

Chapter - 6

CITIZENSHIP

MEANING AND SIGNIFICANCE

Like any other modern state, India has two kind of people—citizens and aliens. Citizens are full members of the Indian State and owe allegiance to it. They enjoy all civil and political rights. Aliens, on the other hand, are the Citizens of some other state and hence, do not enjoy all the civil and Political rights. The Constitution confers the following rights and privileges on the citizens of India (and denies the same to aliens):

1. Right against discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
2. Right to equality of opportunity in the matter of public employment (Article 16).
3. Right to freedom of speech and expression, assembly, association, movement, residence and profession (Article 19).
4. Cultural and educational rights (Articles 29 and 30).
5. Right to vote in elections to the Lok Sabha and state legislative assembly.
6. Right to contest for the membership of the Parliament and the state legislature.
7. Eligibility to hold certain public offices, that is, President of India, Vice-President of India, judges of the Supreme Court and the high courts, governor of states, attorney general of India and advocate general of states.

CONSTITUTIONAL PROVISIONS

According to the constitution, the following four categories of persons became the citizens of India at its commencement i.e., on 26 January, 1950:

1. A person who had his domicile in India and also fulfilled any one of the three conditions, if he was born in India; or if either of his parents was born in India; or if he has been ordinarily resident in India for five years immediately before the commencement of the Constitution, became a citizen of India (Article 5).
2. A person who migrated to India from Pakistan became an Indian citizen if he or either of his parents or any of his grandparents was born in undivided India.
3. A person who migrated to Pakistan from India after March 1, 1947, but later returned to India for resettlement could become an Indian citizen. For this, he had to be resident in India for six months preceding the date of his application for registration (Article 7).
4. A person who, or any of whose parents or grandparents, was born in undivided India but who is ordinarily residing outside India shall become an Indian citizen if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country of his residence, whether before or after the commencement of the Constitution. Thus, this provision covers the overseas Indians who may want to acquire Indian citizenship (Article 8).

The other constitutional provisions with respect to the citizenship are as follows:

1. No person shall be a citizen of India or be deemed to be a citizen of India, if he has voluntarily acquired the citizenship of any foreign state (Article 9).
2. Every person who is or is deemed to be a citizen of India shall continue to be such citizen, subject to the provisions of any law made by Parliament (Article 10).
3. Parliament shall have the power to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship (Article - II).

Acquisition of Citizenship

The Citizenship Act of 1955 prescribes five ways of acquiring citizenship.

1. By Birth:

A person born in India on or after 26th January 1950 but before 1st July 1987 is a citizen of India by birth irrespective of the nationality of his parents.

2. By Descent:

A person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India at the time of his birth.

3. By Registration:

- (a) A person of Indian origin who is ordinarily resident in India for seven years before making an application for registration;
- (b) A person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration;
- (c) Minor children of persons who are citizens of India;
- (d) A person of full age and capacity whose parents are registered as citizens of India.
- (e) A person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and has been residing in India for one year immediately before making an application for registration;
- (f) A person of full age and capacity who has been registered as an overseas citizen of India for five years, and who has been residing in India for one year before making an application for registration.

4. By Naturalisation:

5. By Incorporation of Territory:

If any foreign territory becomes a part of India the Government of India specifies the persons who among the people of the territory shall be the citizens of India.

Loss of Citizenship

The Citizenship Act, 1955, prescribes three ways of losing citizenship whether acquired under the Act or prior to it under the Constitution.

1. By Renunciation:

Any citizen of India of full age and capacity can make a declaration renouncing his Indian citizenship. When a person renounces his Indian citizenship, every minor child of that person also loses Indian citizenship.

2. By Termination:

When an Indian citizen voluntarily (consciously, knowingly and without duress, undue influence or compulsion) acquires the citizenship of another country, his Indian citizenship automatically terminates. This provision, however, does not apply during a war in which India is engaged.

3. By Deprivation:

It is a compulsory termination of Indian citizenship by the Central government, if:

- (a) The citizen has obtained the citizenship by fraud;
- (b) The citizen has shown disloyalty to the Constitution of India;
- (c) The citizen has unlawfully traded or communicated with the enemy during a war;
- (d) The citizen has, within five years after registration or naturalisation, been imprisoned in any country for two years; and
- (e) The citizen has been ordinarily resident out of India for seven years continuously.

SINGLE CITIZENSHIP

Though the Indian Constitution in federal and envisages a dual polity (Centre and states), it provides for only a single citizenship, that is, the Indian citizenship. The citizens in India owe allegiance only to the Union. There is no separate state citizenship. The other federal states like USA and Switzerland, on the other hand, adopted the system of double citizenship.