

A BRIEF NOTE ON UPDATION OF THE NRC INCLUDING FILING OF APPEALS BEFORE FOREIGNERS TRIBUNALS (F.Ts.)

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1. The Decision to Update the 1951 NRC

At midnight on August 15, 1985, after six years of movement (1979-1985), the All Assam Student Union (AASU), the Government of the state of Assam and the central Government of India signed the Assam Accord. On May 5, 2005, the (three parties, AASU, the state Government and the central Government, held a meeting in New Delhi in connection with the implementation of the Assam Accord and agreed to update the National Register of Citizens (NRC) of 1951, pursuant to the section 6A of the Citizenship Act, 1955 (Annexure-I) and Rule 4A of the Citizenship (Registration of Citizens and issue of National identity cards) Rules, 2003 (Annexure-II)

2. The Recommendations of the Sub-Committee

To carry out the process, on August 30, 2007, a cabinet Sub-Committee was created and placed under the direction of Dr. Bthumidhar Barman, the then Revenue Minister, in order to examine the modalities for updating NRC.

The Sub-Committee's recommendations were accepted by the state Government and transmitted to the Central Government in June 2008. On the basis of these recommendations, in June 2010, the Registrar General of India notified to carry out a pilot project in two circle; namely Barpeta, in the Barpeta district, and Chaygaon, in the Kamrup district. However, the complexity of the modalities set out in the Sub-Committee's recommendations prompted a protest march that was called by All Assam Minority Student Union on July 21, 2010. During the protest march, the police opened fire killing 4 persons. The pilot project was subsequently stopped.

Again, on July 21, 2011, a new cabinet Sub-Committee was created and placed under the direction of Sri Prithvi Maji, the then Revenue Minister, in order to set out simplified modalities to update the NRC upon consultation with all stakeholders. On July 5, 2013, these simplified modalities were approved and included in a new recommendation, which was forwarded to the central Government. Based on this new recommendation, which was forwarded to the central Government. Based on this new recommendation, on November 22, 2014, the Union of India has prescribed the modalities for carrying out the NRC updation in the state of Assam.

3. The Documents Required to be included in the NRC

As per the above modalities, eligibility for inclusion in the updated NRC has to be established on the basis of the following requirements:

The first requirement is the production by the person concerned of any of the following documents of List A, issued before midnight of March 24, 1971, bearing the name of the person concerned, or his/her ancestor, in order to prove residence in Assam before March 24, 1971.

LIST A

1951 NRC or
Electoral Roll(s) up to 1971 or
Land & Tenancy Records or
Citizenship Certificate or
Permanent Residential Certificate or
Refugee Registration Certificate or
Passport or
LIC or
Any Government issued License/Certificate or
Government Service/Employment Certificate or
Bank/Post Office Accounts or
Birth Certificate or
Board/University Educational Certificate or
Court Records/Processes.

Further, two other documents shall be accepted, if they are accompanied by one of the documents listed above. These are: (1) Circle Officers/GP Secretary Certificate, in respect of married women who have migrated after marriage and (2) Ration Card, issued up to midnight of March 24, 1971. However these two documents shall be accepted only if accompanied by any one of the documents listed above.

The second requirement arises if the name in any of the documents of List A is not that of the applicant himself/herself but that of an ancestor; namely, the father or mother or grandfather or grandmother or greatmother (and so on) of the applicant. In such cases, the applicant shall have to submit one of the documents included below in List B in order to establish the existence of a relationship with his/her ancestor (i.e. father or mother or grandfather or grandmother or great grandfather or grandmother etc) whose name appears in the document produced pursuant to List A. Such document shall have to be legally acceptable document which clearly proves such relationship.

LIST B
Birth Certificate or
Land Document or
Band/LIC/Post Office records or
Circle Officer/GP Secretary in case of married women or
Voters' Lists or
Ration Card or
Any other legally acceptable document

For example, the birth certificate bears the name of the father/mother and the child together in one place and can prove the parent-child relationship. Similarly, a land document carrying the name of both the child and the father/mother can be used to prove a parent-child relationship. Voters' lists may also carry the name of the father and child together and can be used to establish the parent-child relationship.

4. The Procedure to Update the NRC

On December 17, 2014, the Hon'ble Supreme Court has issued an order in cases WP (C) No. 562/2012, WP (C) No, 274/2009 and WP (C) No. 876/2014 directing all those concerned to complete the NRC updation within a fixed timeframe as per approved modalities. In the same order, the Chief Justice was requested to constitute a constitutional bench to take up some

matters pertaining to these cases. From May 11, 2017, the constitutional Bench of Hon'ble Supreme Court has started hearing in the matters relating to the constitutional validity of section 6A of the Citizenship Act, 1955, rule 4A of the Citizenship Rules 2003 etc. regarding updation/preparation of the NRC process.

At the field level, the process of updation of the NRC 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 the operating procedure, after setting up an establishment for the preparation/ updation of the NRC, the following tasks have been completed: (A) Publication of Documents; (B) Receipt of Applications; (C) Verification; (D) Publication of the NRC; (E) Claims and Objections.

A. Publication of Documents

The NRC authority should have published documents like the NRC 1951 and the voters' lists up to 1971. These documents however were published only in the digitalized form and partially and are not available in all the places throughout the state uniformly. Moreover, the voters' lists other than 1965/66 and 1970/71, starting from 1952 and up to 1971, have not been published by the NRC authority.

It is also to be mentioned here that preparation of the NRC 1951 was incomplete and did not include many people of remote places and that also the voters' lists of 1965/66 and 1970/71 are not available throughout the state uniformly.

Since the documents are published in digitalized form, the poor and illiterates have mistaken the identity of their ancestors while collecting their documents from the NRC Sava Kendra (NEK). The authority has failed to publish the documents in hard copies to display and ascertain the identity of the legacy holders.

B. Receipt of Applications

After house to house distribution of the prescribed application form by the authority, an overwhelming response has been shown by the people of the state. About 68 lakhs families comprising 3.29 crores applicants have applied for inclusion of their name in the NRC. Only a small number of people failed to apply.

C. Verification

Two types of verifications have been carried out by the NRC authority; namely official verification and field verification. Official verification of the documents submitted by the applicants has been carried out at the source. It is understood, however, that response/cooperation from other states for the purpose of the official verification of records was not up to the mark.

Some major events occurred during verifications:

i. Introduction of the "Family Tree"

A new device named 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 and establishes a linkage among the members of all the families using the same legacy data.

ii. Cancellation and Restoration of the Panchayat Link Certificate

A new document has been created for establishing the linkage between married women and their parents. This document is issued by the Panchayat Secretary, countersigned by the Revenue Circle Officer (CO) / Block Development Officer (BDO), and popularly referred to as the Panchayat Link Certificate.

During the ongoing verification process, the Hon'ble Guwahati High Court issued an order dated February 28, 2017, in the individual Foreigner Case Ho. WP (C) 2634/2016 of Monoara Bewa, alias Monora Bewa, declaring the link certificate issued by the GP Secretary and countersigned by the Revenue Officer / BDO, as a private document, which was prescribed as supporting document in the approved modalities for married women who have migrated from one village to another after marriage. About 30 lakhs married women have submitted this GP Certificate as Link Certificate along with their application.

As many as 7 special Leave Petitions (SLPs) have been filed in the Hon'ble Supreme Court to challenge the Guwahati High court order. On December 5, 2017, (SLP (C) 13256/2017), the Supreme Court restored the legal validity of the Panchayat Link Certificate subject to verification of its authenticity and contents.

iii. Identification of the “Original Inhabitants”

On August 24, 2017, the Hon'ble Supreme Court passed an order in SLP (Civil) No. 13256/2017 etc., relating to the matter of admissibility of GP Secretary Certificate for married women for establishing the linkage to their ancestors for updation of the NRC. In pursuance of the Hon'ble Supreme Court Order, the state Coordinator, NRC, Assam has issued instructions to all concerned for identification and segregation of Original Inhabitant (OI) for coverage under clause 3 (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 identification of OI either in the Citizenship Rule, 2003, the Citizenship Act, 1955, or in the Constitution of India. The NRC authority has carried out the process of identification and segregation of OI arbitrarily and the inclusion of their names in the updated NRC is based upon caste, creed, religion, traditions, food habits, dress code etc. irrespective of any proof and any guideline so as to make the process free, fair and uniform. According to several reports, about 1:30 crore applicants were included in the partial Draft NRC as “OI”, while excluding Muslims, even though the history of their settlements in Assam is antecedent to that of the Ahoms.

iv. Publication of the First Draft NRC

On December 31, 2017, at midnight, a partial draft of the NRC, covering 1.90 crore applicants, has been published. Actually, the number of applicants to be included in this partial draft was to be 2.38 crore, according to the submissions made by the State Coordinator, NRC, before the Supreme Court. However, the NRC authority has failed to include the names of those who had

been cleared by the DMIT (District Magistrate Investigation Team) during the months of November and December 2017.

v. Verification of the Panchayat Link Certificate

The Hon'ble Supreme Court has accepted the validity of the Panchayat Link Certificate with an instruction to examine their authenticity and contents. Accordingly, Standard Operating Procedure (SOP), public notice etc. have been issued by the State Coordinator for conducting free, fair and transparent verification of the Panchayat Certificate.

However, according to a report from field level and to the media, some of the verifying officers have not followed the letter and the spirit of the guidelines issue through SOP. Instead of recording statements from the applicant's legacy person or from other descendants of the legacy person in order to substantiate an applicant's claim of linkage, as prescribed by the SOP the verifying officers have insisted upon applicants for production of alternative documents issued on or before August 2015. As a result of this clear violation of the SOP, and also of the Hon'ble Supreme Court Order, a large number of married women has been excluded from the complete draft of the NRC, even though they are genuine Indian citizens.

vi. Family Tree Verification

Family tree verification of about 47 lakhs applicants has been done whose tree was mismatched. The concerned families are attending hearings from one part of the state to another, in accordance with the notifications by the Authority. The introduction of the family tree has made the system of checking misuse of legacy data watertight. The matching of family trees also establishes a linkage among the members of the families who have used the same legacy data/documents. Unfortunately, the Family Tree verification findings have been used for checking of misuse of legacy data only in a one-sided manner. The same findings have not been used for establishing linkages among the applicants using the same legacy.

vii. Weak Documents

On the May 1, 2018, letter No. SPMU/NRC/Dist-Co-Equip/68/2015/Pt-IV/177 has been issued to all DRCRs from the NRC State Coordinator regarding eligibility determination in cases of "weak documents" such as Affidavit, Gaonburha (Village Headman) Certificate, Private School/College Certificate, Immunization records, Ration Cards etc. In cases of determination of eligibility of those who have used such weak documents, the findings, of Family Tree verification, as well as the ones of the District Magistrate Investigation Team (DMIT), could have been used.

It has been stated in the Standard Operating Procedure (SOP) that, for the verification of Panchayat Certificates, those Panchayat Certificates used by men and unmarried women were to be verified by DMIT. However, in contradiction to the statement contained in the SOP, it has been stated in the said letter GP/LM/CO that the certificates submitted by the men and unmarried women cannot be considered legally admissible at all for NRC purposes.

Again, in these cases the findings of the Family Tree verification, or those of the DMIT, should be used before rejecting the application made on the basis of such weak documents.

However, the said letter of May 1, 2018, established that the findings of the DMIT cannot be used for assessing the applications based on weak documents. As a result, a large number of children and other genuine Indian Citizens are excluded from the complete draft of NRC.

viii. Implementation of the Citizenship Act, 1955: the Citizenship Rules, 2003; and the High court (WP (C) No. 360 and 1610 of 2017) Order

In accordance to letter No. SPMU/NRC/Dist-Co-Equip/68/2015/Pt-3/93 dated October 16, 2017 (Annexure-III), another letter No. SPMU/NRC/HC-FT/537/2018/15 dated May 2, 2018, has been issued by the NRC State Coordinator. In this regard, the following few points may be mentioned.

The preparation of the NRC is carried out in the state as per the relevant section of the Citizenship Act, 1955, and the Citizenship Registration Rule, 2003, under the monitoring of Hon'ble Supreme Court. The NRC authority is empowered to update the NRC in accordance with the legislation referred to above. In the letter dated May 2, 2018, the State Coordinator has cited an order of the Guwahati 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, the Hon'ble High Court has directed SP border to cause enquiry in respect of brokers, 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 the NRC authority to verify applicants placed under the Citizenship Act, 1955, and the Citizenship Registration Rule 2003, by the brothers, sisters and other family members of the declared Foreigner for the inclusion of their names in the updated NRC. As section 3 of the Citizenship Act, 1955, regarding the Acquisition of Citizenship by birth is still in force, therefore, the application of brothers, sisters and other family members of the declared foreigner should have been verified as per sections 3 and 6A of the Citizenship Act, 1955, as the State Coordinator has already instructed all the DRCRs (vide his letter No. SPMU/NRC/Dist-Co-Equip/68/2015/Pt-3/93 dated 16-10-2017). In practice, however, the instructions issued through this letter have not been followed. Hence, a sizeable number of genuine citizens have been left out in the complete draft of NRC.

ix. Non-receipt /Delayed Receipt of Notices for Attending Verifications

The NRC authority has displaced the verification schedule by publishing the date and venue of verification in their website. The LRCRs is to serve notice to the applicants for attending verifications. There are many cases, however, in which date and venues have been displayed in the website in the verification schedule but they haven't received notice from the concerned LRCRs. No verification has been carried out for those who have not received notice from LRCRs. There are many cases in which the applicants received notices after the date of verification. In some of the cases, rescheduling of verifications have been undertaken but in some of the cases no rescheduling have been undertaken and thus applicants have been deprived of verification. This type of anomalies leads to deprivation of inclusion of genuine applicants in the updated NRC.

x. Mismatching of ARN

A specific Application Receipt Number (ARN) has been issued against each household who have applied for registration in the NRC. There are many instances of mismatching of names

lodged against the ARN. That means that names of members of one family have been enlisted in the ARN meant for another family. As a result, a sizeable number of applicants have been dropped out in the complete draft of NRC.

D. Publication of the Complete Draft of the NRC

On July 30, 2018, the complete draft of the NRC has been published by the State Coordinator, National Register of Citizens, Assam. A total number of 32.9 millions of applicants have applied for registration in NRC. Out of these, 32.9 million applicants, 26.9 million applicants, 28.9 million applicants have been included in the final draft of NRC, keeping 4.07 million applicants out of the final draft. Out of these 4.07 million applicants who have been excluded, applications of about 3.8 million had been rejected and 0.248 million applications have been put on hold. Those 0.248 million persons whose cases are still pending in the Foreigners Tribunals have been put on hold, together with their descendants.

E. Claims and Objections

On December 31, 2018, the submission of claims and objections has been closed. About 3.62 million dropouts have filled their claims within the stipulated period and about 0.20 million objections have been filed against the NRC draft included household's ARN. It may be mentioned here that up to December 30, 2018, i.e. one day before the closing date, the number of objections was a few hundred only but in the last day almost all the objections were filed. It is alleged that most of the objection has been filed by using a fake name and address of the objectors without any proof of identity. Moreover, no specific reason and evidence have been furnished in support of many of the objections filed.

There are allegations of arbitrary disposals of claims and objections in violation to approved SOP by a section of engaged officers. During disposal of objections, no objectors were present to substantiate their objections. Instead of rejecting false and fabricated objections at threshold, the hearing of the objectees have been conducted as if NRC updation process is going on under Foreigners Act 1946.

5. Conclusions

In light of the above, the following conclusion can be drawn:

- A. The NRC authority has failed to publish the prescribed documents, including the NRC 1951 and the voters' lists up to 1971 in full and in simplified form. The authorities have been published the above-mentioned public documents in part and in digitalized form, but significant number of poor and illiterates, often belonging to minority communities, could not have access to this kind of documents. This leads to an adverse impact in inclusion in the NRC draft. Moreover, the NRC 1951, the voters' lists and other documents of the like, that were prepared and maintained by the public authorities are full of errors in names' spelling, age etc. This also has affected the applicants.

- B. The NRC authority has failed to make the verification process free of arbitrariness in the verification of the Panchayat Link Certificate in particular, and throughout the process in general. Hence, the rate of exclusion of married woman is high.
- C. The findings of the Family Tree verification have been used in a one-sided manner, only to check the misuse of legacy data. The matching of the Family Trees also ascertains the linkages among all the members of an household using the same legacy data. This established fact could have been used for establishing the linkage among the members of all the households, leading to minimizing the numbers of exclusion from complete NRC draft on the ground of deficient link certificate.
- D. The guidelines issued by the State Coordinator on May 1, 2018, for eligibility determination in respect of weak documents etc. have an adverse impact on the inclusion of children in the NRC. The authority could have used the findings of the Family Tree verification, as well as those of the DMT (District Magistrate Investigation Team), in order to reduce the number of exclusion on the ground of weak documents.
- E. The NRC authority has failed to make the NRC updation procedure error-free. In many cases, the NRC authority has failed to serve notices in time to the applicants for attending verifications, causing an increase of dropouts in the complete draft of the NRC. Moreover, the mismatch between the name of the applicants and the assigned ARN has also caused high exclusion from the complete draft of NRC.
- F. Due to inadequate awareness and freezing of legacy data, about 400 thousand applicants have failed to submit their claims in the Claim and Objection phase. In some of these cases, while obtaining legacy data from the website, the poor and illiterate applicants have mistaken to identify their actual ancestors and obtained legacy data of other persons, having a similar name to their ancestors, as there was no hard copy of the documents available in the NRC Seva Kendra (NSK) to cross check. Now, freezing of legacy data landed them in trouble in filing claims. Moreover, it is alleged that about 200 thousand false and fabricated objections affecting about 1 million applicants are filed. As it is alleged that large scale arbitrariness and biases have taken place during the verification of the applicants prior to the publication of the complete draft, the NRC authority should take corrective measures and pay special attention to ensure disposal of the claims and objections as per Act and Rules.
- G. There is a sizeable number of “doubtful” voters who have been marked “D” arbitrarily, without having been given the chance to produce a document in support of their citizenship in the year 1997, when no proceeding have been drawn against them. As they have applied for registration into the NRC, their applications should be verified instead of keeping them “on hold”. Moreover, a large number of voters that have been marked as “D” voters arbitrarily, after applying to the updation of the NRC with the admissible and valid documents, have been excluded. However, since they have applied to the NRC prior to having been marked as “D” voters, they should be verified under the NRC process instead of being kept “on hold”.

- H. The Border Police have referred thousands of NRC applicants to the Foreigners Tribunals without conducting any investigation, just to keep them out from NRC registration. Since these people have participated in the NRC process prior to being referred to the Foreigners Tribunals by the Border Police, their applications should be verified by the NRC authority instead of being kept “on hold”.
- I. Since section 3 of the Citizenship Act, 1955, (acquisition of citizenship by birth) is still in force throughout India, it should be enforced in connection with the applications filed by the descendants of persons who had been declared foreigners whose cases are pending before the Foreigners Tribunals.
- J. There are some instances of poor illiterate people who have no documents to prove their citizenship though they are genius Indian citizens. In these cases, a suitable measure, like a DNA test, oral evidence, witnesses etc. should be introduced for providing natural justice to them.
- K. As there is no policy concerning those who have been excluded from the NRC, a clear policy for the dropouts of the NRC should be formulated prior to publication of final NRC.
- L. Arbitrary disposal of claims and objections in violation to SOP by a section of engaged officers may increase number of dropouts from final NRC affecting bonafide citizens.

6. Publication of final NRC

The expected date of publication of final NRC is likely to be ordered by the Hon’ble Supreme Court on 23rd July, 2019.

7. Appeals

As per the Citizenship (Registration of citizen and issue of National Identity Cards) Rules 2003, Schedule [Rule 4A (4)], 8, any person not satisfied with the outcome of claims and objections may prefer appeal before F.Ts. (Rule quoted below).

“8. Appeal. Any person, not satisfied with the outcome of the decisions of the claims and objections under paragraph 7, may prefer appeal, before the designated Tribunal constituted under the Foreigners (Tribunals) Order, 1964 within period of sixty days from the date of such order, and on the disposal of appeal by the Tribunals the names shall be included or deleted, as the case may be, in the National Register of Indian Citizens in the State of Assam.”

8. Disposal of appeals in the F.Ts.

The Ministry of Home Affairs, Govt. of India has issued an order dated 30th May, 2019 called as Foreigners (Tribunals) Amendment order, 2019 for disposal of appeals in the F.Ts. (Copy of the order enclosed at Annexdure-IV).

9. Important points for appeals

Important points to be kept in mind while talking preparation for filing appeals before the F.Ts.

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- i. Reasons for rejection of claims / Reasons for acceptance of objections which are to be issued by the NRC authority to the claimants are to be collected and to be studied carefully.
- ii. Original applicants and claim applications are to be studied.
- iii. Examine Document / additional documents produced along with the original and claim applications. Evidences and witnesses produce during the disposal hearings.
- iv. S.O.P. for disposal for claims and objections is to be studied to find out whether any violations made by the disposing officer while disposing claims and objections. (Copy of S.O.P. enclosed at Annexure-V).
- v. If required DNA test may be sought for those who are willing to do so as it was recommended in the modalities prepared by the state cabinet subcommittee in consultation with the stake holders.

10. Probable Reasons of Rejections.

- i. Wrongly stated as DV/PFT/DF or their descendants.
- ii. Descendant of DV/PFT/DF (Non uniform enforcement of section 3 of Citizenship Act 1955).
- iii. No linkage with the legacy persons. (Due to spelling/age differences in link certificate and legacy documents).
- iv. Change in legacy person.

Prior to file appeals before the F.Ts., a study of reasons of rejections, original and claims applications of the claimants, documents and witnesses produce by the claimants, relevant provision of S.O.P. of disposal of claims and objections, Foreigner (Tribunals) Amendment order, 2019, relevant sections of Citizenship Act, 1955 and Citizenship Rules, 2003 is to be made to achieve goal in filing error free appeals before the Foreigners Tribunals (F.Ts.)

Annexure – I

[6A. Special provisions as to citizenship of persons covered by the Assam Accord.-

(1) For the purposes of this section-

- (a) “Assam” means the territories included in the State of Assam immediately before the commencement of the Citizenship (Amendment) Act, 1985;

- (b) “detected to be a foreigner” means detected to be a foreigner in accordance with the provisions of the Foreigners Act, 1946 (31 of 1946) and the Foreigners (Tribunals) Order, 1964 by a Tribunal constituted under the said Order;
- (c) “specified territory” means the territories included in Bangladesh immediately before the commencement of the Citizenship (Amendment) Act, 1985;
- (d) a person shall be deemed to be of Indian origin, if he, or either of his parents for any of his grandparents was born in undivided India;
- (e) a person shall be deemed to have been detected to be a foreigner on the date on which a Tribunal constituted under the Foreigners (Tribunals) Order, 1964 submits its opinion to the effect that he is a foreigner to the officer or authority concerned.

(2) Subject to the provisions of sub-sections (6) and (7), all persons of Indian origin who came before the 1st day of January, 1966 to Assam from the specified territory (including such of those whose names were included in the electoral rolls used for the purposes of the General Election to the House of the People held in 1967) and who have been ordinarily resident in Assam since the dates of their entry into Assam shall be deemed to be citizens of India as from the 1st day of January, 1966.

- (3) Subject to the provisions of sub-sections (6) and (7), every person of Indian origin who-
- (a) came to Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the specified territory; and
 - (b) has, since the date of his entry into Assam, been ordinarily resident in Assam; and
 - (c) has been detected to be a foreigner, shall register himself in accordance with the rules made by the Central Government in this behalf under section 18 with such authority (hereafter in this sub-section referred to as the registering authority) as may be specified in such rules and if his name is included in any electoral roll for any Assembly or Parliamentary constituency in force on the date of such detention, his name shall be deleted therefrom.

Explanation. – In the case of every person seeking registration under this subsection, the opinion of the Tribunal constituted under the Foreigners (Tribunals) Order, 1964 holding such person to be a foreigner, shall be deemed to be sufficient proof of the requirement under clause (c) of this sub-section and if any question arises as to whether such person complies with any other requirement under this sub-section, the registering authority shall,-

- i. If such opinion contains a finding with respect to such other requirements, decide the question in conformity with such finding;
- ii. If such opinion does not contain a finding with respect to such other requirement, refer the question to a Tribunal constituted under the said Order having jurisdiction in accordance with such rules as the Central Government may

make in this behalf under section 18 and decide the question in conformity with the opinion received on such reference.

(4) A person registered under sub-section (3) shall have, as from the date on which he has been detected to be a foreigner and till the expiry of a period of ten years from that date, the same rights and obligations as a citizen of India (including the right to obtain a passport under the Passports Act, 1967 (15 of 1967) and the obligations connected therewith,) but shall not be entitled to have his name included in any electoral roll for any Assembly of Parliamentary constituency at any time before the expiry of the said period of ten years

(5) A person registered under sub-section (3) shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of ten years from the date on which he has been detected to be a foreigner.

(6) Without prejudice to the provisions of section 8,-

(a) If any person referred to in sub-section (2) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985, for year a declaration that he does not wish to be a citizen of India, such person shall not be deemed to have become a citizen of India under that sub-section;

(b) If any person referred to in sub-section (3) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement the Citizenship (Amendment) Act, 1985, for year or from the date of which he has been detected to be a foreigner, whichever is later, a declaration that he does not wish to be governed by the provisions of that sub-section and sub-sections (4) and (5), it shall not be necessary for such person to register himself under sub-section (3).

Explanation.- Where a person required to file a declaration under this subsection does not have the capacity to enter into a contract, such declaration may be filed on his behalf by any person competent under the law for the time being in force to act on his behalf.

(7) Nothing in sub-sections (2) to (6) shall apply in relation to any person-

(a) who, immediately before the commencement of the Citizenship (Amendment) Act, 1985, for year is a citizen of India;

(b) who was expelled from India before the commencement of the Citizenship (Amendment) Act, 1985 , for year under the Foreigners Act, 1946 (31 of 1946).

(8) Save as otherwise expressly provided in this section, the provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force.]

COMMENTS

Under sub-section (2) of section 6A two conditions are required to be satisfied – (i) persons who are of Indian origin (undivided India) came before 1-1-1966 to Assam from the specified

territory, and (ii) have been “ordinarily resident” in Assam as it existed in 1985 since the date of entry in Assam; State of Arunachal Pradesh v. Khudiram Chakma, AIR 1994 SC 1961.

Annexure-II

SCHEDULE

[See rule 4A (4)]

SPECIAL PROVISIONS AS TO MANNER OF PREPARATION OF NATIONAL REGISTER OF INDIAN CITIZEN IN STATE OF ASSAM

1. Definitions.- (1) In this Schedule, unless the context otherwise requires,-

- (a) “National Register of Citizens 1951” means the Register containing details of Indian citizens residing in the State of Assam, as mentioned in the National Register of Citizens which was prepared along with 1951 census under a directive of the Ministry of Home Affairs;
- (b) “electoral rolls up to the midnight of the 24th day of March, 1971” means the electoral rolls containing details of voters prepared by the Election Commission of India or the State Election Commission of the State of Assam in a relevant period upto the midnight of the 24th day of March, 1971.

(2) All other words and expressions used herein and not defined but defined in rule 2 of these rules, shall have the meanings, respectively, assigned to them in that rule.

2. Manner of preparation of draft National Register of Indian Citizen in State of Assam.

(1) (a) The District Magistrate shall cause to be published the copies of the National Register of Citizens 1951 and 3 [electoral rolls upto the midnight of the 24th day of March, 1971], as available, in sufficient numbers and publish it and send the same to the Local Register of Citizen Registration for wide circulation and public inspection in each village and ward.

(b) The Local Registrar of Citizen Registration shall select centrally located public places for display of the records and for issue and receipt of the application forms.

(c) The Local Registrar of Citizens Registration shall be the custodian of the records in the area under his jurisdiction and shall be responsible for its display during the office hours.

(2) The Local Registrar of Citizen Registration shall receive the filled up application forms, at the same place where the applications are issued, and issue the receipt thereof to the applicant.

(3) The Local Registrar of Citizen Registration, after the receipt of the application under subparagraph (2) shall scrutinize the applications and after its verification, prepare a consolidated list thereof which shall contain the names of the following persons, namely:-

(a) persons whose names appear in any of the 3 [electoral rolls upto the midnight of the 24th day of March, 1971] or in National Register of Citizens, 1951;

(b) descendants of the persons mentioned in clause (a) above.

3. Scrutiny of applications- (1) The scrutiny of applications received under subparagraph (3) of paragraph 2 shall be made by comparing the information stated in the application form with the

official records and the persons, of whom the information is found in order, shall be eligible for inclusion of their names in the consolidated list.

(2) The names of persons who have been declared as illegal migrants or foreigners by the competent authority shall not be included in the consolidated list:

Provided that the names of persons who came in the State of Assam after 1966 and before the 25th March, 1971 and registered themselves with the Foreigner Registration Regional Officer and who have not been declared as illegal migrants or foreigners by the competent authority shall be eligible to be included in the consolidated list.

(3) The names of persons who are originally inhabitants of the State of Assam and their children and descendants, who are Citizens of India, shall be included in the consolidated list if the citizenship of such persons is ascertained beyond reasonable doubt and to the satisfaction of the registering authority;

(4) The Local Registrar of Citizens Registration may, in case of any doubt in respect of parental linkage or any particular mentioned in the application received under subparagraph (3) of paragraph 2, refer the matter to the District Magistrate for investigation and his decision and Local Registrar of Citizens Registration shall also inform the same to the individual or the family;

(5) The Local Registrar of Citizens Registration may, in respect of a person who-

- (a) was residing in a place other than the State of Assam up to the midnight of the 24th day of March, 1971; or
- (b) has shifted from one district to another within the State of Assam up to the midnight of the 24th day of March, 1971, verify information relating to such person through inter-state correspondence, or as the case may be, through inter-district correspondence.]

4. Publication of consolidated list.- (1) The Local Registrar of Citizen Registration shall, after completion of scrutiny of all applications, prepare the consolidated list village and ward wise and authenticate each entry in the list.

(2) The District Magistrate, shall cause to publish the consolidated list, prepared and authenticated under sub-paragraph (1), as draft of the National Registrar of Indian Citizens in the State of Assam, and cause to publish a public notice with regard to publication of the draft National Register of Indian Citizens in the State of Assam in the local news paper having wide circulation in the village and ward inviting objections and suggestions on it.

(3) The Local Registrar of Citizen Registration may at any time before the final publication of the National Register of Indian Citizens in the State of Assam may cause or direct to cause verification of names of such persons considered necessary.

(4) The Local Registrar of Citizen Registration shall take special care in attending the instances of allegation of undue harassment, if brought to their notice during the conduct of verification and take necessary action as he may consider appropriate.

(5) The report of the verification shall be examined by the District Registrar of Citizen Registration.

(6) The District Registrar of Citizen Registration shall, by order, and for reasons to be recorded in writing for inclusion or, as the case may be, exclusion of names, dispose of the report of the verification, and the report of verification which are allowed for inclusion of names and which are not allowed for inclusion shall be kept separately, village and ward wise along with a list of all such cases.

5. Publication of additional list.- (1) After the decision of the District Registrar of Citizen Registration under sub-paragraph (6) of paragraph 4, the additional list, if any, to the draft National Register of Indian Citizens shall be published in the manner specified under paragraph 2.

6. Claims and objection.- (1) Any person may-

- (a) whose names do not appear in the draft National Register of the Indian Citizens published under paragraph 2 or in the additional list published under paragraph 4, file his claim, along with necessary documents in support of thereof; or
- (b) object to inclusion of any name in the draft National Register of Indian Citizens published under paragraph 2 or in the additional list published under paragraph 4, within a period of thirty days from the date of such publication, before the Local Registrar of Citizen Registration.

(2) The Local Registrar of Citizen Registration shall maintain the list of claims received under clause (a) of sub-paragraph (1) and the objections received under clause (b) of sub-paragraph (1) in separate registers in 'chronological order;

(3) The Local Registrar of Citizen Registration shall, give a notice to every person, who has filed his claim or objection under sub-paragraph (1) to file documents, if any, in support of his claim or objection, and after giving the reasonable opportunity of hearing to the applicant or objector, dispose of the claim or, as the case may be, the objection.

7. Publication of supplementary list.- The Local Registrar of Citizen Registration shall, after the disposal of claims and the objections under sub-paragraph (3) of paragraph 6, prepare and publish a supplementary list for inclusion or deletion of names, as the case may be and thereafter, the Registrar General of Citizens Registration shall publish the final National Register of Indian Citizens in the State of Assam.

8. Appeal.- any person, not satisfied with the outcome of the decisions of the claims and objections under paragraph 7, may prefer appeal, before the designated Tribunal constituted under the Foreigners (Tribunals) Order, 1964 within a period of sixty days from the date of such order; and on the disposal of appeal by the Tribunals the names shall be included or deleted, as the case may be, in the National Register of Indian Citizens in the State of Assam.]

Annexure-III

OFFICE OF THE STATE COORDINATOR, NRC
ACHYUT PLAZA (1st FLOOR), BHARALUPAR, BHANGAGHAR,

GUWAHATI-781005.

No SPMU/NRC Dist. Co-Equip/08/2015/Pt-3/93

Dated 16 October 2017

From Prateek Hajola, IAS
State Coordinator, National Register of Citizens, Assam

To The District Register of Citizen Registration (DRCR) All Districts

Subject: On eligibility of descendants of Doubtful Voters (DV) Declared Foreigners (DF) for inclusion in NRC

Sir Madam

With reference to the subject cited above, I am to inform that the data about 53056 Declared Foreigners (DFs) and 140965 'D' Voters (DVS) of the entire State have already been shared with all the DRCRs vide this office's letter No. SPMU/NRC/Dist-CO-Equip/68/2015/Part-1/289 dated 11 December 2015. You are requested to update the list by including any more persons who have been declared as DVS or DFS but not yet been included in the list. In the meantime, State Govt. has also been requested to provide the updated list. You are requested to ensure that all the LRCRs are accordingly provided with the updated list.

The matter of eligibility of descendants of DVs and DFs for inclusion in NRC was referred to the Hon'ble Judges Committee appointed by the Hon'ble Supreme Court and to the RGI and on the basis of the Order of the Hon'ble Judges Committee and directions of the RGI, the following instructions are issued for your information and compliance

Wherever DFs and DVs are found to have applied for inclusion in NRC, the LPORS ensure that –

1. Persons who are Declared Foreigners (DFS) and 'D' Voters (DVS) and those persons against whom case is pending in Foreigners Tribunal shall not be included in the Draft NRC. However for those persons who are DFs of the 1968-71 stream, inclusion will be allowed on proof of their registration with the competent authority. The details of FRRO registration shall have to be recorded in the VTR

2. Eligibility of descendants of such persons DV/DF) for inclusion in the Draft NRC shall be as follows:

- i. While determining descendants, for those persons who are born on or after 3rd December 2004, if any of the parent is a DV or a DF, such descendants shall not be included in Draft NRC.
- ii. For those who are born before 3rd December 2004, and on or after 1st July 1987 if one of the parent is a genuine Indian Citizen and therefore found eligible for inclusion in the Draft NRC then such descendants from that parent shall be eligible.

- iii. For those who are born before 14 July, 1987, eligibility for inclusion shall be based on descendance proven from either of the parents who are eligible for inclusion in Draft NRC.

3. While determining birth of DVIDF descendants, It is to be ensured that in case of persons at India it is to be ensured that there has to be an authentic and reliable proof of such birth in India in addition to the date of birth, the evidence of birth in India is also a requirement and this evidence needs to be strong and not obtained through unfair fraudulent means. However, the person born outside India to an Indian parent may be dealt with as per the relevant provisions of the Citizenship is 1955.

4. Clause 8 of the Schedule under Rule 4A, provides for appeal before the Foreigners Tribunal. As such, cases of those persons including D voters and others whose cases are pending with the Foreigners Tribunal will need to be in the pending list till the opinion of Foreigners Tribunal (FT) is obtained. The decision for inclusion of names in NRC or otherwise in respect of such cases will be based on the opinion of the Foreigners Tribunal and these can be included or excluded based on the decision of FT.

Yours faithfully,

(Prateek Hajela, IAS)

State Coordinator, National Register of Citizens Assam

NO: SPMU/NRC/Dist-Co-Equip/68/2015/Part 3/93 – A

Dated 16 October 2017

Copy for information and necessary action to:

1. The Chief Secretary to the Govt. of Assam, Dispur
2. The Registrar General of India, Govt. of India, Ministry of Home Affairs, 21A Man Singh Road New Delhi-10311:
3. The Divisional Commissioner, Lower Assam Division Panbazar, Guwahati.
4. The Divisional Commissioner, Upper Assam Division, Jorhat
5. The Divisional Commissioner North Assam Division, Tezpur
6. The Divisional Commissioner, Barak Valley Division, Silchar, Cachar
7. The Divisional Commissioner Central Assam Division, Nagaon.
8. ADV VIC, NRC. All Districts 9. CRCR All Circles 10. All DPS. CPSS

State Coordinator, National Register of Citizens, Assam.

MINISTRY OF HOME AFFAIRS

ORDER

New Delhi, the 30th May, 2019

G.S.R. 409 (E).- In exercise of the powers conferred by section 3 of the Foreigners Act, 1946 (31 of 1946), the Central Government hereby makes the following order further to amend the Foreigners (Tribunals) Order, 1964, namely:-

1. (1) This order may be called the Foreigners (Tribunals) Amendment Order, 2019.
- (2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Foreigners (Tribunals) Order, 1964.-
 - (A) in paragraph 2.-
 - (a) in sub-para 1, for the words “the Central Government may,” the words “the Central Government or the State Government or the Union territory administration or the District Collector or the District Magistrate may,” shall be substituted;
 - (b) in sub-para (IA), for the words, figures and letters “rule 16F of the Citizenship Rules, 2009” shall be substituted.
 - (c) after sub-para (IA), the following sub-para shall be inserted, namely:-
 - (IB) Any person referred to in paragraph 8 of the Schedule to the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 may prefer an appeal, on the terms and conditions specified therein, before the designated Tribunal constituted under this Order.”.
 - (B) Paragraph 3A shall be re-numbered as Paragraph 3C and before the Paragraph 3C as so renumbered, the following Paragraphs shall be inserted, namely:-

“3A. Procedure for disposal of appeal referred to in sub-para (1B) of paragraph 2. – (1) While preferring an appeal, the applicant shall provide a certified copy of the rejection order received from the National Register of Indian Citizens hereinafter referred to as NRC authorities along with the grounds for appeal.

- (2) The Appellant may appear either in person or through a legal practitioner or a relation authorised by the Appellant in writing subject to the acceptance of such representation by the Tribunal.
- (3) The State Government may appoint a pleader to represent the District Magistrate.
- (4) The Tribunal shall issue a notice to the District Magistrate to produce NRC Records within thirty days from date to receipt of the notice and a copy of the said notice shall also be sent to the pleader appearing for the Government and to the Appellant.
- (5) The District Magistrate shall provide the NRC records in original including the Application Form and documents submitted by the Appellant and orders passed by the NRC authorities to the pleader appearing for the Government against the claims or objections filed by the Appellant.
- (6) The District Magistrate may also refer to the Tribunal for its opinion the question as to whether the Appellant is a foreigner or not within the meaning of the Foreigners Act, 1946 (31 of 1946), in terms of sub-para (1) of paragraph 2. In case of such reference to the Tribunal, it shall be deemed as a reference to the Tribunal in terms of sub-para (1) of paragraph 2, the Tribunal shall examine the said reference along with the Appeal.
- (7) Persons against whom a reference has already been made by the competent authority to any Foreigners Tribunal shall not be eligible to file the appeal before the Tribunal.
- (8) If any Foreigners Tribunal has already given opinion about a person earlier as a foreigner, such person shall not be eligible to file an appeal to any Tribunal.
- (9) On behalf of the District Magistrate, the pleader shall produce the NRC records before the Tribunal and also the reference mentioned in sub-para (6).
- (10) Upon production of the records, if the Tribunal finds merit in the Appeal, it shall issue notice to the Appellant and the District Magistrate for hearing specifying the date of hearing and such date shall be within thirty days from the date of production of the records.
- (11) The District Magistrate may depute an officer as authorised representative to act on his behalf in any proceeding before the Tribunal.
- (12) During the hearing, the Tribunal shall give the Appellant, the pleader appearing for the Government and the authorised representative of the District Magistrate, if any, a reasonable opportunity to present their case including the filing of any representation or producing documents or evidence in support of their case.

- (13) While disposing the appeal or reference mentioned in sub-para (6), the Tribunal shall be guided by sub-paras (9), (11) and (12) of paragraph 3 of this Order.
 - (14) After hearing the Appellant, the pleader appearing for the Government and the authorised representative of the District Magistrate, if any, the Tribunal shall dispose of the appeal and the reference from the District Magistrate mentioned in sub-para (6) by recording its opinion.
 - (15) The final order of the Tribunal shall contain its opinion on the matter whether the Appellant is eligible for inclusion in the NRC or not. It shall also contain the opinion of the Tribunal on the reference of the District Magistrate mentioned in sub-para (6). The final order of the Tribunal shall be a concise statement of facts and conclusion based on which the Tribunal has arrived at such an opinion.
 - (16) The final order of the Tribunal containing its opinion shall be given within a period of one hundred and twenty days from the date of production of the records.
 - (17) Subject to the provision of this Order, the Tribunal shall have the power to regulate its own procedure for disposal of the cases expeditiously in a time bound manner.
- 3B. Procedure for disposal of cases in case of persons referred in sub-para (1B) of paragraph 2 not preferring an appeal. – In case a person referred to in paragraph 8 of the Schedule to the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 does not prefer an appeal within the period of sixty days before the designated Tribunal constituted under this Order, the authority mentioned in sub-para (1) of paragraph 2 of this Order may refer to the Tribunal for its opinion the question whether the said person is a foreigner or not within the meaning of the Foreigners Act, 1946 (31 of 1946) in terms of sub-para (1) of paragraph 2 of this Order. On receipt of such a reference, the Tribunal shall examine the same as per the procedure laid down in paragraph 3A of this Order.”.

[F. No. 25022/59/2018-F-1]

ANIL MALIK, Jt, Secy. (Foreigners)

Note:- The principal Order was published in the Gazette of India Extraordinary, Part II Section 3, Sub-section (i) vide number G.S.R. 1401, dated the 23rd September, 1964 and subsequently amended vide notifications numbers G.S.R. 1535 dated the 30th September, 1965; G.S.R. 203(E) dated the 15th January, 1986; G.S.R. 317 (E) dated the 24th April, 2012; and G.S.R. 770(E) dated the 10th December, 2013.

Standard Operating Procedure (SOP) / modalities for disposal of claims and objections in the updation of National Register of Citizens (NRC) 1951 in Assam.

The Standard Operating Procedure (SOP) is being laid down for disposal of claims and objections after the publication of the draft National Register of Citizens (NRC) in the State of Assam, spelling out the modalities under clause 6 of the Schedule appended to The Citizenship (Registration of Citizens and Issue of National Identity Cards), Rules, 2003 framed under the Citizenship Act, 1955.

2. The SOP has been drawn with the objective that the process of claims and objections is fair and transparent and provides reasonable opportunity to all concerned.

- (i) The list of eligible (admissible) documents for the purpose of legacy and linkage will remain the same as at the time of the initial application.
- (ii) There is no need to re-submit the documents already submitted by persons at the time of original application.
- (iii) They may, however, submit additional admissible (legacy and linkage) documents if considered necessary by them in support of their claim.
- (iv) An IEC campaign will be conducted to educate the applicants about the requirements of the application process, essential documents and evidences that will be considered in support of their claims and objections.

3. Application

3.1 Any person will have an opportunity to submit an application in regard to the following:-

- (a) Claims by persons who had applied for inclusion in NRC in the year 2015 when applications had been called for NRC and whose names do not appear in the draft NRC-Claim Form.
- (b) Correction due to typographical errors in the draft NRC about particulars published of the names included – **Correction Form.**
- (c) Wrongly identified as D Voters (DV) and Declared Foreigners (DF) or their descendants including those persons in whose respect the Judicial Authority / Foreigners Tribunal has given a decision declaring a person as Indian but the result has been put on hold.
- (d) Make an objection in respect of inclusion of any name in the draft NRC-**Objection Form.**

3.2 (i) The applications will be submitted at the NSK where the initial application was received in 2015.

(ii) If the local residence of the applicant has undergone a change, the place of making the application will still be the original NSK.

(iii) The Local Registrar of Citizen Registration (LRCR) will receive the application and issue an acknowledgement of its receipt indicating the list of documents in a similar manner as was done at the time of receiving the application in 2015.

(iv) The applications received will be digitised as soon as possible facilitating issue of notices and other required verifications. There is no fee for making an application. There is also no penalty for rejection of the application made in respect of objection for inclusion of name in the draft NRC. However, the provision under Section 17 of the Citizenship Act, 1955 which prescribes that “any person who, for the purpose of procuring anything to be done or not to be done under this Act, knowingly makes any representation which is false in a material particular shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both” will be applicable for claims and objections.

4. Eligibility / Admissibility

- i) The submission of claims and corrections or application in respect of wrongly identified as D-Voter/ Declared Foreigner is restricted to the applicants, who submitted their applications up to the qualifying date of receipt of applications 31st August, 2015. Objections, however, can be made by any person. The linkage documents in support of the applications for claims / objections must have been issued prior to 31st August, 2015.
- ii) No change in legacy person will be allowed at the stage of claims and objections. Further, no change in the Family Tree declared by the applicant will be permitted at the stage of claims and objections. The list of legacy documents (List – A) shall remain the same as it existed at the time of the original application. The list of eligible legacy documents (List-A) is at Annexure-I. There is no need to re-submit the documents already submitted by the applicants. The person filing claim may however submit additional legacy document but it has to be an eligible & valid document as set out in Annexure-I.

Detailed guidelines for the purpose of scrutiny of legacy and other documents were issued to the District Registrars on 19th October, 2017 by the State Coordinator with the approval of Registrar General of Citizen Registration. The State Government has informed that in respect of Refugee Registration Certificate issued upto 24th March, 1971 (midnight) there are variants in the form of Relief Eligibility Certificate and Camp Inmate Certificate, both issued upto 24th March, 1971 (midnight), be considered a part of the category “Refugee Registration Certificate” issued upto 24th March, 1971 (midnight) which is one of the admissible legacy documents. In addition, any license/certificate issued by any Government authority of relevant period i.e. upto 24th March, 1971 midnight (legacy document listed at Sl. No.9) may include any Government receipts, notices, orders or records. Further, Pension Payment Order (PPO) showing employment/service in Government before 1971 may be accepted as part of legacy document listed at Sl. No. 10 even if it is issued subsequent to 1971. These documents will be considered during examination of claims, subject to verification at the time of hearing.

iii) In respect of linkage, it has been prescribed that the document should be legally admissible. No specific documents have been prescribed but these need to be part of official records of enable scrutiny of application as per clause 3 (1) of the Citizenship Rules, 2003. The documents in respect of linkage (List-B) which are not considered credible and their admissibility as official records does not exist will be spelt out in a greater detail for the purpose of illustration. The Gaonburah Certificates, the Private school/college certificates, Birth Certificate issued by authorities other than prescribed authorities of the State Government and contemporary affidavits issued for the purpose of NRC only, are not official records for establishing linkage. Gaon Panchayat Secretary / Circle Officer /Lot Mandol Certificate for males and unmarried

women are not official records. In cases where persons have relied on above mentioned documents, adequate opportunity will be given to the applicant for adducing evidence through oral evidence permissible at the time of hearing. Further, birth certificate with delayed registration beyond one year, immunisation records, ration cards will be subject to rigorous scrutiny and only on their veracity, may be considered. The refugee registration certificate / citizenship certificate / relief eligibility certificate / camp inmate certificate will be verified with the originals for admissibility. The persons filing claims can submit additional documents of linkage and alternative documents in this regard but their eligibility will be governed as per the existing guidelines.

iv) The Claim Form will require submission of particulars and copies only of additional documents. Documents submitted earlier need not be submitted again not particulars of such documents are to be mentioned in the Claim Form. The disposal of Claim will, however, be done based on all the documents submitted during Claim and also those submitted upto publication of Complete Draft NRC, including the original Application. The Application Form will also provide for adequate space allowing the Claimant to give a descriptive “Grounds for Claim”.

v) The guidelines issued by the State Coordinator regarding the documents dated 19th October, 2017 (**Annexure-II**) dated 12th November, 2017 (Annexure-III) and the approval given to the State Coordinator regarding stringent verification by the RGI vide letter dated 25th April, 2018 (**Annexure-IV**) on the proposal from the State Coordinator dated 24th April, 2018 (**Annexure-V**) will also be applicable in respect of scrutiny and verification of documents / particulars.

vi) No fresh details of Family Tree will be taken during the filing of claims and objections. The Family Tree declared at the time of verification process / application process will remain valid for the purposes of claims and objections.

vii) Destitute or orphans in respect of whom the applications have been submitted by the institutional homes will not be governed by any requirement of documents and their citizenship status will be ascertained based on alternative evidence, if available, through a Committee consisting of DRCR, Additional Deputy Commissioner In-charge of NRC, CRCR and the District Social Welfare officer.

viii) a) Hon’ble Supreme Court vide its order dated 21st July, 2015 has directed as under:-

“In so far as clause 3 (5) of the Schedule to the Rules is concerned, we clarify that Indian citizens, including their children and descendants, who may have moved to the State of Assam subsequent to 24th March, 1971 would be eligible for inclusion in the NRC on adducing satisfactory proof of residence in any part of the country (outside Assam) as on 24th March, 1971.”

However, it has been observed that in some instances such persons have not been able to provide documents to satisfactorily prove their residence in any part of the country (outside Assam) upto 24th March, 1971. As such, their cases will be dealt with under Rule 4 of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 and Clauses 3 (3) of its Schedule, as follows:

(i) Citizens of India who originate from other states in India and who do not have any origin in Specified Territory (Bangladesh) and have moved to State of Assam prior to 24th

March, 1971 or after, will be included in the NRC if the citizenship of such persons is ascertained beyond reasonable doubt to the satisfaction of the authorities disposing of claims and objections.

(ii) Cases of all such persons whether ordered for inclusion by the authority (disposing claims and objections) or for exclusion, will be examined first by the CRCR (Circle Registrar of Citizens Registration) and then by the DRCR (District Registrar of Citizens Registration). The final decision of inclusion or exclusion will be taken by the DRCR, who will record a speaking order issued under his seal and signature.

(b) The authorities examining the claim and the DRCR will exercise great caution to ensure that no illegal person's name is included taking recourse to the above provisions.

(ix) Claims where only children (14 years of below) have been left out from the draft NRC while their parents have been included will be segregated and pre-claim verification undertaken by CRCR to ascertain the shortcoming in linkage documents or any inconsistencies thereof. The concerned DRCR will cause specific hearings for the composite family in respect of these minor children and oral / written evidences from parents will be admissible. This special consideration is required as adequate documentary evidence may not be available for children less than 14 years of age.

x) Claims where only married women are involved and have no linkage document other than Gaon Panchayat Secretary Certificate issued prior to August 2015 will be examined separately in accordance with the guidelines issued in its compliance to Hon'ble Supreme Court orders on the verification of Gaon Panchayat Secretary Certificate for married women. It is to be ensured that the concerned officers follow the Guidelines scrupulously by way of better capacity building and also providing adequate time for each hearing.

xi) Any person can make an objection for inclusion of name in draft NRC giving grounds for objection in the form specified and file documents, if any, in support of his objection. There is no restriction on the person for filing any number of objections. There is also no requirement of his being a local resident of NSK. However, any objection concerning inclusion shall only be filed at the NSK where the list of inclusion of the concerned person objected upon has been published. The Local Registrar of Citizen Registration will issue notices to all concerned and authorities undertaking hearing have to give reasonable opportunity to the objector and concerned persons against whom objection has been made. The authorities will examine all records, documents and evidences (including oral evidence) made before it and dispose of the objection by way of a speaking order.

5. Issue of Notices

The Local Registrar of Citizen Registration (LRCR) will issue notices to concerned persons in respect of hearings to be undertaken by the authorities disposing off claims and objections, correction or application in respect of D-Voters / declared foreigners or their descendants. The notices will be served at the place of local residence of the applicants as mentioned in the application. The LRCR will ensure that the applicant is served the notice at least 15 days prior to the date of hearing. If the notice is received late, an alternative date of hearing will be fixed and fresh notice with 15 days time from its receipt will be ensured by LRCR. The notice for hearing will also be given to any official / authority whose evidence may be necessary in respect of documents or particulars. The online facility of tracking notice will also be made available by the State Coordinator from the Central data base.

6. Level of disposal of claims and objections

The applications received under clause 2 of the Schedule appended to Rule 4A of the Citizenship Rules, 2003 have been verified and scrutinised and decision for their inclusion in draft NRC has been taken at the level of the Local Registrar of Citizen Registration (LRCR). In case of any doubt in particular / or the parental linkage, the investigation by District Magistrate through his authorised officers has also been caused whereafter the decision in such cases have been taken. In order to ensure fairness and objectivity, it is considered necessary that the officers who have decided the application at the stage of draft NRC (LRCR) are not the decision making authority at the stage of disposal of claims and objections. The disposal of claims and objections will require proper understanding of the procedures and the ability to assess various evidences placed on record or made during the course of hearing. It has been decided that the hearing and disposal will be undertaken by Class-1 level officers of the State Government who have some knowledge and experience of handling the process of enquiry / investigations. These officers will function as authorised officers of the District Magistrate (District Registrar of Citizens Registration). The following category of officers posted in districts and sub-districts will be considered for working as authorised officers of District Magistrate (DM) for disposal of claims and objections:-

- a) The Assam Civil Services Officers who also functions as Executive Magistrates.
- b) Class-1 Officers of the Forest Department
- c) Block Development Officer and Class-1 Officers of Panchayat Department.
- d) Other Class-1 Officers of various departments who have some expertise in carrying out enquiries and verifications.

The State Government will make all efforts to mobilise the maximum possible number of such officers to complete the process of disposal of claims and objections as expeditiously as possible. The State Government will make available 1500 to 2500 Class-1 officers to perform the functions as authorised officers of District Magistrate. The district-wise distribution will be worked out by the State Government in consultation with the State Coordinator. Their capacity building and training will be necessary for conducting the hearings and disposal of claims and objections. The requirement of Class-1 officers will depend upon the numbers of Claims and Objections actually filed. Whereas it can be expected that all 40 lakhs persons (approximately 16.2 lakhs families) may file Claims, it is not possible to anticipate the numbers of Objections in their districts. For this purpose, they will also undertaken necessary Quality Checks of at least 10% of the cases. Senior State Government officers will be appointed as Observers to oversee the process of claims and objections disposal in the district. The IAS officers and senior Assam Civil Services officers serving in the State Government will be allotted districts in this regard and will report to the State Coordinator, NRC.

As per Order of the Hon'ble Supreme Court passed 1st November, 2018, the State Coordinator will devise system of vigorous verification including additional layers of verification to ensure that only and only eligible persons are included in the final NRC. All documents must be subjected to a through process of verification and would be accepted only after due and complete satisfaction of the genuineness of the same. Based on the above, additional guidelines shall be issued subsequently.

7. Holding of Hearings

Disposal of all Claims and Objections will be done through holding of hearings wherein Claimant / Objector will be asked to attend. Venue of hearing will be a suitable place easily

accessible to claimant or person objected upon belongs, keeping in mind security and logistics. Claimants will be required to bring evidence they wish to adduce in the hearings to substantiate their claim. They would also bring with them such other persons, whose oral evidence is admissible, to testify for them. For the purpose of establishing the linkage, oral evidence may be recorded of such persons who are blood relatives, namely siblings, close relatives or Government functionaries who can certify the linkage. Other family members accompanying the applicant may provide assistance during the course of the hearing. NRC authorities will also issue notices to all users of their Legacy Data to appear in these hearings. Notices will be generated centrally and will be delivered through the NSK. 5 hearings (one for each family) per day by each authorised officer of DM will be held. The hearings will be categorised as under:

- a) Cases of applicants who originate from other States in India (Para 4 (VIII) cases).
- b) Cases where only children (less than 14 years) have been left out. In this case, the numbers of hearings to be held per day may be higher – 8 families per day.
- c) Cases where only married women have been left out.
- d) Cases involving persons appearing in 1951 NRC or any of the Electoral Rolls upto 24th March, 1971 (Midnight).
- e) Cases involving submissions of any List A document other than persons appearing in 1951 NRC or any of the Electoral Rolls upto 24th March, 1971 (Midnight).
- f) Other Cases

The hearings will record the particulars and statements of witnesses and after due examination of all records and evidences a speaking order will be given by the authorised officer of DM. Necessary quality checks will be undertaken by the Circle Registration Officers and cases requiring further attention will be referred to DRCRs who will attend to the cases personally. The hearing venues will have all the relevant data i.e. PDFs of Application Forms, documents, Manual Family Tree of the Claimant and all other users of that Legacy Data, PDFs of records of Family Tree and Special Verification, as applicable. Proper logistic arrangements at the venues for public as well officers undertaking the hearings will be made. If the matter of Claim / Objection is not disposed off in one hearing, more number of hearings will be scheduled. For subsequent hearings, the Disposing Officer will issue the Notices manually. Such notices will be handed over to the persons appearing at the hearing itself. For those persons who are not present, the Claimant / Objector will ensure presence of the required witnesses. For the purposes of verification of documents and particulars wherever considered necessary, the issuing authority and the authority connected with issue of such documents / particulars will be called to submit necessary evidence in regard to authenticity of such documents / particulars. Verification of authenticity of documents by way of comparison with the backend will be carried out wherever considered essential.

8. Verification under section 4 (3)

The LRCR may at any time before the final publication of NRC in the State of Assam may cause or direct to cause verification of names already included in the final draft NRC if considered necessary. The verification may be carried out by LRCR or any officer authorised by the DRCR. The concerned persons will be given reasonable opportunity during the verification process. The report of the verification will be submitted to DRCR, who shall examine the report and dispose it by issuing a written order under Clause 4(5) to 4(6). Further action thereafter will be taken as per clause 5 and clause 6 of the Schedule of the Citizenship Rules 2003.

9. Biometric Enrolment'

During the course of the hearings of claims and objections, the State Government in collaboration with UIDAI will undertake the process of biometric enrolment of all the applicants of NRC. The biometric enrolment in respect of persons who are part of claims and those persons objected upon will be distinctive and separate ID will be generated. Once the final NRC has been published such persons who are included in the NRC will be given the usual Aadhaar number as applicable to legal residents in the country. In case a person already has Aadhaar number who is also a part of the claim or objected upon, his Aadhaar number will be obtained.

10. Timelines

The time schedule for filing of claims and objections and consideration thereof would be as follows in accordance of Hon'ble Supreme Court:

1	Last date of filing of Claims /Objections	15 th December, 2018
2	The time for issuing notice after digitization and completion of all formalities and requirements	15 th January, 2019
3	Commencement of the verification process	1 st February, 2019

Annexure-VI

ACQUISITION OF CITIZENSHIP

[3. Citizenship by birth :- (1) Except as provided in sub-section (2), every person born in India,-

- (a) on or after the 26th day of January, 1950, but before the 1st day of July, 1987;
- (b) on or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth;
- (c) on or after the commencement of the Citizenship (Amendment) Act, 2003, where –
 - i. both of his parents are citizens of India; or
 - ii. one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth, shall be a citizen of India by birth.

(2) A person shall not be a citizen of India by virtue of this section if at the time of his birth-

- (a) either his father or mother possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, is not a citizen of India; or
- (b) his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.]