

BEFORE THE HONOURABLE HIGH COURT OF KERALA, ERNAKULAM

W.P.(C) NO. 1185 /2020

Petitioner : Shamem M.S

Vs.

Respondents : Union of India & others

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Dated this the 14th Day of January 2020.

A.X.VARGHESE,
COUNSEL FOR THE PETITIONER

BEFORE THE HONOURABLE HIGH COURT OF KERALA, ERNAKULAM

W.P.(C) NO. /2020

Petitioner

: Shamem M.S

Vs.

Respondents

: Union of India & others

SYNOPSIS

CHRONOLOGICAL ORDER OF DATE & EVENTS

23.11.1946	On 23.11.1946, the Central Legislative Assembly of the British India enacted Foreigner Act, 1946, in order to confer certain powers on the Central Government in respect of dealing with the Foreigners in India. Section 2(a) of the Foreigners Act, 1946 defines Foreigners as follows: <i>"Foreigner" means a person who is not a citizen of India.</i>
15.08.1947	India achieved independence from the British and was partitioned into two countries, viz, India and Pakistan.
10.12.1948	The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly. India voted in favour of the declaration.
26.01.1950	With the commencement of the Indian Constitution, persons domiciled in the territory of India automatically became Indian citizens by virtue of operation of the relevant provisions of the Indian Constitution. Part II of the Constitution of India dealt with the subject of citizenship and contained Articles 5 to 11 which came into force on 26.11.1949. It is to be noted that these articles were incorporated in the constitution after due deliberation in the Constituent Assembly. The preamble of the Constitution lays down the basic philosophy and values of the Constitution which clearly spells out that the framers of the Constitution did not want India to be a theocratic state and wanted it to be modern secular republic. While enacting the provisions relating to the citizenship as contained in Articles 5 to 11, there is no mention of a religion as eligible factor to claim the citizenship of India.
0.12.1955	The Citizenship Act, 1955 was enacted.

12.12.2019

The Union of India enacted the Citizenship (Amendment) Act, 2019 on 12.12.2019, which interAlia seeks to make illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan eligible for Citizenship on the ground that they being religious minorities in their respective countries are victims of religious persecution. The said Act also makes provisions relating to Overseas Citizens of India (OCI) including a provision to allow cancellation of the OCI registration if the person has violated any law notified by the Central Government.

The unamended 1955 Act allowed a person to apply for citizenship by naturalization, as per the provisions of Section 6 r/w. Third schedule of the Citizenship Act, 1955. However, Section 3 of the impugned Act has inserted "Section 6B" in the 1955 Act, which inter alia creates an exception for Hindu, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, with regard to qualification mentioned in Clause (d) of the Third Schedule.

By such amendment the Impugned Act grants favourable treatment to a class of illegal migrants belonging to specified six religions viz. Hindus, Sikhs, Christians, Parsis, Jains and Buddhists from Bangladesh, Pakistan and Afghanistan and in a hostile manner excludes Muslim migrants from the said countries.

Further, Section 5 and 6 of the Impugned Act also make consequent amendments to Sections 18 and the Third Schedule of the 1955 Act respectively.

POINTS TO BE URGED:-

The present Writ Petition is being filed by the Petitioner herein under Article 226 in the nature of a public interest litigation to challenge the Citizenship Amendment Act, 2019.

The Petitioner is by profession an Advocate and a social worker dedicated to using the law to protect and advance the cause of civil and human rights in India. The Petitioner has in the past provided various types of legal aid to the under privileged people. The Petitioner herein challenging the Impugned Act as well as the Impugned Provisions and the Impugned Notifications, as being violative of Articles 13,14,15,21, 51(c) and 51-A of the Constitution of India.

It is submitted that the Impugned Act is manifestly arbitrary and ought to be set aside on inter alia the following grounds:

- (i) The Impugned Act makes professing of certain religions as a ground of eligibility for the status of citizenship which is against the principle of secularism and is violative of basic structure of the constitution.
- (ii) The Impugned Act and the Impugned Notifications are discriminatory are directed against Muslims on the basis of their religion and place of birth.
- (iii) The Impugned Act has classified the persons who have illegally entered into India in two classes, viz. migrants from the three specified countries and migrants from other countries like Sri Lanka, Bhutan, Myanmar, Tibet and China. It is submitted that the reasoning for this classification is religious persecution, but said classification ignores the fact that migrants from excluded countries also victims of religious persecution. Further, the classification also divides these migrants on the basis of religion, while Hindus, Sikhs, Buddhists, Jains, Parsis or Christians are included within the Impugned Act, Muslims and Jews have been excluded. The said classification is arbitrary as it has no nexus with the object sought to be achieved by the Impugned Act. The said classification has been made whimsically and capriciously, ignoring the fact that in Afghanistan,

Pakistan and Bangladesh, Muslim minority sects like Ahmadiyyas, Shias and Hazaras have also been victims of persecution. Further, no rational basis has been provided to exclude the victims of religious persecution from other neighboring countries like Tamilians from Sri Lanka and Rohingyas Muslims from Myanmar.

(iv) Further the Impugned Act provides no parameters whatsoever to confirm whether a person who has crossed the borders of India has in fact been a victim of religious persecution.

(viii) Further, if the provisions of the impugned act are operationalized and the NRC is prepared, several undocumented Indians will become stateless and therefore, it is submitted that this Hon'ble Court may be pleased to direct the Respondent Union from refraining to prepare NRC arbitrarily and to issue a writ in the nature of mandamus, or any other writ, order or direction, declaring the Citizenship (Amendment) Act, 2019 to be in violation of Article 14 of the Constitution as it is discriminatory, manifestly arbitrary, unreasonable and irrational hence striking down the same as unconstitutional. Every individual in the society has a duty to protect the values of our constitution. Hence, the present Writ Petition (C).

Dated this the 14th Day of January 2020.

A.X.VARGHESE,
COUNSEL FOR THE PETITIONER

BEFORE THE HONOURABLE HIGH COURT OF KERALA, ERNAKULAM
(Original Special Jurisdiction)

PETITIONER:

W.P.(C) NO.

/2020

Shamem M.S., Shree Nilayam, Kuzhivelippady, Edathala.P.O,
Aluva, Ernakulam- 683561.

- Versus -

RESPONDENTS:

1. Union of India Through its Secretary Ministry of Home Affairs, Government of India, North Block, New Delhi - 110001.
2. The Secretary Ministry of Law and Justice, Government of India, Shastri Bhawan, New Delhi - 110001.
3. The Secretary Ministry of External Affairs, Government of India, South Block, New Delhi - 110001.
4. State of Kerala, represented by its Chief Secretary, Secretariat, Thiruvananthapuram, 695 001.

**WRIT PETITION (C) FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

- I) The address for service on the Petitioner is that of his Counsel M/s. A.X.Varghese, Jojo.A.V., Advocates, 'Niyamavedi', XL/5344, 3rd Floor, Edassery Building, Banerji Road, Ernakulam.
- II) The address for service on the Respondents is as shown above.

STATEMENT OF FACTS:

1. The Petitioner is an Advocate practicing in the High Court of Kerala and a social worker dedicated to using the law to protect and advance the cause of civil and human rights in India. The Petitioner has in the past provided various types of legal aid to the under privileged people. This public interest litigation is the first PIL filed by the petitioner. Hitherto he has not filed any public interest litigation before this Hon'ble Court. The Petitioner herein is challenging the Impugned Act, the Citizenship Amendment Act as well as the Impugned Provisions and the Impugned Notifications, as being violative of Articles 13,14,15,21, 51(c) and 51-A of the Constitution of India. The present Writ Petition is being filed by the Petitioner, herein under Article 226 since the Petitioner is aggrieved by the

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enactment of Citizenship Amendment), Act 2019, wherein first the religion is introduced as a reference point /condition for acquisition of Indian Citizenship for illegal/undocumented migrants from Afghanistan, Bangladesh and Pakistan. Citizenship is being extended to certain class of illegal/undocumented migrants belonging to the religion of Hindus, Sikhs, Buddhists, Jains, Parsis and Christians coming from Afghanistan, Bangladesh and Pakistan. Such classification on the basis of religious identity of the individual clearly violates Article 14, 15 and 21 of the Constitution. More over the classification based on the religious identity of the individual offends the fundamental principle of "**Secularism**", which is enshrined as basic structure of the Constitution.

2. The Petitioner has no personal or political interest of any kind except the Prosperity of the nation and the integrity of the Nation's administrative and legal processes aspiring for the welfare of the humanity as a whole.

3. The present Writ Petition is being filed by the Petitioner, herein under Article 226 in the nature of a public interest litigation to challenge the constitutional validity of The Citizenship Amendment Act, 2019 (hereinafter referred to as the "Impugned Act")

4. The Petitioner herein is invoking Extraordinary Jurisdiction under Article 226 of the Constitution to challenge the provisions of the said Act being violative of fundamental rights guaranteed inter alia under Article 13, 14, 15 and 21 of the Constitution. However, before stating the grounds of challenge, it is necessary to set out relevant facts herein below, in brief, which have necessitated filing of the above Petition.

5. The Brief facts leading to the filing of the present Writ Petition are as follows:-

(i) On 23.11.1946, the Central Legislative Assembly of the British India enacted Foreigner Act, 1946, in order to confer certain powers on the Central Government in respect of dealing with the Foreigners in India. Section 2(a) of the Foreigners Act, 1946 defines Foreigners as follows:

"Foreigner" means a person who is not a citizen of India.

- (ii) On 15.08.1947, India achieved independence from the British and was partitioned into two countries, viz, India and Pakistan.
- (iii) On December 10, 1948, The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly. India voted in favour of the declaration.
- (iv) On 26.01.1950, with the commencement of the Indian Constitution, persons domiciled in the territory of India automatically became Indian citizens by virtue of operation of the relevant provisions of the Indian Constitution. Part II of the Constitution of India dealt with the subject of citizenship and contained Articles 5 to 11 which came into force on 26.11.1949. It is to be noted that these articles were incorporated in the constitution after due deliberation in the Constituent Assembly. The preamble of the Constitution lays down the basic philosophy and values of the Constitution which clearly spells out that the framers of the Constitution did not want India to be a theocratic state and wanted it to be modern secular republic. While enacting the provisions relating to the citizenship as contained in Articles 5 to 11, there is no mention of a religion as eligible factor to claim the citizenship of India.
- (v) On December 30, 1955, the Citizenship Act, 1955 was enacted.
- (vi) On 30.08.1961, Convention on the Reduction of Statelessness was adopted. Though India is not a signatory to this convention, it is relevant to note that this convention has become a part of customary international law.
- (vii) On 10.04.1979, India acceded to the International Covenant on Civil and Political Rights and ratified the same.
- (viii) On 2.09.1990, United Nations Convention on the Rights of the Child came into force. India has ratified this convention on December 11, 1992.
- (ix) On 3.12.2004, The Citizenship (Amendment) Act, 2003 came into Force

(x) On 7.09.2015, the Ministry of Home Affairs, Government of India vide the Passport (Entry into India) Amendment Rules, 2015 [Notification No. G.S.R 685(E) dated 7.9.2015 ("First Impugned Notification")] amended the Passport (Entry into India) Rules, 1950. The amendment stated that persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the December 31, 2014 either without valid documents or with valid documents, whose validity has subsequently expired, were granted exemption from the adverse penal consequences of Passport (Entry into India) Act, 1920. Simultaneously, on the same date the Foreigners (Amendment) Order, 2015 [Order No. G.S.R 686(E) dated 7.9.2015 ("Second Impugned Notification")] was issued. The said order amended the Foreigners Order, 1948, by inserting Section 3A. By virtue of this section, persons belonging to minority communities in Bangladesh and Pakistan, namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the December 31, 2014 either without valid documents or with valid documents, whose validity has subsequently expired, were granted exemption from the provisions of the Foreigners Act, 1946 and the orders made thereunder.

(xi) A Writ Petition being Writ Petition (C) No. 68 of 2016 before Hon'ble Apex Court titled as *Pranavkumar & Ors. v/s. Union of India* has been filed challenging The Passport (Entry into India) Amendment Rules, 2016 and The Foreigners (Amendment) Order, 2016 and Notice has been issued thereon on 01.03.2016.

(xii) On 18.07.2016, the Ministry of Home Affairs, Government of India issued the Passport (Entry into India) Amendment Rules, 2016 [Notification No. G.S.R 702 (E) dated 18.7.2016 ("Third Impugned Notification")] to include, "Afghanistan" in Clause (ha) of Sub-Rule (1) of Rule 4 of the Passport (Entry into India) Rules 1950.

Simultaneously, on the same date, the Ministry of Home Affairs, Government of India issued the Foreigners (Amendment) Order, 2016 [Order No. G.S.R 703(E) dated 18.7.2016 ("Fourth Impugned Notification")] to include, "Afghanistan" in Section 3A of the Foreigners Order, 1948.

(xiii) Another Writ Petition being Writ Petition (C) No. 20 of 2019 before Hon'ble Apex Court titled as *Narikatva Aain Songsudhan Birodhi Mancha (Forum Against Citizenship Act Amendment Bill) v/s. Union of India* was filed challenging inter alia the notification and order dated 23.12.2016 issued under Section 16 of the Citizenship Act of 1955 for granting of certificate of naturalization under Section 5 or for grant of certificate of naturalization under Section 6 of the Citizenship Act of 1955 in respect of any person belonging to minority community in Afghanistan, Bangladesh and Pakistan viz. Hindus, Sikhs, Buddhist, Jains, Parsi's and Christians. The Apex Court was pleased to issue notice in this petition *vide* its order dated 27.2.2019.

(xiv) The Union of India has enacted the Citizenship (Amendment) Act, 2019 on 12.12.2019, which inter Alia seeks to make illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan eligible for Citizenship on the ground that they being religious minorities in their respective countries and are victims of religious persecution.

(xv) It is submitted that Section 2 of the impugned Act amends Section 2(1)(b) of the 1955 Act to provide that Hindu, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan will not be treated as illegal migrants. In order to get this benefit, they have also been exempted from the foreigners Act, 1946 and the Passports (Entry to India) Act, 1920 by the Central Government.

(xvi) The unamended 1955 Act allowed a person to apply for citizenship by naturalization, as per the provisions of Section 6 read with Third schedule of the Citizenship Act, 1955. However, Section 3 of the impugned Act has inserted "Section 6B" in the 1955 Act, which inter alia creates an exception for Hindu, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, with regard to qualification mentioned in Clause (d) of the Third Schedule.

By virtue of Section 3 of the Impugned Act, Section 6B is inserted as follows:

Section 3. After Section 6A of the principal Act, the following Section shall be inserted, namely: -

6B. (1) The Central Government or an authority specified by it in this behalf may, subject to such conditions, restrictions and manner as may be prescribed, or an application made in this behalf, grant a certificate of registration or certificate of naturalization to a person referred to in the proviso to clause (b) of sub-section (1) of Section 2.

(2) Subject to fulfilment of the conditions specified in section 5 or the qualifications for naturalization under the provisions of the Third Schedule, a person granted the certificate of registration or certificate of naturalization under sub-section (1) shall be deemed to be a citizen of India from the date of his entry into India.

(3) On and from the date of commencement of the Citizenship (Amendment) Act, 2019, any proceeding pending against a person under this section in respect of illegal migration or Citizenship shall stand abated on conferment of citizenship to him:

Provided that such person shall not be disqualified for making application for citizenship under this section on the ground that the proceeding is pending against him and the Central Government or authority specified by it in this behalf shall not reject his application on that ground if he is otherwise found qualified for grant of citizenship under this section:

Provided further that the person who makes the application for citizenship under this section shall not be deprived of his application on the ground of making such application.

(4) Nothing in this section shall apply to the Tribalarea of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation. 1873.

By such amendment the Impugned Act grants favourable treatment to a class of illegal migrants belonging to specified six religions viz. Hindus, Sikhs, Christians, Parsis, Jains and Buddhists from Bangladesh, Pakistan and Afghanistan and in a hostile manner excludes Muslim migrants from the said countries.

(xvii) Further, Section 5 and 6 of the impugned Act also makes consequent amendments to Sections 18 and the Third Schedule of the 1955 Act respectively. A true copy of the impugned Citizenship (Amendment) Act, 2019 is annexed hereto and marked as **Exhibit- P1.**

(xviii) That the cause of action for filing the present petition last arose on December 12, 2019 when the Impugned Act was enacted. Further the Impugned Act, Section 3 of the Citizenship Act, 1955, third schedule of the Citizenship Act, 1955 and the Impugned Notifications are violative of Articles 13,14,15,21,51(c) and 51-A of the Constitution and are therefore causing injury to the public.

That the Petitioner is therefore filing the present Writ Petition under Article 226 of the Constitution of India on the following amongst other grounds which are taken without prejudice to one another: -

GROUND S

A) For that the provisions of the Impugned Act are unreasonable and are not based on rational classification having any nexus to the object for which the same has been enacted and as such is required to be declared

as unconstitutional. The Impugned Act is also manifestly arbitrary, which is evident from the following:-

- i. For that professing any particular religion as a ground of eligibility for the status of citizenship is against the basic value / philosophy and structure of the Constitution and therefore the provisions of the Impugned Act of 2019 are unconstitutional.
- ii. For that settled principles of the constitutional law provide that the parliament has no power to make any legislation which is offending the basic feature of the constitution. In **Keshavananda Bharti's case [(1973) 4 SCC 225]**, it was held by The Hon'ble Supreme Court that parliament has no power to amend / destroy / annihilate the basic feature of the constitution. Expounding on that theory, The Hon'ble Supreme Court in **[S.R. Bommai's Case (1994) 3 SCC 1]** has held that secularism is the basic feature of the constitution. Indian citizenship is a matter of status and becomes the basis for claiming fundamental freedoms and number of statutory rights. Without the status of the citizen many of the fundamental rights/freedoms are not available to a person. Therefore, to introduce the concept of profession of religion as the eligible criteria to become the citizen of the country is Unconstitutional since the Impugned Act is based on the religious criteria and is therefore unconstitutional.
- iii. For that the provisions of the Impugned Act are violative of Article 14 and 15 of the constitution of India as the same being violative of Equality before Law and Equal Protection of Law.
- iv. For that the provisions of the Impugned Act are discriminatory directed against the Muslims on the basis of their religion place of birth.

rules / regulations relating to the citizenship or the foreigners in India. To lay down such vague and uncertain provisions and leaving it to the executive to decide the status of a person is whimsical and offending Articles 14 and 15 of the Constitution of India.

- x. For that the arbitrariness of the whole exercise becomes evident in the context of the fact that India has got no national policy relating to rehabilitation of the refugees in our country. There is no data available on official record to show the extent of migration from 3 neighbouring countries viz. Bangladesh, Afghanistan and Pakistan into our country or whether it is out of religious persecution or other reasons. There is no treaty made with these 3 countries to take back the persons, who are condemned as illegal migrants. It is in public domain that none of these 3 countries has shown its willingness to take back these "illegal migrants". The net result is that all of them will be treated as stateless persons and as such will be kept in detention centres. No data is available to show as to how many detention centres will be required to settle such stateless persons in consonance with human dignity and prevalent values of human rights. To make law without taking into consideration such factors is arbitrary and is therefore violative of Articles 14 and 15.
- i) That the Impugned Act, clearly is in violation of the fundamental principles in the governance of the country and enacting such impugned provisions, the legislature has violated of its constitutional duties to observe the principles laid down in Article 51(c) of the Constitution. It is submitted that the enactment of any legislation which is in contravention of the directive principles of State policy enunciated in Part IV shows that the legislature has acted in manifestly in an arbitrary manner as it is the act of whimsicality to disregard of the duty imposed on the State to apply the principles of Part IV in the governance of the State. Therefore, the impugned provisions of the Citizenship Act are also violative of Article 21 of the Constitution

B) For that the Impugned Act is violative of Article 21 of the Constitution, this is apparent from the following:-

- i) That Article 21 of the Constitution grants fundamental rights of life and liberty to every person and provides that no person shall be deprived of life and personal liberty except according to procedure established by Law. For the reasons stated above, the provisions of the Citizenship Act as amended by the Impugned Act are violative of Article 14 and therefore not law at all.
- ii) That in catena of cases, the Hon'ble Apex Court has held that Article 21 guaranties to the persons not merely a right of mere existence but to live with dignity. The term personal liberty has also been widely defined by the Hon'ble Apex Court. The provisions of the Impugned Act have introduced the definition of illegal migrant and have sought to give protection to those migrants from three specified neighbouring countries who are supposed to be victims of religious persecution. Such presumption is not based on any data. It is pertinent to refer to the report of the Governor of Assam, Lt. General S.K. Sinha in the year 1999 which stated that the reasons for migration of the people from Bangladesh to Assam was for economic reasons and has not referred to any religious persecution. Such assumption that all Bengali speaking persons in Assam except the Muslims are the victims of religious persecutions is baseless. Secondly, the specifying six religions who are supposed to be the victims of religious persecution is also without any basis or determinative principle. It is in public domain that in Pakistan as well as Afghanistan there are sectarian differences amongst the Muslims of the country. In Pakistan it is public domain that Shias, Ahmediya and atheists are persecuted. In the case of Ahmediya they have been declared "Non-Muslims" and further there is law in Pakistan which penalizes any person who is not Muslim, but poses himself to be a Muslim. Therefore, Ahmediya in Pakistan are also minorities as they are treated as non-Muslim. Therefore, to presume that Ahmediya also belong to the Muslim majority in Pakistan is without application of mind and to exclude them on the ground of religion under the provisions of the Impugned Act is

pervasive as based on no data at all and contrary to the legal culture prevailing in Pakistan. Even in Afghanistan which is Muslim dominating country there are sectarian differences amongst its Muslim population. It is in public domain that Hazara who are Shias are persecuted in Afghanistan and to deny protection of laws to a migrant from Afghanistan who is the follower of Shiaism is discriminatory and violative under Articles 14 and 15 under the Constitution. The provisions of the Impugned Act also do not lay down any guidelines to determine the fact that the particular migrant from the three specified neighbouring countries is victim of religious persecution or he has migrated for economic or other reasons. It is in public domain that waves of migrations have taken place from East and West Pakistan at different times amounting to exodus but such exodus limited to a particular period of time. It is legitimate to assume that exodus is a result of feeling of insecurity felt by groups of people on the ground of religious persecution, but such exodus subsided and trickling of migration has taken place for variety of reasons and not necessarily due to religious persecution. To make law without having sufficient data on such vital issue is arbitrary.

iii) That in so far as Bangladesh is concerned, the exodus of the migration from East Pakistan to India has also taken place from 1931 to 1951 and thereafter there has not been any exodus of the migration. Secondly, so far as Assam is concerned, the cut off date under Assam Accord for determining the illegal migration is 25.03.1971. It is to be noted that in the period of 43 years, people who have migrated to Assam have settled in the different places in Assam and have established their roots in this country. Such purported illegal migrants have given birth to large number of children who are living in India at various places including Assam cutting off their connection from where they originally migrated for various compelling reasons. Throwing such people out of country without taking into consideration the length of period that they have stayed in this country is absolutely inhuman. Children born during this period have also developed their roots in this country and to make them homeless and put them into Detention Centre is violative of their life as guaranteed under Article 21 of the Constitution of India.

iv) That the impugned provisions of the said Act are discriminatory directed to a particular community i.e. Muslim in particular and is against the International Covenant on Civil and Political Rights and Article 7 of the Universal Declaration of Human Rights.

C) For that even the provisions of the Impugned Notifications, which are in *pari materia* with the Impugned Act are in contravention of Articles 13, 14, 15, 21, 51(C) and 51-A of the constitution and therefore should be declared unconstitutional.

D) For that the Impugned Act arbitrarily fixes the cut-off date as on 31ST December, 2014 up to which migrants from six specified religions and from three specified neighbouring countries will be granted citizenship. Any such migrants entering India after such cut-off date is not entitled to Indian Citizenship. The object of the Impugned Act appears to protect such migrants from religious persecution to which they are subjected in their respected countries. There is no rational basis to assume that after 31st December, 2014 there will be no religious persecution in those religious countries. This is an instance of manifest arbitrariness and therefore such provisions have no nexus with the object of the Impugned Act and therefore the Impugned Act should be declared unconstitutional

The Petitioners have not filed any other petition before this Hon'ble Court or any other Court within the territory of India on the subject matter of the instant Petition and for the reliefs prayed for herein and that the Petitioner has no other efficacious remedies except to approach this Hon'ble Court for the enforcement of the rights conferred by Part III of the Constitution. In the aforesaid premises and in the interests of justice, it is most respectfully prayed that this Hon'ble Court may be graciously pleased to:-

PRAYER

i) Issue a writ in the nature of mandamus, or any other writ, order or direction, declaring the Citizenship (Amendment) Act, 2019 to be in violation of Article 14 and 15 of the Constitution as it is discriminatory, manifestly arbitrary, unreasonable and irrational hence striking down the same as unconstitutional.

- ii) Issue a writ in the nature of mandamus, or any other writ, order or direction to all of the Respondents not to implement and execute the said impugned Act, declaring the Citizenship (Amendment) Act, 2019 as unconstitutional;
- iii) Pass such other/further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

INTERIM RELIEF TO BE SOUGHT:-

- a) For the reasons stated in the above writ petition and accompanying affidavit it is most respectfully prayed that this Hon'ble Court may be pleased to **GRANT** "ex-parte ad - interim Stay" restraining the Respondents No. 1, 2 and 3 which is supposed to be implemented by the Respondents No. 1, 2 and 3 is causing irreparable loss, injury, mental harassment, religious discrimination, inequality and which will cause major damage, till the final disposal of this Writ Petition.
- b) Or Grant any other relief as this court deems fit looking into the facts and circumstances for the welfare of the people at large in the interest of Justice and Equity.

Dated this the 14th Day of January 2020.

Petitioner:

A.X.VARGHESE,
COUNSEL FOR THE PETITIONER