

Standard Operating Procedure (SOP)/ Modalities For The Adjudication of Appeals by the Foreigners Tribunals For Those Excluded From The National Register of Citizens (NRC) 1951 in Assam

The Standard Operating Procedure (SOP) is being laid down for disposal of appeals after the publication of the Final National Register of Citizens (NRC) in the State of Assam, spelling out the modalities under clause 8 of the Schedule appended to The Citizenship (Registration of Citizens and Issue of National Identity Cards), Rules, 2003 framed under the Citizenship Act, 1955 and Foreigners (Tribunals) Amendment Order, 2019.

1. The SOP has been drawn with the objective that the process of appeals is fair and transparent and provides reasonable opportunity to all concerned, uniformly throughout the state expeditiously in a time bound manner.

(i) The NRC authority shall provide a certified copy of the rejection order to the NRC claimant excluded from the Final NRC within 15 days of publication of Final NRC. The period of limitation of filing the appeal should effect from the receiving of certified copy of the rejection order.

(ii) The list of eligible (admissible) documents for the purpose of legacy and linkage will remain the same as per prescribed modalities of NRC updation.

(iii) The appellants may, submit additional admissible (legacy and linkage) documents if considered necessary by them in support of their appeals.

(iv) An IEC campaign will be conducted to educate the applicants about the requirements of the appeal process, essential documents and evidences that will be considered in support of their appeals.

(v) Capacity building of the Foreigners Tribunal members for disposal of the NRC appeals expeditiously in a time bound manner as per SOP/Modalities.

2. Appeal

2.1 Any person will have an opportunity to submit an appeal in regard to the following:-

a) Appeals by persons who had claimed for inclusion in NRC upto 31st December, 2018, when claims had been called for NRC and whose names do not appear in the Final NRC.

b) Appeals by wrongly identified as D Voters (DV), Pending Foreigners Tribunals (PFT) and Declared Foreigners (DF) or their descendants.

c) The DV/ PFTs 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 in NRC, they may produce the respective orders to the concerned District Magistrate (DM) for inclusion of their names in NRC.

d) Appeals by decedents of DV/PFT/DF as per order of the Hon'ble Supreme Court.

e) Appeals by person who had filed objections in respect of inclusion of any name in the draft NRC upto 31st December, 2018 but their objections have been rejected and the name of the persons against whom objections made are appeared in the Final NRC.

2.2 (i) The appeals will be submitted at the Foreigners Tribunal designated for the area of the NSK where the initial application was received in 2015.

(ii) If the local residence of the appellant has undergone a change, the place of making the appeal will still be the Foreigners Tribunal designated for the area of the Original NSK.

(iii) The Foreigner Tribunal will receive the appeal and issue an acknowledgement of its receipt indicating the list of documents. The FT shall maintain a list of appeal received under clause 8 of the Schedule appended to The Citizenship (Registration of Citizens and Issue of National Identity Cards), Rules, 2003 framed under the Citizenship Act, 1955 in a chronological order.

(iv) The appeals received will be digitised as soon as possible facilitating issue of notices and other required verifications.

(v) 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 Tribunal¹.

3. Eligibility/Admissibility

¹ FT Amendment Order, 2019 – 2(B) (2)

i) The submission of appeals is restricted to the applicants, who submitted their claims up to the qualifying date of receipt of Claims and Objections up to 31st December, 2018.

ii) The appellants may submit Legacy Data/ Documents of their ancestors/ Selves in support of their appeals as per the list of admissible legacy documents (List-A) is at annexure-I. Appellants may change their wrongly identified and used legacy persons in original application. In case of change of legacy person, a modified list of children and grandchildren (Called as Family Tree) of the legacy person may be submitted.

Certified copy of the legacy documents submitted by the appellants may be verified as per existing norms followed by the Foreigners Tribunal. Authenticity of the legacy data submitted by the appellants may be verified by using NRC website and database. To check the misuse of legacy data/documents, the veracity of the Family Tree may be ascertained by hearing adult members of each member family of the modified family tree submitted due to change of legacy person.

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 to 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 appellant 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.

iv) The Appellants will require to submit of particulars and copies of documents in support of their appeals. The disposal of appeal will be done based on all the documents submitted during appeals and also those submitted upto publication of Final NRC, including the original and Claim Application.

v) 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 as deem fit and proper by the FTs.

vi) (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 Clause 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 appeals.

(b) The Foreigners Tribunals will exercise great caution to ensure that no illegal person's name is included taking recourse to the above provisions.

vii) Appeals where only children (14 years or below upto 31st August, 2015) have been left out from the Final NRC while their parents have been included will be decided as per oral/written evidences from both the parents of the minor.

viii) Appeals where only married women are involved and have no linkage document other than Gaon Panchayat Secretary Certificate will be examined in accordance with the Hon'ble Supreme Court orders on the verification of Gaon Panchayat Secretary Certificate for married women.

Authenticity regarding issue of certificate may be verified by obtaining written/oral evidence from Panchayat Secretary. And veracity of the contents of the certificate may be ascertained by recording oral evidence of such persons who are blood relatives, namely siblings or close relatives.

ix) Objectors can make an appeal for inclusion of name in Final NRC of the persons against whom objections were filed by them upto 31st December, 2018 giving grounds for appeal and file documents, if any, in support of his appeal.

4. Issue of Notices

(i) The Tribunal shall issue a notice to the District Magistrate to produce NRC Records within thirty days from date of 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.

(ii) Upon production of the records, the Tribunal shall issue notice to the Appellant and the District Magistrate (DM) for hearing specifying the date of hearing and such date shall be within thirty days from the date of production of the records. The notice for hearing will also be given to any official/authority whose evidence may be necessary in respect of documents or particulars.

5. Holding of Hearings

(i) 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. Appellants will be required to bring evidence they wish to adduce in the hearings to substantiate their appeal. 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. The Appellant will also be required to bring all adult users of their legacy data/documents to appear in the hearings.

(ii) 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. 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. The final order shall

be a concise statement of facts and conclusion based on which the Tribunal has arrived at such an opinion. If the matter of appeal is not disposed of in one hearing, more number of hearings will be scheduled. For those persons who are not present, the Appellant 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 by the Foreigners Tribunal to submit necessary evidence in regard to authenticity of such documents/particulars.

However, 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.

6. Co-ordination and Monitoring

The State Co-ordinator, NRC Assam may co-ordinate among all concerned agencies dealing with the disposal of NRC appeals and to facilitate in ascertaining authenticity of legacy data etc. by using NRC database. IEC campaign and capacity building programme may be taken up by the state co-ordinator for expeditiously and time bound disposal of the NRC appeals as per approved SOP/Modalities.

The NRC Special Bench of the Hon'ble Supreme Court may monitor the disposal of NRC appeals by the Foreigners Tribunal.

7. Timelines

The time schedule for filing of appeals and consideration thereof would be as follows:

1	The time of providing certified copy of the rejection order to the Claimants	15 days from the date of publication of Final NRC.
2	The time for filing of appeals by the appellants	60 days from the date of receipt of rejection order.
3	Issue of notices to the DM for production of records	Starting from 30 days of publication of Final NRC at weekly/fortnightly/monthly interval.
4	Issue of notices to the Appellants and all concerned for hearing	Starting from 60 days of publication of Final NRC.
5	Commencement of disposal hearing	Starting from 90 days of publication of Final NRC.
6	Disposal of Appeal	Within 120 days from production of records by the DM