Tree, Field Verification and multiple other checks even though he did not and could not have had the basic list A document being a Declared Foreigner (Copy enclosed)

13. There are cases of no List-'A' document of persons, but included in the final list. (copy enclosed).

Yet another case of no valid List-A where verification disclosed invalid document but included that Nayeb Ali.

14. Inclusion of declared foreigners – large number of reports of inclusion of declared foreigners, the Deputy Commissioner of Marigaon has publicly stated that 39 families (about 200 persons) to their knowledge, so far, have been included in the draft (copy of news report enclosed). In every district there are reports of such inclusion and that too in significant numbers, Dhubri reportedly thousands of Declared Foreigners and including their families have been included. This exposes the hollowness of the verification process, apart from document verification i.e., establishing correct legacy person under List-‘A’ establishing linkage of applicant through List-‘B’ documents with such legacy person and furthermore field verification have all shown positive results, filled up in the detailed format of Combined Verification Report (CVR). List of names of descendants of some declared foreigners from Chenga in Barpeta included in the list (Copy enclosed). Copy of document of declared foreigner from Chenga included. (Copy enclosed)

15. Inclusion of pending Foreigner Tribunal cases- Persons with cases pending before Foreigner Tribunal, liable to be excluded who have been included. In Dhubri alone out of 6370 pending cases, more than 4000 (Four Thousand) have made it to the final draft.

16. Inclusion of D-Voters- A large number of D-Voters have also been included, for instance case of Parul Mitra, D-Voter in 2018 Voter list but included in NRC.

Suffice to say that the inclusion of such prohibited category, particularly after such an elaborate documentation and verification process requires serious investigation as to the nature and manner of gaps and discrepancies

DMIT (District Magistrate Investigation Team)

17. Under Rule 3 (4), The LRRC in case of doubt as regards parental linkage or any other particular in the application refer to the District Magistrate for investigation and decision.

18. Reference of such cases was made where the documents submitted were not verifiable as records were not available with the issuing authority or such documents did not exist in the record of the issuing authority, the veracity of such document being in doubt. This is in cases where the record was not available or documents which were not admissible were furnished along with the application, like Gaonbura’s (village head man), Certificate, Kazi’s certificate, or school/Madrassa

certificate which were post 25 March 1971 document. Basically in admissible document are those are not part of the prescribed list A and B documents.

19. The first draft list which came out on 31 December, 2017 whose documents were found to be clear. In the border districts of Barpeta, Goalpara, Dhuburi, South Salmara, Karimganj, Hailakandi, the inclusion percentage was in the range of 30 to 40% and correspondingly, 1 crore 92 lakhs were included in the first draft even and respect of this nos. upon subsequent verification the various districts together reported about two lakhs names which ought not to have been in the first draft and as lacking in requisite particulars. However the state NRC office has given affidavit in the Supreme Court that 1,50,000 names were wrongly included in first draft list above, rest 50,000 were included in the list. As far as the investigation of cases referred to the District Magistrate are concerned the District Magistrate in terms of Rule 3 (4), constituted teams known as DMIT (District Magistrate Investigation Team). These teams were provided with a format.
20. The format of the DMIT report is in three pages, which is Annexure 'A' to letter dated 12 November 2017 from the State Co-ordinator to the districts and is in five parts. Part 'A' where problems and discrepancy regarding document was set out and 'B' relates to documents already submitted by the applicant, part 'C' ascertaining scrutiny results of documents under doubt.
21. It may be noted that, documents which were under doubt, either not forming part of official records, rejected during official verification or were documents not admissible, being those other than that prescribed list 'A' and 'B'. It is part 'E' where most of the inclusions took place which authorized the investigation team to undertake scrutiny on the ground and the investigating teams merely recorded the statements of three – four neighbours preference given to statement school teacher, Gaonbura etc. A copy of the format of DMIT is attached as enclosure. (Copy enclosed).
22. In this process the DMIT's recorded statement of three persons in most cases who vouched for the identity of the applicant and that he was an old resident. It is on these bases of DMIT report that names were included in the draft list.
23. Inadmissible documents taken as basis for inclusion, the Gaonbura's (village head.) certificate, local school's certificate, which is neither a list 'A' or a list 'B' documents have been taken to be the basis for inclusion, contrary to prescribe rules.
24. It is obvious from the DMIT team reports that the statements of neighbors, local school teacher, village admin., were taken as the basis for inclusion when the entire documentation in terms of list 'A' and 'B' was contrary to the claim of the applicant. A large number of virtually standard format identity vouching documents were

circulated which were filled up inserting the names of various applicant and there are cases of one person vouching for hundred.

25. Field verification under under Rule 2 (3) as well as DMIT under 3 (4) show the maximum number of cases where legacy of a person claimed is at a distant location from the applicant's residence, but the name of such applicant is included on the basis of Statements of Witnesses from his area of residence, who would certify as to the identity of legacy person situated more than 50 kms away. For instance- Makbul Miya and four of his children applied at Kaltali, P.O. Bahari, Chenga in Barpeta NSK claiming legacy to Hakim Ali of 1970 voters list in Jaurimari under Jania LAC, which is 81.5 kms away. It is impossible when late Hakim Ali was not even a resident of Kaltali, the neighbours of Makbul Miyah can certify about him being the legacy person and such statements cannot have any value. But, Makbul Miyah and all his family members were included only on this basis (Copy enclosed).
26. There are thousands of cases in the border districts where names of legacy persons do not match with the actual names of the applicants ancestors. The list B documents show another name as the parent/ancestor and not that of the legacy person. This glaring discrepancy, mismatch is overcome by standard format printed forms made available during ground verification where there is a line to the effect "*the name _____ and _____ are one and the same person and this is certified to by the following persons.*" In fact, the entire fraud of changing name of legacy person was institutionalised by having standard format printed form for changing the name of the legacy person. (Copy enclosed)
27. For instance in Kaltali village of Bahari GP Office NSK where Roop Miyah claims legacy through Rahimuddin of 1951 NRC but his linkage documents under List B shows parent/ancestor as Raham. This obvious discrepancy is overcome through Standard format verification Report by three person who say that Raham and Rahimuddin are one and the same person. There is no description of the witnesses and more pertinently even their age, which is relevant, given that the witnesses have to be the contemporaries of the legacy person Rahimuddin, who even if he was born in 1950, will be at least 68 years today. (Copy enclosed).
28. In another case, only statements of three witnesses who say that both Toku Miyah and Tulubor Sikdar, obviously different names are one and the same person and no basis is given and the applicant is included (Copy enclosed).
29. **Certificates of Gaonbura (Village Headman) and Panchayat accepted, where Villages non existent in 1951 and 1971 and established long thereafter-**The DMIT form in part 'D' under item 5 gives a table where applicant has to give details of places of residents from 1948 till date where ancestors / applicants resided. A large number of villages in border districts are new villages, which have come into existence after 1971 and statements of Gaon Panchayat's Secretaries. Such

certification and statements of neighbour of this villages form the basis for inclusion in the DMIT report. When the village itself was not in existence in 1971 how is it that certification from such village authorities can be of any value. For instance in Barpeta District Sarthebari Circle, villages after 1971 are given below:-

1. Kawoimari Block 9
2. Kawoimari Block 10
3. Kawoimari Block 11

Barpeta revenue circle:

4. Keotkuch Gou Reserve, (750 bighas land and 250-300 families)
5. Gandhi Beel reserve (South side of Patbaushi Satra and west side of Kahibari, 500-600 families.
6. Finguwa Reserve, Gokhai Paam area, family houses (300-400 families).

Chenga reserve circle:

7. Dakhin Gorhani
8. Uttar Gorhani
9. Aakorabeel Reservde (600 families)

In fact there is no record of any satisfaction or finding by the DMIT of the fact that the applicant was a resident of the places mentioned which was necessary and imperative if the village is a post 1971's village.

There was no matching of the legacy code of the applicant with the places of residents at different times.

Rule 2(3) verification.

30. Under SOP 1 dated 7 September 2015 instructions have been issued on the manner of acceptance of list 'B' documents like birth certificate, ration card etc. There are multiple instances even in this procedure of persons furnishing ration cards from cooperative societies which are not admissible as not being issued by the Department of Food and Civil Supplies being accepted, applicants furnishing affidavits that the names of the legacy person have been wrongly recorded in the original pre 1971 document and included in the list etc. (**give instances**)

FAMILY TREE

31. Hearing was conducted regarding mismatch of family tree and also in respect of Gaon Panchayat and Lot Mandal's certificate for married women. The increasing complexity of the case being referred to circle and district level. If there was minor mismatch like one member out of five members family, if his name was

misspelt/nick name or any data entry error or omitted to mention a family member, hearing would be conducted in this regard at the NSK level as all claimant members resided in a common area. The next level of complexity is when the family tree data furnished by different persons do not show one another as members of the same family. For instance, if there were four brothers in a family giving legacy of their common parents and showing one another as members of the family, however a fifth person and his family show the legacy of the common parent of the other four brothers then a hearing is conducted at the circle level as claimants would be residents of different area. In this hearing at least one set of claimants to a common legacy had to be removed. But surprising fact is that in the hearings conducted both sides in the large numbers of cases would “reconcile” and give a statement identifying one another as family members. It is believed that legacy data was “sold” and also in the border districts the LRRCR forced both set off claimants to give statements supporting one another. The proper course in these cases was to refer to further investigation.

32. More complex case like multiple sets of claimants, who did not show one and another in the family tree were referred to the district level for verification and hearing. A large number of cases, particularly blocks of claimants mismatching was referred to temporarily recruited personnel like college teachers, high schools teacher etc. who were not aware of the intricacies and passed most of the cases even when documentation of the parties was contradictory.
33. There are a large number of cases with family tree mismatches i.e., if two brothers traced their ancestry to a common parent or and showed only two brothers of the same father, but the third claimant to the same claimant to the same parent would obviously be in contradiction with the other family tree set up in respect of a common ancestor. These cases were sought to be resolved by holding a hearing where all the parties would be called together. After such hearing one party should have been excluded or rejected. But such is not the case and in a significant number of cases both parties were accepted, inspite of patent contradiction and it is believe that the earlier contradictory stands were made up by subsequent statement of the parties during family tree verification. Significantly, large cases of this sort came from the border districts. Instead of resorting to further verification, statements made by parties were accepted. There are reports of large number of persons having “Sold” their legacy data.
34. Family tree mismatch cases add up to a total of around 95 lakhs out of which 23 lakhs odd were minor mismatches name, misspelt etc. and balance about 70 lakhs were those with major mismatches. A large number of such cases was accepted in spite of documents in terms of claim not matching. These are cases where one party has disowned the other, but both sets included.
35. The instances of discrepancies in family tree verification available are as follows:-

a. The maximum number of cases where blocks of claimants do not know one another and reflected in the application, subsequent recognition by mere statement being accepted have been decided by temporarily recruited personnel from college and school teachers with a few days of training. These are under the NRC nomenclature known as Type-II cases.

b. Cases of no investigation being carried out, but names included in the final list.

Despite Family tree mismatch, no verification carried out and persons included without investigation. Case of 5 families claiming legacy through common person and mismatched and only one family investigated and all are included without investigation (Copy enclosed).

c. Applicant disowning his own legacy person at the time of family tree verification is still included in the NRC. Case of Abed Ali, ARN No. 101830102008065301346, who on 23rd of April 2018, during family tree hearing disowned legacy person, is still included in the NRC. (Copy enclosed).

d. Even the name of the legacy person in List A has been changed to be in consonance with the ancestor in the linkage document and such documents have been accepted and the person included in the draft list in terms of 1st May 2018 circular from the State Coordinator, Affidavit for change in name is not admissible. (Copy enclosed).

e. Rejection during Family Tree Verification but included in the list - Large number of cases of rejection during family tree verification where applicant rejected is included or if applicant excluded, the children are included (copy enclosed).

36. No Family Tree verification for certain List-'A' Categories- There is yet another category that is those who furnished List-'A' document other than those prescribed in the rule, namely Ration card, LIC Policy etc. in respect of which person no legacy code is assigned, there is no requirement for a family tree to be furnished and on furnishing list B documents these person and descendant are subjected only to field verification which again is cursory, mostly by taking statements of three neighbors. Considering that there was no requirement for any family tree to be given (which itself is a mystery) there should have been more rigorous checks in respect of this category. In Dhubri alone the number of applicants in this category is 1.66 lakhs.

FOREIGNER / MIGRANT ORIGIN IDENTIFYING FOREIGNERS

37. One very important fact and which was overlooked and not factored in during the whole process is that the exercise of segregating citizens and non-citizens is being undertaken after 47 years of the cut-off date of 25th March 1971. During this period

a large number of foreigners have found their way into responsible positions in government and politics. Even those entering Assam prior to the cut-off date, those technically citizens nevertheless their sympathy and empathy would be with their brethren from Bangladesh. It has already been observed by the Hon'ble Supreme Court in the case of Sarbananda Sonowal Vs. Union of India and Anr 2005 (5) SCC 665 which extracting from the Affidavit of the Central Government has in paragraph 4 recorded that

"The "Pull Factors" for migration in the Indian side include:- (a) ethnic proximity and kinship enabling easy shelter to the immigrants; (b) porous and easily negotiable border with Bangladesh; ... (d) interested religious and political elements encouraging immigration;..... The demographic composition in the districts bordering Bangladesh has altered with the illegal immigration from Bangladesh.

.....

5. The large scale influx of illegal Bangladesh immigrants has led to large tracts of sensitive international borders being occupied by foreigners. This has serious implications for internal security."

38. The Census Commissioner's Office and the Assam Government have already had the experience of the stalling of the NRC pilot project started in Barpeta, when on 21st July, 2010, a huge horde of people led by the All Assam Minority Students' Union, attacked and burnt the Deputy Commissioner's Office in Barpeta effectively stalling the NRC pilot project and revived only at the instance of the Hon'ble Supreme Court in 2014. The attack on the Deputy Commissioner's Office was used as a pretext by the then Central and State Government to stop the NRC project. On that day the All Assam Minority Students' Union led a large mass of protestors to the Deputy Commissioner's office, mob turned violent as it burnt offices, cars, pelted stones, attacked policemen leading to firing/ lathicharge in which four were killed and over a hundred injured. The government gave compensation to those who attacked the office and in all 132 persons were granted compensation. An RTI query by one Kamal Kumar Das was raised seeking to know as to how many of the persons who were granted compensation had either their names or the names of their parents in the voters list of 1971. There was no response to this query and eventually after filing appeal and subsequent proceedings before the Gauhati High Court that the government was directed to reply. The reply showed that only 42 out of the 132 granted compensation had their names or those of their parents in the 1971 electoral rolls, meaning thereby that the balance 90 were foreigners, as their names or ancestors names were not available in the electoral rolls of 1971.

39. More interesting the five persons name in the magisterial inquiry as leading the delegation are important political figures in Assam. Out of the five persons representing AAMSU and recorded in the inquiry as being present along with their

then designations and present position in brackets to submit the memorandum, namely;

- a. Abdur Rahim Ahmed, President-AAMSU (General Secretary, Assam Pradesh Congress Committee)
- b. Rezuul Karim Sarkar, Genl. Secy-AAMSU (President –AAMSU)
- c. Abdul Aziz, Advisor-AAMSU (Advisor-AAMSU)
- d. Abdus Samad, Advocate-Barpeta
- e. Eunus Ali, President Barpeta Distt. AAMSU (also with AAMSU)

Another person who figures prominently in the video footage of leading the mob is Abdur Rahim Khan, the then AIUDF MLA from Barpeta, now with the Congress Party.

40. The mob, who attacked a government office and that too on such a sensitive issue, stalling the NRC process was compensated and till date no charge sheet has been filed regarding this against the accused persons. (Copy of RTI response and Magisterial Inquiry Report are enclosed).
41. News reports indicate Sahkamal Khandakar, the President of All Bodoland Minority Students Union (ABMSU) comprising four Districts of Kokrajhar, Baksa, Chirang and Udalguri a unit of AAMSU has been accused of providing false legacy Data complained made to DC and State Co-ordinator are enclosed....**(details)**
42. In this situation given the sensitivity of the situation particularly the facts and which is a reality that migrant from Bangladesh whether legal or illegal, in terms of citizenship today dominate the border districts of Barpeta, Goalpara, Dhubri, Karimganj and the districts of Marigaon and Nagaon, greater care and caution ought to have been exercised to ensure that there is no subversion of the process, as has happened.
43. It is also a fact that a number of persons employed in the NRC process have been found to be declared foreigner, the case of Khairul Islam, School Teacher from Morigaon, declared foreigner by the Foreigners Tribunal by judgment dated 20th February, 2016 and upheld by the High Court on 15th May, 2018 (Copies enclosed), but who continued to be part of the NRC exercise. Even when his case was detected and came to light the Deputy Commissioner of Morigaon defended such appointment by a Press Release of 10th August, 2018 by saying that his case was pending before the High Court, which in fact was incorrect (Copy of Press Release enclosed)
44. The Field Level Officers (FLOs) under NRC do not find their names in the NRC, Garukhuti NSK in Sipajhar, Darrang District, where out of 10 FLOs 7 are excluded, Sl.

No 6,7,9,11 to 14. Copy of the List of persons in this NSK is enclosed. Inclusion in this NSK is only 13% in the NRC, because a large tract of land under 3 NSKs in Sipajhar are under encroachment. Even though 26,000 acres of land are under encroachment, according to official records and constitute offences under the Land Revenue Regulation and the Land Grabbing Act, but encroacher settlements are recognized as villages and attached to the Panchayat of the neighbouring villages and it is from amongst such encroached settlements, much after 1971 that Panchayat Secretaries and Gaoburas certificates have been used. In Garukhuti and Khanowa, none of the encroacher families have been included.

NO CROSS VERIFICATION OR QUALITY CHECK OF FIELD VERIFICATION REPORTS

45. The fundamental flaw appears to be field verifications, while the software employed is conditioned to throw up discrepancies in documents/ family tree, etc. but such discrepancies /mismatches when verified on the ground, that process has several lacunae:-

- 1) The quality of field verification was not cross checked at any time, neither under rule 2(3) at the time of first inclusion nor at the time of DMIT under Rule 3(4). The quality check was carried out by the person making the investigation i.e. at the level of LRCR and below.
- 2) The field reports are not digitized. As a result beyond the Circle at the District and State level there is/was no material to undertake quality check.
- 3) The quality of personnel employed for field verification left a lot to be desired. Field Level Officers (FLO's) employed for Co-ordination and assistance between applicant and officials were the Both Level Officer's (BLO's) employed during elections, drawn from Anganwaadi Workers, local persons. Managing an election, to tally voter's ID and identity, write voting slips etc. is one thing and to deal with citizenship issues in the format prescribed is another thing.
- 4) Quality of other personnel employed from amongst college and school teachers and employees of departments was also poor, as they were pushed into the job with very little knowledge or training and which has showed up in the poor quality of type two verifications for family tree.
- 5) Poor quality of supervision of officers along with possible fraud by data entry operators has resulted in a large number of rejections at LRCR level finding their way into the NRC Draft. Large number of instances from across Assam, instances from Kamrup are enclosed.
- 6) Yet another case of family who file their application and left the State, included without any verification.

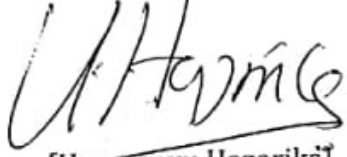
46. I must also add that as Commissioner appointed by the Hon'ble Supreme Court towards inspection of border and submission of report, I had in my 3rd Report dated 04th October, 2015 highlighted the nexuses which enables illegal migrants and the necessities for an inquiry into such nexuses, which will also be a valuable aid to verification during the NRC process. Relevant extract at page 51 reads as follows:-

"Furthermore, the unearthing of such nexuses and concomitant facts, will be a valuable guide to laying down the procedure for verification of the antecedents of those who have applied to be included in the National Register of Citizens as also clearing lands under encroachment."

47. It is obvious from the above that there are serious discrepancies and flaws at various stages, particularly at the field verification stage which has resulted in a large number of foreigners being included in the draft NRC List. Such inclusions has been on account of serious lapses at the institutional level, particularly in the border districts of Dhubri, Goalpara, Barpeta, Karimganj, Nagaon, Morigoan and Darrang, which I have come to learn in the last two weeks. I must also add that it is only in the last two weeks that I have become acquainted with facts, brought to my knowledge, and that too when such documents are not in the public domain. Doubtless a systematic inquiry at the official level will unearth more of such facts. Information has been provided to me voluntarily by concerned persons associated with the process and who are disappointed with subversion in the border districts and migrant dominated areas.

48. It is not possible to resolve the flaws and lapses through the public claims and objection process, largely because migrant/ foreigners live in concentrated zones not with the general population and it is impossible for any individual to venture into their areas, even the police fear going into such areas. It is obvious that a re-verification in border districts and migrant dominated areas is essential but as a first step there should be an investigation and documentation of the procedural and substantive aspects of the exercise, which will then make the re-verification exercise fool proof.

49. I look forward to your reply.


[Upamanyu Hazarika]

Encl. List of enclosures along with documents.

26.08.2018

LIST OF ENCLOSURES

1. Copy of the complete chart of districtwise breakup of figures and percentage of exclusion and decadal increase in population growth sourced from the Economic Survey Assam 2013-2014
2. Copy of judgment dated 05.12.2017 passed by the Hon'ble Supreme Court in Manowara Bewain Civil Appeal No.20859-64 of 2017
3. Copy of combined verification report of Manowara Bewa.
4. Copy of CVR of Nseruddin Sekh.
5. Copy of cases of no List-'A' document of persons, but included in the final list.
6. Copy of News Report of Marigaon, Deputy Commissioner, inclusion of 39 families of declared foreigner.
7. Copy of List of names of descendants of some declared foreigners from Chenga in Barpeta included in the list.
8. Copy of document of declared foreigner from Chenga included.
9. D-Voter included in Draft NRC
10. Copy of Format of DMIT under Rule 3(4)
11. Copy of MakbulMiya, DMIT statement.
12. Copy of Roopmiyah, DMIT statement.
13. Copy of Tokumiyah, DMIT statement.
14. Copy of five families Family Tree Verification, no investigation carried out.
15. Copy of Abed Ali Family Tree Verification, withdrew legacy, still name in NRC
16. Copy of Affidavit for name change.
17. Copy of rejection during Family Tree Verification but included in the list.
18. Copy of RTI response, Magisterial Inquiry in Barpeta case etc.
19. Copy of Judgment of FT and High Court in Khairul Islam Case, Press release of DC Morigaon.
20. Copy of List of Personnel of Garukhuti NSK
21. Family, File application and left the state, included without verification.
22. Rejected in CVR but included in Complete Draft NRC.