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Clearing the Air on 'Citizenship' in Bihar Poll Roll Revision

Context

- The question of **who is eligible to vote in India is not merely an administrative concern but a foundational issue** that touches the very core of Indian democracy.
- At the heart of this issue lies **the principle that only Indian citizens are entitled to participate in the electoral process.**
- Yet, **controversy has emerged over the Election Commission of India's (ECI) move to conduct a Special Intensive Revision** of electoral rolls in Bihar.
- **Critics of the move argue against the verification of citizenship**, betraying either a lack of understanding of the Constitution or **a willingness to ignore its mandates for political expediency.**

Citizenship as a Prerequisite for Electoral Participation

- According to **Article 326** of the Indian Constitution, elections to both the House of the People and the Legislative Assemblies of **states must be based on adult suffrage.**
- However, this **right is explicitly limited to individuals who are citizens of India** and are not less than eighteen years of age.
- Further, **they must not be disqualified by any law made by the appropriate legislature.**
- Therefore, the **right to vote is inextricably linked with Indian citizenship.**
- This **constitutional principle is reiterated in The Representation of the People Act, 1950**, which provides a detailed legal framework for the preparation and maintenance of electoral rolls.

The Role of the Election Commission of India

- The **Election Commission**, under **Article 324**, is constitutionally mandated **to supervise and manage the conduct of elections** and the preparation of electoral rolls.
- This **includes revising electoral rolls** irrespective of whether elections are impending.
- The Supreme Court's ruling in **Lakshmi Charan Sen v. A.K.M. Hassan Uzzaman (1985)** reaffirms that **such revision is a continuous process** under the Commission's purview.
- Under this framework, **the ECI has both the authority and the duty to ensure that only eligible citizens are enrolled as voters.**
- This **includes verifying the authenticity of voter claims** and deleting names found to be ineligible.

- Sections **15 to 24 of the 1950 Act codify these processes**, with **Section 16** specifically disqualifying non-citizens from voter registration.
- **Section 16(2) empowers the deletion of names wrongly included** in the electoral rolls, thereby reinforcing the necessity of verifying citizenship.

Legal and Constitutional Disqualifications

- The connection between citizenship and legislative eligibility is **not limited to voting alone. One must be a voter to become a legislator.**
- Consequently, **non-citizens cannot contest elections** for Parliament or State Assemblies.
- **Articles 102 and 191 of the Constitution make this abundantly clear** by disqualifying any individual who is not an Indian citizen, or who voluntarily acquires foreign citizenship or allegiance to another country, from legislative membership.
- To suggest that **a non-citizen can vote or hold legislative office would thus directly contradict constitutional provisions** and undermine the very fabric of Indian democracy.

Criteria for Inclusion in Electoral Roll

• Overseas Citizens

- Further clarity is offered by **The Citizenship Act, 1955**, particularly through **Sections 7A and 7B**.
- While the Act allows for the registration of Overseas Citizens of India (OCIs), **Section 7B(2) clearly denies OCIs the right to vote**, thus reinforcing the constitutional restriction that only full citizens may be included in electoral rolls.

• Residency, Lawful Presence, and Electoral Rolls

- A key criterion for inclusion in the electoral roll is that **the person must be ordinarily resident in a constituency.**
- However, **as held in Dr. Yogesh Bhardwaj v. State of U.P. (1990), unlawful residence cannot be equated with ordinary residence.**
- **Staying in India in violation of immigration laws does not make one eligible to vote** or to claim any residency-based entitlement.

Aadhaar and Citizenship: No Equivalence

- Another area of confusion arises from the possession of an Aadhaar card, for, some have **mistakenly assumed that Aadhaar serves as proof of citizenship.**
- However, **The Aadhaar Act, 2016**, explicitly clarifies in **Section 9** that neither an Aadhaar number nor its authentication confers citizenship or domicile status.
- **Section 3** further states that **the card is only for residents, not necessarily citizens**, making it legally **insufficient for voter registration purposes.**

Conclusion

- The **electoral system's legitimacy depends on the integrity of its voter base**, which, by constitutional and statutory mandate, must be comprised solely of Indian citizens.
- **The ECI**, as the custodian of India's electoral machinery, is **duty-bound to ensure this through verification mechanisms and roll revisions**.
- **Any lapse in doing so would constitute a serious breach of constitutional responsibility** and could potentially allow the dilution of Indian democracy by non-citizen participation.
- The **objections raised against the ECI's revision** initiative in Bihar are therefore **not only misplaced but fundamentally contrary to the constitutional ethos**.

Clearing the Air on 'Citizenship' in Bihar Poll Roll Revision FAQs

Q1. Who is eligible to vote in Indian elections?

Ans. A person is eligible to vote in Indian elections only if they are a citizen of India and at least 18 years of age.

Q2. What legal provision disqualifies non-citizens from voting?

Ans. Section 16(1)(a) of The Representation of the People Act, 1950 disqualifies non-citizens from being registered as voters.

Q3. Can possession of an Aadhaar card prove Indian citizenship?

Ans. No, possession of an Aadhaar card does not prove Indian citizenship, as clarified by Section 9 of the Aadhaar Act, 2016.

Q4. What is the role of the Election Commission in maintaining voter rolls?

Ans. The Election Commission is responsible for ensuring that only eligible Indian citizens are included in the electoral rolls and must revise and verify the lists regularly.

Q5. Can a non-citizen become a Member of Parliament or State Legislature?

Ans. No, a non-citizen cannot become a Member of Parliament or State Legislature, as the Constitution requires all legislators to be Indian citizens under Articles 102 and 191.

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