

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2020

(Petition under Article 32 of the Constitution of India read with Order XXXVIII of the Supreme Court Rules, 2013)

IN THE MATTER OF:

1. ALL TAI AHOM STUDENT'S UNION,

2. , ASSISTANT SECRETARY
OF ALL TAI AHOM STUDENT'S UNION,

...PETITIONERS

VERSUS

1. UNION OF INDIA,
THROUGH THE SECRETARY, MINISTRY OF HOME
AFFAIRS, NORTH BLOCK, CENTRAL SECRETARIAT,
NEW DELHI-110001

2. UNION OF INDIA,
THROUGH THE SECRETARY, MINISTRY OF
EXTERNAL AFFAIRS, SOUTH BLOCK, CENTRAL
SECRETARIAT, NEW DELHI-110001

3. UNION OF INDIA
THROUGH ITS SECRETARY, MINISTRY OF LAW AND
JUSTICE SHASTRI BHAWAN, NEW DELHI-110001

4. STATE OF ASSAM,
THROUGH ITS CHIEF SECRETARY,
ASSAM SECRETARIAT, DISPUR CAPITAL COMPLEX,
G. S. ROAD, GUWAHATI- 781006

ASSAM

5. STATE OF ARUNACHAL PRADESH,
THROUGH ITS CHIEF SECRETARY,
CIVIL SECRETARIAT, ITANAGAR - 791111
6. STATE OF NAGALAND,
THROUGH ITS CHIEF SECRETARY,
CIVIL SECRETARIAT, KOHIMA 797004
7. STATE OF MIZORAM,
THROUGH ITS CHIEF SECRETARY,
NEW SECRETARIAT COMPLEX, AIZWAL – 796001
8. STATE OF MANIPUR
THROUGH ITS CHIEF SECRETARY,
SOUTH BLOCK, OLD SECRETARIAT,
IMPHAL-795001

...RESPONDENTS

**A WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA INTER ALIA
CHALLENGING THE ADAPTATION OF LAWS
(AMENDMENT) ORDER, 2019 AND SEEKING
ENFORCEMENT OF THE PETITIONERS'
RIGHTS GUARANTEED UNDER PART III OF
THE CONSTITUTION OF INDIA**

To,

The Hon'ble Chief Justice of India and His Companion
Justices of the Hon'ble Supreme Court of India.

The humble Petition of the Petitioners above named.

MOST RESPECTFULLY SHEWETH:

1. The present Petition has been preferred by the
Petitioners herein in their representative capacity for a
large number of people living in Assam who have
suffered and are still suffering the consequences of
illegal immigration of Bangladeshi citizens in Assam,
seeking enforcement of their fundamental rights as well

as constitutional rights guaranteed under Articles 14, 21, 29, 325, 326 and 355 of the Constitution of India. The present Petition inter alia challenges the Adaptation of Laws (Amendment) Order 2019 which was notified on 11.12.2019 and whereby the in the Preamble of the Bengal Eastern Frontier Regulation, 1873 the various Districts, which forms part of 90% of the present State of Assam, are substituted to the States of Arunachal Pradesh, Manipur, Mizoram and area of districts of State of Nagaland.

The Adaptation of Laws (Amendment) Order 2019 was brought into force by the Hon'ble President of India's Order under Article 372 (2) of the Constitution of India immediately one day prior to giving assent to the Citizenship Amendment Act, 2019. Section 6B (4) of the Citizenship Amendment Act, 2019 exempted the Sixth Schedule areas as well Inner Line Notified Areas under Bengal Eastern Frontier Regulation, 1873 from the application of Citizenship Amendment Act, 2019. As per Bengal Eastern Frontier Regulation, 1873 most parts of Assam could have been notified as Inner Line Area by the State Government and same could have easily sorted out the problem of the State of Assam which the State is facing due to Citizenship

Amendment Act, 2019. It was well known fact to the Central Government that the State of Assam is facing tremendous problem due to huge influx of illegal immigrants and under such a situation bringing Adaptation of Laws (Amendment) Order 2019 so as to deprive the State of Assam from the applicability of Section 6B (4) of the Citizenship Amendment Act, 2019 is in sheer violation of Articles 14, 21, 29, 325, 326 and 355 of the Constitution of India. Further the Order of the Hon'ble President of India under Article 372 (2) is itself unconstitutional and illegal as by virtue of Article 372 (3)(a) the power of the President of India under Article 372 (2) has become obsolete after 1953.

- 1A. The present petition is filed in the nature of Public Interest Litigation as the Adaptation of Laws (Amendment) Order 2019 affects the public at large

ARRAY OF PARTIES

1. The Petitioner No.1 is an unregistered Association of All Tai Ahom Student's Union and Petitioner No.2 is a citizen of India, holding the post of Assistant Secretary of the Petitioner No.1's Town Committee Association, with

All Tai Ahom Students' Union (ATASU), Assam, is an educational, socio-cultural non political Student organization. It belongs to Tai Ahom Community and the Tai Ahom people were previous ruling community of the state of Assam in North-Eastern part of India for 600 years from 1228 to 1826. It was established on 14th /15th July 1988 at Dolbagan High School of Sibsagar District, Assam. Presently the organization has been showing strong activities in 10 (Ten) Districts of Assam. In other Districts also the organization is showing activities but still the constitutional power (constitution of (ATASU) is not given to them. All Tai Ahom Students' Union (ATASU), Jorhat District Committee is one of the active Committee of All Tai Ahom Students' Union (ATASU), Central Committee having 25 No. Regional Committee with their wings (Units)

The organization has many organizational programs and fixed programs such as celebration of Siukapha Divas (Assam Divas-2nd December), Lachit Divas (24th November), Me-Dum Me-Phi (31st January) in every year. The Committee has been acting the rule to

develop the Tai Ahom Culture and Language. So many demonstrations and workshops are still observing by the committee. Beside these, the organization has been showing strong activities to the burning issues of Assam and for the indigenous people. The organization offer a helping hands to the poor and the people who are affected by flood every year. So many programs were done against corruptions and taken part in Anna Hazare Program with Tourn Rally. Against untide fund scame, the organization Jorhat leading the protest called by effigy burning etc. Presently the organization shows it's activity on the issue of CAB from the very beginning till converted to CAA. Though the organization is not filing any case against CAA but still the organization is protesting against CAA till date in the name of the organization and together with all other organization of Assam.

2. The Petitioners do not have any personal interest or any personal gain or private motive or any other oblique reason in filing this Writ Petitioner in Public Interest. The Petitioner has not been involved in any other civil or criminal or revenue litigation, which could have legal nexus with the issues involved in the present Petition.

3. Respondent No. 1 is the Union of India, through the Ministry of Home Affairs and Respondent No. 2 is the Ministry of External Affairs of the Union of India. The Union of India has enacted the Citizenship (Amendment) Act, 2019, which is currently under challenge in the present Writ Petition. Respondent No. 3 is the Ministry of Law and Justice of the Union of India. Respondent Nos. 4, 5, 6 and 7 are the State of Assam, Arunachal Pradesh, Nagaland, Mizoram and Manipur respectively. All the seven Respondents are proper and necessary parties to the present Petition and are likely to be affected by the orders sought in the present Petition.
4. The Petitioners, through the present writ petition, are invoking the civil original writ jurisdiction of this Hon'ble Court to seek issuance of a writ, order or direction of like nature against the Respondents herein inter alia to set aside and quash the Adaptation of Laws (Amendment) Order 2019, being unconstitutional and in violation of several provisions of the Constitution of India and further to seek a direction to the respondent No.4 to notify Inner Line in the State of Assam under section 2 of Bengal Eastern Frontier Regulation, 1873 so as to exempt the State of Assam from the

implementation of the Citizenship Amendment Act, 2019.

5. The Petitioners have no other equally efficacious remedy except to approach this Hon'ble Court by way of present Writ Petition. All annexures annexed to the Writ Petition are true copies of their respective originals.
6. That the Petitioners herein have never approached this Hon'ble Court or any other Court or any Government Authority seeking a relief similar to the relief sought for in the present writ petition.

BRIEF FACTS OF THE CASE

7. It was after the acquisition of Diwani of Bengal in 1765 that the East India Company came into direct contact with the medieval kingdoms of Manipur, Jaintia, Cachar and Assam. During that period the Ahoms were ruling Assam uninterruptedly for six hundred year since 13th Century. The British first took interest in these areas after the Burmese Invasion (1817-24) Assam, Manipur and Cachar. In 1824, the First Anglo-Burmese War broke out. The British attacked the Burmese garrison in Assam and by 1825, the Burmese were expelled from Assam. The Burmese were finally

forced to surrender their claim over Assam under the Treaty of Yandabo, 1826. The British thus became the masters of Brahmaputra Valley and they began to consolidate their rule in Assam. During the following decade and a half, the kingdom of Jaintia, Cachar and Assam along with their dependencies and the petty, independent tribal states of Khasi Hills were annexed. Further annexation of remaining hills was subsequently completed step by step.

8. Assam was included as a part of the Bengal Presidency. The annexation of upper Assam is attributed to the successful manufacture of tea in 1837, and the beginning of the Assam Company in 1839
9. In 1874, the Assam region was separated from the Bengal Presidency, Sylhet was added to it and its status was upgraded to a Chief Commissioner's Province. The capital was at Shillong. The new Province included the five districts of Assam proper (Kamrup, Nagaon, Darrang, Sibsagar and Lakhimpur), Goalpara, Cachar, the Hill districts (Lalung (Tiwa) Hills, Khasi-Jaintia Hills, Garo Hills, Naga Hills), and Sylhet and is named as the 'North-East Frontier' non-regulation province, also known as the Assam Chief-Commissionership

10. In the year 1905 Bengal was partitioned and East Bengal was added to the Chief Commissioner's Province of Eastern Bengal and Assam. In 1912 Assam Province was created by the partition of the Eastern Bengal and Assam Province and Shillong was made capital of it.
11. After the partition of India, Sylhet district of Assam was transferred to the then East Pakistan by a referendum. In the years that followed, Assam was truncated to several smaller states. In 1963, Nagaland came into being as a separate State. With the passing of North Eastern (Reorganization Areas) Act in 1971 by the Parliament, Meghalaya became a full-fledged state. Subsequently, Mizoram and Arunachal Pradesh also followed suit. After the creation of Meghalaya as a separate state, Shillong continued to be the joint capital of both Assam and Meghalaya. However, in 1972, the Government of Assam decided to shift the Capital to Dispur, Guwahati. At present the Districts of Kamrup, Nagaon, Darrang, Sibsagar, Lakhimpur, Goalpara and Cachar is subdivided into total 33 districts which form the part of entire State of Assam.
12. That in the year 1873 when Assam was part of Bengal the then British Government introduced Bengal

Eastern Frontier Regulation, 1873 by the Assent of Governor General. The said Regulation was brought into effect for the peace and Government of Certain districts on the Eastern Frontier of Bengal. In the Preamble of the Regulation the Districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur (Garo Hills), Khasi and Jaintia Hills, Naga Hills, Cachar are referred. Section 1 of the Regulation states that the Regulation shall extend to the Districts named in the preamble and shall come into force on 1st November, 1873. In the present case the petitioner is concerned with the Districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur and Cachar which forms the part of almost entire Assam presently in which these Regulations were made applicable by Section 1 of the Regulation.

13. That as per Section 2 of Bengal Eastern Frontier Regulation, 1873 the State Government has the power to prescribe and from time to time alter by Notification in the Official Gazette, a line to be called "The Inner Line" in each or any of the districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur (Garo Hills), Khasi and Jaintia Hills, Naga Hills, Cachar. This as such means that Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur and Cachar which forms the part of almost entire Assam presently could have been

brought under the “The Inner Line” by a Notification by the Assam State Government as per the Bengal Eastern Frontier Regulation, 1873.

14. That the second paragraph of the Section 2 further states that The State Government may, by notification in the Official Gazette, prohibit all citizens of India or any class of such citizens, or any persons residing in or passing through such districts from going beyond such line without a pass under the hand and seal of the chief executive officer of such district, or of such other officer as he may authorize to grant such pass; and the State Government may, from time to time, cancel or vary such prohibition.
15. That Section 7 of the Bengal Eastern Frontier Regulation, 1873 states that It shall not be lawful for any person, not being a native of the districts comprised in the preamble of this Regulation, to acquire any interest in land or the product of land beyond the said 'Inner Line" without the sanction of the State Government or such office as the State Government shall appoint in this behalf.

The Relevant Sections of the Bengal Eastern Frontier Regulation, 1873 is quoted hereunder for ready reference:

“Preamble. - [Whereas the Secretary of State for India in Council has by Resolution in Council, declared the provisions of Act 33 Vict., Chap. 3, section 1, to be applicable to the districts of Kamrup, Darrang, Nawgong, Sibsagar, Lakhimpur, Garo Hills, Khasi and Jaitia Hills, Naga Hills, Cachar [* * *];”

“1. Local extent. - [This Regulation shall extend to the districts named in the preamble, and shall come into force on the 1st of November, 1873.]”

“2. Power to prescribe and alter inner line. - It shall be lawful for the [State Government] of [West Bengal][* * *] to prescribe, and from time to time to alter, by notification in the [Official Gazette], a line to be called "The Inner Line" in each or any of the abovenamed districts.

The [State Government] may, by notification in the [Official Gazette], prohibit all [citizens of India or any class of such citizens], or any persons residing in or passing through such districts from going beyond such line without a pass under the hand and seal of the chief executive officer of such district, or of such other officer as he may authorize to grant such pass; and the [State Government] may, from time to time, cancel or vary such prohibition.”

“7. Acquisition of interest in land by other than Natives of districts comprised in preamble. - It shall not be lawful for any [* * * *] person, not being a native of the districts

comprised in the preamble of this Regulation, to acquire any interest in land or the product of land beyond the said 'Inner Line' without the sanction of the [State Government] or such office as the [State Government] shall appoint in this behalf.

Any interest so acquired may be dealt with as the [State Government] or its said officer shall direct.

The [State Government] may also, by notification in the [Official Gazette], extend the prohibition contained in this section to any class of persons. Natives of the said districts, and may from time to time in like manner cancel or vary such extension.”

A copy of the Bengal Eastern Frontier Regulation, 1873 is filed herewith and marked as **ANNEXURE P-1** (Pg. ____ to ____).

16. That in view of the aforesaid provisions of the Bengal Eastern Frontier Regulation, 1873 the State of Assam had the following powers:
 - a. To bring the most of the districts of Assam under “The Inner Line” area.
 - b. Once these Districts had come under the “The Inner Line” area the Citizenship Amendment Act, 2019 could not be implemented to the extent of

granting citizenship to the illegal immigrants in Assam in view of Section 6B (4) of the Citizenship Amendment Act, 2019.

- c. The State of Assam after declaring the “The Inner Line” area could have restricted a class of Citizens from entering into the “The Inner Line” areas/districts of Assam.
- d. The State of Assam after declaring the “The Inner Line” area anyone who is not native of those area/districts could not have purchased any property without the permission of the concerned authority.

The Bengal Eastern Frontier Regulation, 1873 could have been answer to tackle the problems of illegal immigrants which Assam and its Citizens are facing today. First of all none of the illegal immigrants of Assam would have got Citizenship under the Citizenship Amendment Act, 2019. Further even if those illegal immigrants would have moved to other states to claim their citizenship they could have been restricted or cross checked to enter into Assam and these class of Citizens could have been restricted to own land in the State of Assam. However instead of putting an end to the years of problems which the State

of Assam is facing due to the huge influx of illegal immigrants, the Central Government and State Government for their own political vested interests put the State into a bigger problem in most unconstitutional and illegal manner which the petitioner will highlight in the foregoing paragraphs.

17. That 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. The said Act also makes amendments to provisions related to Overseas Citizen of India (OCI) cardholders, including a provision to allow cancellation of OCI registration if the person has violated any law notified by the central government.
18. It is submitted that Section 2 of the impugned Act amends Section 2(1)(b) of the 1955 Act to provide that Hindus, 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 must have also been exempted from the Foreigners Act, 1946 and the Passport (Entry into India) Act, 1920 by the central government.

19. The unamended 1955 Act allowed a person to apply for citizenship by naturalisation, if the person meets certain qualifications. One of the qualifications is that the person must have resided in India or been in central government service for the last 12 months and at least 11 years of the preceding 14 years. However, section 3 of the impugned Act has further inserted "Section 6B" in the 1955 Act, which inter alia created an exception for Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, with regard to this qualification. For these groups of persons, the 11 years' requirement will be reduced to about five years. It further provides that on acquiring citizenship: (i) such persons shall be deemed to be citizens of India from the date of their entry into India, and (ii) all legal proceedings against them in respect of their illegal migration or citizenship will be closed. Further sections 5 and 6 of the impugned Act also make consequent amendments to Sections 18 and the Third Schedule of the 1955 Act respectively.
20. That Sub Section 4 of the Section 6 (B) (4) excluded the tribal area 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.” from the applicability of the the Citizenship Amendment Act, 2019

Subsequently by Notification dated 10.1.2020 the Citizenship (Amendment) Act, 2019 was brought into force w.e.f 10.1.2020

True copy of the Citizenship Amendment Act, 2019 issued by Ministry of Law and Justice on 12th December, 2019 and Notification dated 10.1.2020 issued by Ministry of Law and Justice is filed herewith and marked as **ANNEXURE P-2** (Pg.____ to ____) and **ANNEXURE P-3** (Pg.____ to ____)..

21. That Considering the enormity of and unabated influx of illegal immigrants from Bangladesh since partition in 1947 to India, especially to the North East and more particularly the state of Assam, the said Act, 2019 is in violation of fundamental rights of the people of Assam who shoulders the biggest burden of illegal immigrants and who will be granted citizenship rights by virtue of the impugned Act. The Act, 2019 has been passed after final list of NRC was published in August, 2019 excluding a total no. of 19,06,657 people, under supervision of this Hon’ble Court, thus rendering the entire process of NRC ineffective and futile. This Hon’ble Court has in various cases expressed grave

concern towards the issue of influx and issued directions to the government for detection and deportation of illegal immigrants from the state of Assam. In judgment dated 17.12.2014 passed in ***Assam Sanmilita Mahasangha vs. Union of India (2015) 3 SCC 1*** while referring the matter to 5 Judges Bench, this Hon'ble Court issued directions to the Union of India and the State of Assam to detect foreigners belonging to the stream of 01.01.1966 to 24.03.1971 and to detect and deport all illegal migrants who have come to the State of Assam after 25.03.1971. Hence, while constitutional validity of Section 6A of the Citizenship Act, 1955 on the ground of it violating Article 21 of the citizens of Assam is already referred to Constitution Bench of this Hon'ble Court, the Act, 2019 could not have been brought into effect.

Further, in ***Sarabananda Sonowal vs. Union of India reported in (2005) 5 SCC 665***, Article 355 was invoked by this Hon'ble Court and it was specifically observed that there can be no manner of doubt that the State of Assam is facing "external aggression and internal disturbance" on account of large scale illegal migration of Bangladeshi nationals. It therefore, becomes the duty of Union of India to take all measures

for protection of the State of Assam from such external aggression and internal disturbance as enjoined in Article 355 of the Constitution. Sections 2, 3, 5 and 6 of the impugned Act are inconsistent with Section 6A of the Citizenship Act, 1955 which was inserted into the 1955 Act, by the Citizenship (Amendment) Act 1985, as a result of the 1985 Assam Accord, whereby illegal migrants who have entered the State of Assam from Bangladesh up to 24.03.1971 were ultimately required to be granted citizenship of India, on the assurance that illegal migrants entering the state of Assam after 25.03.1971 would be deported back to Bangladesh.

22. The people of Assam are guaranteed the fundamental right under Article 25 & 29 to conserve and preserve their distinct language, script and culture. In the aforesaid background it is stated that according 2011 census the population of Assam was about 3.21 crores out of which only 1.34 crore people are indigenous Assamese. This figure includes the Assamese Muslims and indigenous people of the different tribes like Bodo, Missing, Rabha, Karbi etc. Additionally there are about 48 lac people that comprise the tea tribes. The sum total of the aforesaid two figures comes to about 1.82 crores. A major part of the remaining population of Assam essentially comprises of Bengali speaking

Hindus and Muslims and a minor part comprise of Hindi/other language speaking people who have migrated from the other States of India. By virtue of Section' 6A of the Citizenship Act'1955 about 80 lacs Bengali speaking Hindus and Muslims who entered India from Bangladesh before 25/03/1971 have already acquired deemed citizenship of India. Added to this the figure of 19 Lakhs who could not make it to NRC have already changed the demographic profile of the state irreversibly. These are all 100% Bengali speaking people be it Hindu or Muslims. In such a scenario it begets an answer as to how the distinct identity, language, culture, script of indigenous Assamese people can be preserved. Another noticeable fact is that in the NRC exercise about 20 lakhs people did not apply out of fear of being identified. The logic is simple i.e. NRC exercise, included 3.31 crores people where as the population of Assam in 2018 even by conservative estimate is about 3.50 crores.

23. There is ample, evidence available by now on record to support the fact that more than ten million Bangladeshi nationals have illegally entered India and have settled down in different parts of Assam. With the active connivance of the State machinery, these illegal immigrants-have gradually occupied the- land

belonging to indigenous population. The entire demographic pattern of the region has virtually undergone an irreversible change. These illegal immigrants have now turned into "vote banks" and are being exploited by the political parties for gaining power both at the centre as well as the State. It is, therefore, no wonder that despite being aware of the ground realities, neither the Central Government nor the State government is willing to take any effective measures for expelling such illegal immigrants from the Indian soil. The constitutional mandate of Art 355 enjoining a duty upon the Union of India to protect the State from such external aggressions, obviously stood compromised on the ground of political expediency. In the result, it was the people of the State of Assam which not only had to bear the burden of such population explosion but also face other civil and political consequences.

24. Citizenship Amendment Act' 2019 has created a situation which carries the potential threat of reducing the' citizens of India, who are residents of Assam, into a minority in their own land, thereby denuding them of their cultural and political rights. The issue of protecting the State from any external aggression by illegal foreigners is by all reasonable reckoning a national issue in as much as the same is directly linked

with the question of internal security of the country. Various Reports by the Intelligence agencies of the country have time and again emphasized on this aspect of the-matter. However, instead of tackling the issue of illegal immigration by putting in motion the process of law, such a serious issue of internal security of the country has been blatantly compromised. Such inaction on the part of the government of India is not only violative of the fundamental rights of the citizens of India in general but also is an act of hostile discrimination to the residents of the State of Assam.

25. It is an established fact that the State of Assam is under the grip of external aggression from across the border creating serious threats to the internal security of the country. Such a factual position stands amply testified on the basis of affidavits filed by the government before this Hon'ble Court in Sonowal and also the observations made therein by this Court, It is also an admitted position of fact that millions of illegal migrants from Bangladesh have migrated into the Indian territory and are continuing to reside in India, However, turning a deaf ear to such stark realities facing the nation, the Government of India has been active in extending protection to such illegal immigrants by completely overlooking the provisions of

the relevant statutes including the Immigrant (Expulsion from Assam) Act, 1950 which enactment casts a statutory obligation upon the Government to expel from the territory of India, all persons who come to Assam from outside India and whose stay in Assam is detrimental to the Interest of not only the general public of India but also the Schedule Tribes in Assam and other North Eastern States.

26. That even when the State of Assam is facing the problems at large for decades due to the huge influx of illegal immigrants, the bringing of the Citizenship Amendment Act, 2019 itself was a big blow to the fate of people of Assam but the Government played a worse card which dragged the entire Assam into this bigger problem. The Central Government is showing their false concern to people of Assam by making committee to prepare a report under Clause 6 of the Assam Accord safeguard the people of Assam. But surprisingly the same government on 11.12.2019 by a Notification in the Official Gazette brought into effect The Adaptation of Laws (Amendment) Order, 2019. The Notification was published by the Ministry of Home Affairs, Central Government and same brought into force by the Hon'ble President by exercising the Power under Article 372(2) of the Constitution of India.

A copy of the The Adaptation of Laws (Amendment) Order, 2019 dated 11.12.2019 published by the Ministry of Home Affairs is filed herewith and marked as **ANNEXURE P-4** (Pg.____ to____).

27. By the aforesaid Notification of The Adaptation of Laws (Amendment) Order, 2019 the Bengal Eastern Frontier Regulation, 1873 was modified by substituting the Districts mentioned in the Preamble to State and to most surprisingly the districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur (Garo Hills), Khasi and Jaintia Hills, Naga Hills, Cachar are substituted to the States of Arunachal Pradesh, Manipur, Mizoram and area of districts of State of Nagaland. The President of India as such by exercising the power Article 372 (2) of the Constitution of the India has removed Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur and Cachar, which forms the part of almost entire Assam presently, from the purview of the Bengal Eastern Frontier Regulation, 1873 exactly one day prior to giving assent to the Citizenship Amendment Act, 2019. The benefit of the Bengal Eastern Frontier Regulation, 1873 is already explained and the problem of Assam due to the the Citizenship Amendment Act, 2019 could have been avoided by bringing Assam into “The Inner Line” area.

However the Central Government in a most arbitrary manner removed the name of Assam from the Regulation apparently to deprive the State of Assam from availing any such benefits to get rid of the present chaotic situation. The reason for the same can be prima facie seen that the Central Government by no means is willing to redress the problems of Assam for their own political motive and the silence of State Government on the entire issue shows their complete support in such arbitrary action.

It would be most appropriate to show here what are districts which Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur (Garo Hills), Khasi and Jaintia Hills, Naga Hills, Cachar of 1873, as stated in the preamble of the Bengal Eastern Frontier Regulation, 1873, actually consists after they are sub divided and in which states these districts fall:

District of 1873 as per preamble of the Bengal Eastern Frontier Regulation, 1873	Present Districts after Division of the Old Districts of 1873	State in which these Districts Falls presently
Kamrup	Kamrup Kamrup(M) Barpeta Nalbari Baksa	Assam
Darrang	Darrang Udalgiri Sonitpur Biswanath Udalgiri	Assam
Nowgong,	Nagaon Marigaon	Assam

	Hojai	
Sibsagar,	Sibsagar Jorhat Golaghat Charaideo Majuli	Assam
Lakhimpur (Garo Hills)	Lakhimpur Dhemaji Dibrugarh Tinsukia	Assam
Khasi and Jaintia Hills,		Meghalaya
Naga Hills		Nagaland
Cachar	Cachar Hailakandi Karimganj Karbi Anglong Karbi Anglong (West)	Assam

A copy of the Map of Assam Province (undivided Assam) during British Rule and the latest map of Assam marking 33 districts and other North Eastern States are filed herewith and marked as **ANNEXURE P-5** (Pg.____ to ____) and **ANNEXURE P-6** (Pg.____ to ____) respectively.

28. That to safeguard their States and their local people the North Eastern States immediately took action under the Bengal Eastern Frontier Regulation, 1873 so as to exclude the States from the applicability of CAA, 2019. The Nagaland Government extended the Inner Line Permit areas to the Dimapur District by bringing a Notification. Dimapur was the only district of Nagaland which was not under the Inner Line Permit area due to

being commercial hub of the State. But due to CAA, 2019 it was infact utmost necessity for the State to protect their district from illegal immigrants. Similarly Manipur Government brought the entire State under Inner Line Area w.e.f. 1.1.2020 so as to protect the state from applicability of CAA,2019. Whereas the State of Assm which is the most affected state due to illegal infiltration of immigrants is deprived from exercising such power to protect state from coming under the purview of CAA,2019.

29. That apart from the fact that The Adaptation of Laws (Amendment) Order, 2019 is violative of Article 14, 21, 29, 325, 326 and 355 of the constitution of India for removing the safeguard which the State of Assam could have exercised against the applicability Citizenship Amendment Act, 2019, the exercise of the Power by the Hon'ble Presdient of India under Article 372(2) itself in unconstitutional in view Article 372(3)(a).

That as per Article 372 (1) Notwithstanding the repeal by this Constitution of the enactments referred to in Article 395 but subject to the other provisions of this Constitution, all the laws in force in the territory of India immediately before the commencement of this Constitution, all the laws in force in the territory of

India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority. Accordingly the Bengal Eastern Frontier Regulation, 1873 remained in force after the commencement of the Constitution and the same can be altered or repealed or amended by a competent Legislature or other competent authority.

Apart from providing the power a competent Legislature or other competent authority to alter or repeal or amend such Act, the president of India under Article 372 (2) is also provided with the power pass an Order to make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made. By exercising such power under Article 372(2) the impugned Adaptation of Laws (Amendment) Order, 2019 was brought into force by President's Order.

However, interestingly and infact most surprisingly Article 372 (3)(a) got overlooked while passing the impugned Adaptation of Laws (Amendment) Order,

2019 according which reads that Nothing in clause (2) of Article 372 shall be deemed to empower the President to make any adaptation or modification of any law after the expiration of three years from the commencement of this Constitution, which means the power of Article 372 (2) was limited only for 3 years and the said provision became obsolete after 1953.

As such The Adaptation of Laws (Amendment) Order, 2019 was passed under such provision of the Constitution which was not even into force since 1953 which makes the impugned act prima facie unconstitutional and illegal and accordingly is liable to be set aside at the outset.

The relevant provisions of the Article 372 is placed hereunder for ready reference:

“372. Continuance in force of existing laws and their adaptation

(1) Notwithstanding the repeal by this Constitution of the enactments referred to in Article 395 but subject to the other provisions of this Constitution, all the laws in force in the territory of India immediately before the commencement of this Constitution, all the laws in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed

or amended by a competent Legislature or other competent authority

(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law

(3) Nothing in clause (2) shall be deemed

(a) to empower the President to make any adaptation or modification of any law after the expiration of three years from the commencement of this Constitution; or”

30. That in the context of the relevant constitutional provisions and aforesaid statutory scheme, it is respectfully submitted that the impugned Adaptation of Laws (Amendment) Order, 2019 is Unconstitutional, unreasonable, arbitrary, illegal and thus, violative of Article 14, 21, 325, 326, 355 and 372 (3) (a) of the Constitution of India. The impugned Act has been passed under extraneous
31. political considerations and is in derogation of the rights of Indian citizens living in the state of Assam.

The impugned Act is not in public interest and welfare. The result of the impugned Act will be that a large number of non-Indians, who have surreptitiously entered Assam after 25.03.1971, without possession of valid passport, travel documents or other lawful authority to do so, will be able to take citizenship and reside therein.

32. Therefore, in light of the abovementioned facts, the Petitioners herein are constrained to file the present Writ Petition challenging the Impugned Act on the following amongst other grounds, which are being taken without prejudice to each other and the Petitioners seek liberty to urge further grounds at the time of hearing, if so advised.

VIOLATION OF ARTICLE 14 OF THE PEOPLE OF ASSAM GUARANTEED UNDER THE CONSTITUTION OF INDIA:

- (A) Because the explicit objective of section 6 B (4) of the Citizenship Act 1955 inserted through Section 3 of the CAA is to constitutionally protect indigenous people in North Eastern states. However the impugned Adaptation of Laws (Amendment) Order, 2019 was blatant blow on the fate of the state of Assam and its local people.

The Bengal Eastern Frontier Regulation, 1873 was modified by substituting the Districts mentioned in the Preamble to State and to most surprisingly the districts of Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur (Garo Hills), Khasi and Jaintia Hills, Naga Hills, Cachar are substituted to the States of Arunachal Pradesh, Manipur, Mizoram and area of districts of State of Nagaland. The President of India as such by exercising the power Article 372 (2) of the Constitution of the India has removed Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur and Cachar, which forms the part of almost entire Assam presently, from the purview of the Bengal Eastern Frontier Regulation, 1873 exactly one day prior to giving assent to the Citizenship Amendment Act, 2019.

The problem of Assam due to the the Citizenship Amendment Act, 2019 could have been avoided by bringing Assam into “The Inner Line” area. However the Central Government in a most arbitrary manner removed the name of Assam from the Regulation apparently to deprive the State of Assam from availing any such benefits to get rid of the present chaotic situation. The reason

for the same can be prima facie seen that the Central Government by no means is willing to redress the problems of Assam for their own political motive and the silence of State Government on the entire issue shows their complete support in such arbitrary action. While the other North Eastern States Arunachal Pradesh, Mizoram, Nagaland and Manipur are already declared as the Inner Line Areas and absolutely safe from the damage which CAA, 2019 could have caused to them the State of Assam in most illegal, arbitrary and unconstitutional manner is deprived from exercising the power to protect itself from the applicability of CAA, 2019 and such the impugned Adaptation of Laws (Amendment) Order, 2019 is absolutely violative of Article 14 of the Constitution of India.

(B) Because in Sarbananda Sonowal this Hon'ble Court further held as under: "For satisfying the test of Article 14 the geographical factor known in making a classification is not enough but there must be a nexus of the object sought to be achieved, If geographical consideration becomes

the sole criterion completely overlooking the other aspect of “rational nexus with the policy and objects of the Act” it would be open to the legislature to apply enactments made by it to any subdivision or districts within the state and leaving others at its sweet will. This is not the underlying spirit of the legal principle on which Article 14 is founded.”

In the above context it is submitted that Section 6B (4) also excludes the application of Section 6B of the Citizenship Act to areas covered under the Inner Line notified under the Bengal Eastern Frontier regulation 1873. This effectively excludes the entire states of Mizoram, Nagaland, Arunachal Pradesh and Manipur from having to grant citizenship to any persons from Bangladesh, Afghanistan or Pakistan under the CAA, to protect their indigenous cultures. Given that Section 6B(4) of the Citizenship Act admittedly seeks to protect the constitutional guarantees of indigenous persons in the North Eastern states, taking away the power to bring the entire states of Assam under Inner Line Area which admittedly face the greatest influx of immigrants, is a wholly unreasonable classification vis a vis the other

North Eastern states entirely excluded. This classification between wholly excluded states and partially excluded states bears no rational nexus to the object of protecting indigenous people sought. It is therefore a classification between states solely based on geography that has no nexus to its objects sought to be achieved and hence Section 3 of the CAA and Section 6 B (4) of the Citizenship Act contravenes Article 14 of the Constitution.

- (C) Because the Home Minister, Central Government in his debate in parliament has stated that a self declaration from Hindu,- Sikh, Buddhist, Jain, Parsis and Christian Illegal Immigrant stating that he/she entered India prior to 31st December 2014 will be acceptable to consider his citizenship. If this procedure is adopted to consider the citizenship of a illegal immigrant then any person can enter anytime into India and claim citizenship. Even any other person who does not fall in the definition of the amended Act can change his name and swear a false affidavit. This as such shows that the entire Act is absurd and unreasonable and threatens the entire State of Assam and such bringing Assam under the Inner

Line Area can be the only safeguard which can protect the people of Assam from such unreasonable situation.

**VIOLATION OF ARTICLE 372 OF THE
CONSTITUTION OF INDIA:**

- (D) Because the exercise of the Power by the Hon'ble President of India under Article 372(2) itself in unconstitutional in view Article 372(3)(a) as the Power of President of India under Article 372(2) was limited to only 3 years Article 372(3)(a) and Article 372(2) became obsolete after 1953.
- (E) That as per Article 372 (1) Notwithstanding the repeal by this Constitution of the enactments referred to in Article 395 but subject to the other provisions of this Constitution, all the laws in force in the territory of India immediately before the commencement of this Constitution, all the laws in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority. Accordingly the Bengal Eastern Frontier Regulation, 1873 remained in force after the commencement of the

Constitution and the same can be altered or repealed or amended by a competent Legislature or other competent authority.

(F) Apart from providing the power a competent Legislature or other competent authority to alter or repeal or amend such Act, the president of India under Article 372 (2) is also provided with the power pass an Order to make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made. By exercising such power under Article 372(2) the impugned Adaptation of Laws (Amendment) Order, 2019 was brought into force by President's Order.

(G) Because interestingly and infact most surprisingly Article 372 (3)(a) got overlooked while passing the impugned Adaptation of Laws (Amendment) Order, 2019 according which reads that Nothing in clause (2) of Article 372 shall be deemed to empower the President to make any adaptation or modification of any law after the

expiration of three years from the commencement of this Constitution, which means the power of Article 372 (2) was limited only for 3 years and the said provision became obsolete after 1953.

(H) Because The Adaptation of Laws (Amendment) Order, 2019 was passed under such provision of the Constitution which was not even into force since 1953 which makes the impugned Adaptation of Laws (Amendment) Order, 2019 prima facie unconstitutional and illegal and accordingly the same is liable to be set aside at the outset.

The relevant provisions of the Article 372 is placed hereunder for ready reference:

“372. Continuance in force of existing laws and their adaptation

(1) Notwithstanding the repeal by this Constitution of the enactments referred to in Article 395 but subject to the other provisions of this Constitution, all the laws in force in the territory of India immediately before the commencement of this Constitution, all the laws in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority

(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law

(3) Nothing in clause (2) shall be deemed

(a) to empower the President to make any adaptation or modification of any law after the expiration of three years from the commencement of this Constitution; or”

VIOLATION OF ARTICLE 21 OF THE PEOPLE OF ASSAM GUARANTEED UNDER THE CONSTITUTION OF INDIA:

- (I) Because the Adaptation of Laws (Amendment) Order, 2019 violates Article 21 of the people of Assam as the lives and liberty of the Citizens of Assam will be affected adversely by the massive influx of illegal immigrant as citizens of India. The State of Assam had the power under the Bengal Eastern Frontier Regulation, 1873 to exclude Assam from the applicability of the Citizenship Amendment Act, 2019, which is now removed by

the impugned Adaptation of Laws (Amendment) Order, 2019. It has been again and again observed by this Hon'ble Court that influx of illegal immigrant had massively affected the socio economic condition of the State of Assam and the same has serious implications for internal security. As a result of this grant of citizenship the indigenous people of Assam will be reduced to a minority in their home State and the Central Government in an absolutely arbitrary and illegal manner brought the impugned to Adaptation of Laws (Amendment) Order, 2019 to completely handicap the State of Assam. Their cultural survival will be in jeopardy, their political control will be a weakened and their employment opportunities will be undermined.

- (J) Because in Writ Assam Sanmilita Mahasangha & Ors. vs Union of India & Ors (2015) 3 SCC 1, this Hon'ble Court observed that illegal migration has resulted in "periodic clashes between the citizens of India and migrants', leading to loss of life and property, and thereby violating the constitutional rights of the Assamese people. It reaffirmed that illegal migration had eroded the cultural way of life of the Assamese people as they were being

swamped by the illegal migrants who had no right to be in India.

(K) Because considering the aforesaid aspect the constitutional validity of Section 6A of the Citizenship Act on the ground of it violating Article 21 of the Citizens of Assam is already referred to Constitution Bench of this Hon'ble Court. Under such a situation when the influx of illegal immigrants between 1951 to 1971 itself is pending consideration, the State of Assam ought not have been imposed with impugned Adaptation of Laws (Amendment) Order, 2019 which curtails the power of the State to secure itself from the applicability of CAA, 2019.

(L) Because the Writ Petitioners state that State of Assam has repeatedly witnessed ethnic clashes and violence leading to loss of human lives and destruction of properties. The State is unable to ensure the safety and security of its inhabitants thereby resulting in a direct infringement of Article 21 of the Constitution of India. The ethnic riots and armed movements witnessed in Assam are well documented. It is submitted that the continuous and frequent ethnic clashes and

conflicts is hugely disruptive of community development and is also in gross violation of the right to life and dignity. Ethnic clashes arises out of existential threat perceptions, fear of being reduced to minority in one's own homeland and/or giving up territories to foreigners, imposition of foreign or alien culture. Ever since the dawn- of human civilization every group and community in the world has fiercely defended their homeland from alien attack and illegal occupation. Right to protect their own homeland, territory, culture, honor and dignity from illegal alien occupation is an inviolable right that exists in every group and community. The petitioners submit that the unabated influx of illegal immigrants into their land violates this basic right of the Assamese Community and has put at jeopardy the very existence of their culture, religion and national identity.

- (M) Because the State is the custodian of the natural resources which is to be used for the benefit of the people. In a country of over billion population with scarce natural resources, depleting forest cover and agricultural land, increase in pollution, limited economic opportunities and almost half of

the population living in abject poverty, the State cannot arbitrarily increase the population of the state without an effective policy for settlement, economic and political rights of the migrant population. Any action by the State without laying down any measures for protection of the said cultural and economic rights of the Citizens of India living in the state of Assam which are guaranteed as fundamental right under 21 of the Constitution of India would be both constitutionally as well as judicially susceptible.

VIOLATION OF ARTICLE 29 (1) OF THE PEOPLE OF ASSAM GUARANTEED UNDER THE CONSTITUTION OF INDIA:

(N) Because this Hon'ble Court in Sarbananda Sonowal's case observed that "Article 29(1) confers a Fundamental Right on all sections of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own to conserve the same and any invasion of this ' Right would be ultra-vires. In this regard it is submitted that the Section 6B (4) of the CAA in protecting the Inner Line Notified area could have helped the State of Assm to protect its

culture, language and heritage had the Adaptation of Laws (Amendment) Order, 2019 was not passed. By bringing the impugned Order the Central government intentionally has endangered its local people's right to conserve its own culture language and culture. The joint parliamentary committee and numerous representatives of the North East raised concerns that once persons who are illegal immigrants claimed protection under religious persecution in the past or fear of persecution, it would be almost impossible for the state to gather evidence to prove such a case. This essentially means that in the guise of persecution and no manageable standards being laid out, Section 2 and Section 3 of the CAA will grant citizenship without any safeguards against illegal immigration thereby simply abrogating Article 29 (1) of the Constitution qua the indigenous people of Assam and as such bringing Assam under the Inner Line Area could have been the best and primary solution to safeguard the state and its people.

- (O) Because Article 29 (1) of the Constitution confers a fundamental right on all sections of citizens residing in the territory of India or any part thereof

having a distinct language, script or culture of its own to conserve the same and any invasion of this right would be ultra-vires. In this regard the petitioner respectfully submits that enforcement of the impugned Act will no doubt facilitate to a large extent the illegal migrants from Bangladesh to continue to reside in Assam. This has resulted in rapid changes in the demographic patterns in the state of Assam and it is emerging as a serious threat to the very identity of-the Assamese people. It. is submitted that indigenous communities are losing control of their land while illegal Bangladeshi immigrants have embarked on a large-scale land grab policy. This has also given rise to ethnic problems as was recently faced by the Bodos. The problem of immigration is also leading to change in demography in the state, and a serious threat to the unity, integrity and security of India. The presence of millions of illegal immigrants in Assam has adversely affected the language, script and culture of the local indigenous people. As a matter of fact there are several districts in Assam where the local indigenous people have already been reduced to a minority.

- (P) Because the right conferred upon the citizens residing in the territory of India or any part thereof to conserve their language, script or culture is made by the Constitution absolute,. Therefore any legislation that directly or indirectly affects this very valuable fundamental "right has to be necessarily stuck down as ultra-vires.
- (Q) Because the Assamese Culture has developed due to cultural assimilation of different ethno-cultural groups under various politico-economic systems in different periods of history. The term "Assamese" is often used to refer to those who are citizens of Assam. The Constitution of India has defined who shall be a citizen of India and therefore the reference point for determining the Assamese culture for recognition as a constitutional right has to be the date of commencement of the Constitution of India.
- (R) Because the Assamese language is the principal language of the state and is regarded as the lingua franca. The population of Assam largely comprised of numerous Assam Tribes with their varied customs, languages, tradition, culture, dresses, and exotic way of life. Some of the

prominent tribes of Assam are Bodo, Singpho, Santha, Dimasas, people, Karbi, Kharnti, Khamyang, Mishng, Nishi, Phake and Rabha. The tribal communities of Assam have their individual languages, cultural traits, rites, rituals, festivals, folk music, dance contributing to the richness of the socio cultural fabric of Assam. Assam, being the home to many ethnic groups and different cultures, is rich in folk music. Painting is an ancient tradition of Assam.' Silk Weaving and Crafts is part of rich Assamese Culture. The Institution of Satra is a unique feature of Vaishnavism in Assam, founded by Sankardeva (1449 to 1568), the father of Assamese culture. Institutions like sattras(monasteries) and village Namghars (prayer houses), had profound influence in the evolution of social makeup of Assam's society. The artistic oeuvres lead to engendering of new forms of literature, music (Borgeets or songs celestials), theatre (Ankianaat) and dance (Sattriya dance). There are several important traditional festivals in Assam. Bihu is the most celebrated festival in Assam. The ethnic tribes in Assam have their own festivals.

(S) Because the immigration from Bangladesh is a real threat to the language, cultural and ethnic identity of the Assam. As stated above, these apprehensions are real given the/ fact that /he demography of the state is fast changing. The culture of Bengali migrants, (whether an individual is a Hindu or Muslim) which includes their language, respect for rule of law, their general acceptance of family planning schemes, perception towards nature, traditional social and cultural institutions of Assam and the liberal values etc is different to that of the Assamese culture and will definitely reduce the identity of Assamese in their own homeland. As such it was infact most important to exclude the State of Assam from the applicability of the CAA,2019 power of which was very well available under the Bengal Eastern Frontier Regulation, 1873. The Central Government for the vested political interest in most arbitrary and illegal manner brought the Adaptation of Laws (Amendment) Order, 2019 which itself is prima facie unconstitutional and without jurisdiction and as such is liable to be set aside.

**VIOLATION OF ARTICLE 355 OF STATE OF ASSAM
GUARANTEED UNDER THE CONSTITUTION OF
INDIA:**

(T) Because the Citizenship Amendment Act 2019 will result in huge influx of immigrants to Assam not only from the porous borders with Bangladesh but also from other north eastern states in which this Act is exempted. By the exemption in the second proviso of Section 6B, the Citizenship Amendment Act, 2019 will be made applicable only to non-tribal areas of Assam in the whole of North East India. Resultantly, unequal laws of acquiring citizenship will be prevalent in North East India sometimes within a range of a few kilometres. This will consequently result in more influx of immigrants to Assam from all the neighbouring states of North East for the purposes of obtaining citizenship of India.

(U) Because in Sarabananda Sonowal's case (Supra) it was specifically observed that there can be no manner of doubt that the State of Assam is facing "external aggression and internal disturbance" on account of large scale illegal migration of Bangladeshi nationals. It, therefore, becomes the

duty of Union of India to take all measures for protection of the State of Assam from such external aggression and internal disturbance as enjoined in Article 355 of the Constitution. In such situation when there is specific observation from this Hon'ble Court that the illegal immigrants are causing "external aggression and internal disturbance" in the state of Assam, granting citizenship to illegal immigrants now would constitute further external aggression and internal disturbance and as such will violate Article 355. In this regard the petitioner submits that the impugned provisions seek to promote illegal infiltration and at the same time protect and regularize lacs of illegal migrants who have illegally entered into Assam. As noted by this Hon'ble Court, Assam is facing "external aggression and internal disturbance" on account of large- scale illegal migration of Bangladeshi nationals. Therefore any law that- attempts to confer citizenship on these aggressors instead of detecting and deporting them has to be necessarily struck down as ultra-vires the Constitution.

- (V) Because the population patterns of Assam have been changed as a result of Illegal migration of foreign nationals. The huge magnitude of the problem and the serious threat to the territorial integrity of the nation that this influx of foreign nationals possesses, is clearly revealed by the following figures of census report of Assam.
- (W) Because the United Nations Declaration on the Rights of Indigenous People adopted on 13.09.2007 and duly signed by India envisaged the need to respect and promote the inherent rights of the indigenous people which derive from their political, economic and social structures and from their' cultures, spiritual traditions, histories and philosophies, especially their rights to land, territories and resources. Hence, it is the duty of the Union of India to protect such rights of the indigenous people of Assam which have been violated by the impugned Act.
- (X) Because the ramification due to the vast and incessant flow of illegal migrants into the State of Assam has disrupted the traditional "socio fabric of Assam and the rights thereto of the indigenous people, even as per the latest Census figures of 2011, the figures for population density in the

three Districts of Assam bordering Bangladesh i.e. Dhubri, Cachar and Karimganj and the adjoining Districts of Goalpara and Hailakandi have increased in the last decade (2001-2011) as against the State and National average, this grim reality has to be acknowledged:

- (Y) Because the Central Government failed to take note of its consistent stand on the issue large scale influx of person from the then East Pakistan into India (Assam) before and following Indo-Pak War of 1971. It has been noted by this Hon'ble Court in-Sarbananda Sonowal (1) at para 56 that on 03.11.1971, Dr. Nagendra Singh, India's representative in the 6th Committee of the General Assembly on the definition of aggression, made a statement to the effect that influx of large number of persons from across the border into India is an act of aggression, Having regard to the said stand and also having regard to the constitutional scheme on acquisition of citizenship, the impugned notifications are not only inconceivable but are also plainly contrary to the constitutional scheme. The purported action on the part of the Central Government to confer

legitimacy to these hoards of illegal immigrants therefore cannot withstand legal scrutiny.

- (Z) Because in Sarbananda Sonowal's case this Hon'ble Court quoted certain observations of United States' Supreme Court made in 130 U.S. 581 (Chae Chan Ping vs. United States) which reads as under

"To preserve its independence, and give security against foreign aggression and encroachment, is the highest duty of every nation, and to attain these ends nearly all other considerations are to be subordinated. It matters not in what form such aggression and encroachment come, whether from the foreign nation acting in its national character or from vast hordes of its people crowding in upon us. The Government, possessing the powers which are to be exercised for protection and security, is clothed with authority to determine the occasion on which the powers shall be called forth; and its determination, so far as the subjects affected are concerned, are necessarily conclusive upon all its departments and officers. If, therefore, the Government of the United States, through its legislative department, considers the presence of foreigners of a different race in the country, who will not assimilate with us to be dangerous to its peace and security, their exclusion is not to be stayed because at the time there are no

actual hostilities with the nation of which the foreigners are subjects. The existence of war would render the necessity of the proceeding only more obvious and pressing. The same necessity, in a less pressing degree, may arise when war does not exist and the same authority which adjudges the necessity in one case must also determine it in the other."

(AA) Lord Denning in his book "The Due Process of Law" has written an "Introduction" to Part Five "Entrances and Exits" (page 155) and the opening paragraph thereof reads as under :

"In recent times England has been invaded not by enemies nor by friends but by those who seek England as a haven. In their own countries there are poverty, disease and no homes. In England there is social security a national health service and guaranteed housing all to be had for the asking without payment and without working for it. Once here, each seeks to bring his relatives to join him. So they multiply exceedingly." Thus, one of the most respected and learned Judges of the recent times has termed the influx of persons from erstwhile colonies of Britain into Britain as "invasion"

(BB) FOR THAT Article 355 of the Constitution demands that all States be protected by the Centre from external aggression and internal disturbance. Large scale unchecked and illegal

foreign immigration of the kind experienced by Assam that destroys local autonomy has been held by boifa-legislative bodies and the Hon'ble Supreme Court to be a cause of a serious security threatthat amounts to external aggression that causes internal disturbance. The internal threat posed by the increase in the illegal immigrants was addressed in the Report of Parliamentary Standing Committee of Home Affairs on "the Illegal Migrants Laws (Replacing and Amending) Bill| 2003" which conclusively states that the illegal migration from Bangladesh is a prime contributory factor in the rise of insurgency in the North Eastern states. This Hon'ble Court in Sarbananda Sonowal also held that: "The word "Aggression" in Article 355 of the Constitution of India is an all comprehensive word having very wide meaning having complex dimensions For example, there could be a unique bloodless aggression from a vast and incessant-.flow of millions of Human beings being forced to flee into, another state only to impair the economic and political wellbeing of the receiving state." In view of the aforesaid it is submitted that the impugned Act not only allows a dangerously large inflow of

illegal immigrants without any checks and balances to stay but also guarantees all of them a pathway to citizenship. The threat to national security is ; only compounded by the testimony of national security agencies before the joint parliamentary committee that examined the CAB, that testified to the impossible task of verifying whether illegal immigrants in the past were genuinely faced or were under the fear of religious persecution. The CAA therefore amounts to an abdication of the Centre of its duty under Article 355 to protect states from external aggression and damages the federal structure envisaged under the Constitution.

(CC) Because under such a situation the problem of Assam due to the the Citizenship Amendment Act, 2019 could have been avoided by bringing Assam into “The Inner Line” area. However the Central Government in a most arbitrary manner removed the name of Assam from the Regulation apparently to deprive the State of Assam from availing any such benefits to get rid of the present chaotic situation. The reason for the same can be prima facie seen that the Central Government by no means is willing to redress the problems of

Assam for their own political motive and the silence of State Government on the entire issue shows their complete support in such arbitrary action.

VIOLATION OF ARTICLE 325 and 326 OF THE PEOPLE OF ASSAM GUARANTEED UNDER THE CONSTITUTION OF INDIA:

(DD) Because the impugned Act violates Article 325 and 326 of the Constitution of India as the same dilutes the political rights of the original inhabitants/ bonafide citizens of the State of Assam. In this view the impugned amendment Act deserves to be declared ultra-vires the, Constitution and accordingly struck down.

VIOLATION OF THIS HON'BLE COURT'S DECISION:

(EE) Because Sections 2, 3, 5 and 6 of the impugned Act are in violation of the judgment of this Hon'ble Court in Sonowal (I) wherein this Hon'ble Court gave a clear mandate to the Central Government to remove illegal migrants from India and equated the entry and stay of illegal migrants in the state of Assam with external aggression. All foreigners, irrespective of religion or place of origin, who enter India without valid travel documents, are illegal

migrants and liable for expulsion. By establishing vague and indeterminable criteria, the effect of the impugned provisions will be to enable more illegal migrants to claim exemption from the existing statutory framework. On a similar reasoning, in the said judgment, this Hon'ble Court had struck down the Illegal Migrants (Determination by Tribunals) Act, 1983 and the Illegal Migrants (Determination by Tribunals) Rules, 1984 as ultra vires the Constitution. Similarly, in Sonowal II also, the Hon'ble Court had emphasized that all illegal immigrants should be deported.

(FF) Because Sections 2, 3, 5 and 6 of the impugned Act are in violation of the judgment of this Hon'ble Court in All Assam Sanmilitia Mahasangha v. Union of India (2015) 3 SCC 1 wherein this Hon'ble Court directed the Union Government to and to detect and deport all illegal migrants who have come to the State of Assam after 25.3.1971. The impugned Act is an attempt to overreach the following directions of this Hon'ble Court.

“41. We are at loss to understand why 67 years after independence the Eastern border is left porous...”

“42. ...we have considered the necessity of issuing appropriate directions to the Union of India and the State of Assam to ensure that effective steps are taken to prevent illegal access to the country from Bangladesh; to detect foreigners belonging to the stream of 1.1.1966 to 24.3.1971 so as to give effect to the provisions of Section 6(3) & (4) of the Citizenship Act **and to detect and deport all illegal migrants who have come to the State of Assam after 25.3.1971.** The Union will take all effective steps to complete the fencing (double coiled wire fencing) in such parts/portions of the Indo-Bangla border (including the State of Assam) where presently the fencing is yet to be completed. The vigil along the riverine boundary will be effectively maintained by continuous patrolling. Such part of the international border which has been perceived to be inhospitable on account of the difficult terrain will be patrolled and monitored at vulnerable points that could provide means of illegal entry. Motorable roads alongside the international border, wherever incomplete or have not yet been built, will be laid so as to enable effective and intensive patrolling. Flood lights, wherever required, will also be provided while maintaining the present arrangements. The completed part of the border fencing will be maintained and repaired so as to constitute an effective

barrier to cross border trafficking.”
(Emphasis supplied)

As a result of the above directions of this Hon’ble Court, it is amply clear that the Respondent No. 1 has been directed to completely stem the flow of illegal migrants from Bangladesh into India, as well as to speedily detect and remove permanently all illegal migrants who are residing in the state of Assam, having entered after 25.03.1971. In the light of such directions, the impugned Act is clearly an attempt to bypass the express directions of this Hon’ble Court.

(GG) Because the impugned Act also have the potential to derail and nullify the gains made by updating the National Registrar of Citizens in Assam. Many persons who could not otherwise establish their claims and were therefore excluded from final NRC published recently can now take shelter under the impugned Act and subsequently become legitimate Indian citizens at the cost of the indigenous people of Assam. It is thus apparent that the petitioners have been treated unfairly thus violating their fundamental right to equality. In this view of the matter the impugned

notifications deserve to be declared ultra-vires and consequently struck down.

(HH) Because the impugned Act is arbitrary, illegal, null and void.

(II) Because the impugned Act is otherwise bad in law.

33. That the present Petition is filed bonafide and in the interest of justice.

34. That the Petitioners have not filed any other similar petition before this Hon'ble Court or any other court seeking similar reliefs.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Issue a writ in the nature of mandamus and/ or any other writ/ order or direction declaring the Adaptation of Laws (Amendment) Order, 2019 as discriminatory, arbitrary, illegal and violative of Article 14, 21, 29, 325, 326, 355, 372 of the Constitution of India, consequently setting aside the impugned Order as ultra-vires the Constitution of India;

- b) Issue a writ in the nature of mandamus and/ or any other writ/ order or direction directing the Government of State of Assam to bring a notification declaring the relevant districts of Assam which fall under the Bengal Eastern Frontier Regulation, 1873 (prior to the Adaptation of Laws (Amendment) Order, 2019) as “The Inner Line” Area.
- c) Pass any writ/order or direction to safeguard and protect the State of Assam and the rights of its indigenous people in the facts and circumstance of the present case by protecting the cultural, economic, linguistic, land and political rights of the people of Assam and also to maintain the internal harmony and peace in the Sate.
- d) Issue Rule Nisi in terms of prayers (a) and (b) above; and/or
- e) Pass any other such further or other writ, order or directions as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS AS
IN DUTY BOUND SHALL EVER PRAY.

DRAWN ON: /02/2020

FILED BY:

PLACE : NEW DELHI
DATED: /02/2020

[KAUSHIK CHOUDHURY]
Advocate for the Petitioner(s)

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF:

ALL TAI AHOM STUDENT'S UNION & Anr. Petitioners

Versus

UNION OF INDIA & Ors. Respondents

AFFIDAVIT

I,

do hereby solemnly affirm and
declare on oath as under:-

1. That I am the petitioner No.2 and also the Assistant Scretary of All Tai Ahom Student's Union, Jorhat Town Committee i.e. Petitioner No.1 and conversant with the facts of the case and dully authorized and competent to swear this affidavit.
2. That the Petitioners have no personal gain, private motive or oblique reason in the litigation and neither the petitioner nor anybody in the petitioner organization would in any manner benefit from the reliefs sought in the present litigation save as a member of general public. The petition is not guided by self-gain or the institution, and no motive other than of public interest is in filing the petition.
3. That the accompanying Writ Petition [Pages 1 to ____] Statement of Dates and Facts [Pages B to____] and Interlocutory Application [s] have been drawn by my Advocate under my instructions. I have read and understood the contents of the above and I say that the same are true and correct to my knowledge and belief and I believe the same to be true.
4. That the annexures filed with the petition are true copies of their respective originals.

DEPONENT

VERIFICATION:

Verified at New Delhi on this day of February, 2020,
that the contents of paras 1 and 4 of the above affidavit are
true and correct to my knowledge. Nothing is false and nothing
material has been concealed therefrom.

DEPONENT

INDEX

Sl. No.	Particulars of Documents	Page No. of part of which it belongs		Remarks
		Part 1 (Contents of Paper Book)	Part II (Contents of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
	Court fees			
1.	O/R on Limitation	A	A	
2.	Listing Proforma	A1-A2	A1-A2	
3.	Cover Page of Paper Book		A-3	
4.	Index of Record of Proceedings		A-4	
5.	Limitation Report prepared by the Registry		A-5	
6.	Defect List		A-6	
7.	Note Sheet		NS1 to	
8.	List of Dates	B-		
9.	Writ Petition with affidavit			
10.	<u>APPENDIX-I</u> Article 372 and 372A of the Constitution of India			
11.	<u>ANNEXURE P-1</u> A copy of the Bengal Eastern Frontier Regulation, 1873			
12.	<u>ANNEXURE P-2</u>			

	True copy of the Citizenship Amendment Act, 2019 issued by Ministry of Law and Justice on 12 th December, 2019			
13.	<u>ANNEXURE P-3</u> True copy of the Notification dated 10.1.2020 issued by Ministry of Law and Justice			
14.	<u>ANNEXURE P-4</u> A copy of the The Adaptation of Laws (Amendment) Order, 2019 dated 11.12.2019 published by the Ministry of Home Affairs			
15.	<u>ANNEXURE P-5</u> A copy of the Map of Assam Province (undivided Assam) during British Rule			
16.	<u>ANNEXURE P-6</u> A copies of the latest map of Assam and other North Eastern States			
17.	Application for Interim Direction			
18.	Minutes of the Meeting dated 16.1.2020 by the petitioner No.1 taking the resolution to file the present case			

19.	Authorization letter dated 16.1.20200 by the petitioner No.1 authorizing the petitioner No.2			
20.	Pan Card of the Petitioner No.2			
21.	Aadhar Card			
22.	F/M			
23.	V/A			

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF:

All Tai Ahom Student's Union & Anr. Petitioners

Versus

Union of India & Ors. Respondents

WITH

I.A. NO. _____ OF 2020

[APPLICATION FOR INTERIM DIRECTION]

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONER::KAUSHIK CHOUDHURY

‘A-1’

PROFORMA FOR FIRST LISTING	
SECTION	
THE CASE PERTAINS TO (Please tick/check the correct box):	
☐ Central Act: (Title)	
☐ Section:	
☐ Central Rule: (Title)	
☐ Rule No(s):	N.A.
☐ State Act: (Title)	N.A.
☐ Section:	N.A.
☐ State Rule: (Title)	N.A.
☐ Rule No(s):	N.A.
☐ Impugned Interim Order: (Date)	N.A.
☐ Impugned Final Order/ Decree: (Date)	N.A.
☐ High Court: (Name)	N.A.
☐ Name of Judges:	N.A.
☐ Tribunal/Authority: (Name)	N.A.
1. Nature of matter: ☐ Civil ☐ Criminal	
2. (a) Petitioner / appellant No.1:	All Tai Ahom Student’s Union & Anr.
(b) e-mail ID:	N.A.
(c) Mobile Phone number:	N.A.
3. (a) Respondent No.1:	Union of India & Ors.
(b) e-mail ID:	N.A.
(c) Mobile phone number:	N.A.

‘A-2’

4.	(a) Main category classification	
	(b) Sub classification:	
5.	Not to be listed before:	N.A.
6.	Similar /Pending Matter:	N.A.
7.	Criminal Matters:	N.A.
(a) Whether accused/convict has surrendered: ☐ Yes ☐ No. N.A.		
(b) FIR No. N.A. Date: N.A.		
	(c) Police Station:	N.A.
	(d) Sentence Awarded:	N.A.
	(e)Sentence Undergone:	N.A.
8.	Land Acquisition Matters:	N.A.
	(a) Date of Section 4 notification:	N.A.
	(b) Date of Section 6 notification:	N.A.
	(c) Date of Section 17 notification:	N.A.
9.	Tax Matters: State the tax effect:	N.A.
10.	Special Category (first petitioner/appellant only):	N.A.
☐ Senior citizen > 65 years ☐ SC/ST ☐ Woman/child ☐ Disable ☐ Legal ☐ Aid case ☐ In custody N.A.		
11.	Vehicle Number (in case of Motor Accident Claim matters):	N.A.
12.	Decided cases with citation:	N.A.
Date:	.02.2020	AOR for petitioner(s)/appellant(s)
		[KAUSHIK CHOUDHURY]