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NO. SPMU/NRC/MR(Rej)/321/2016/3

Dated Guwahati the 12th August, 2016.

From : Prateek Hajela, IAS

Commissioner and Secretary to Govt of Assam,
Home and Political Deptt and State Coordinator, NRC, Assam.

To : The Editor,
The Sentinel, GS Road, Guwahati.

Sub : Request for publication of rejoinder to News Item captioned "ACKHSA Vehemently opposes NRC categorization" published in 'The Sentinel' on its 7th August, 2016 issue.

Ref : News Clipping of the report captioned "ACKHSA Vehemently opposes NRC categorization" published in 'The Sentinel' on 7th August, 2016.

Sir,

With reference to the subject cited above, I would like to request you to kindly ensure publication of the following rejoinder in your esteemed daily in larger interest of public service at the earliest. The publication of the rejoinder is warranted to dispel undue misgivings and also to encounter misinterpretation of legal provisions connected with the ongoing process of updating of NRC in the State indulged in by certain individuals/groups.

REJOINDER:

The apprehension on "categorization" of citizens in NRC as alleged by ACKHSA and published in 'The Sentinel' on 07-08-16 is not based on facts. It is a misgiving arising out of misunderstanding about the legal provisions of "Original Inhabitants" as appearing in The Citizenship Rules under NRC update which appears to have developed amongst some persons and organizations like ACKHSA. This matter has been clarified by the State Coordinator, NRC by holding a Press Meet on 1st of August, 2016 reiterating the fact that the process of updating of NRC is being carried out on the basis of transparent and approved modalities and in conformity with the provisions of "The Citizenship Act, 1955" and "The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003. In the process of updating of NRC, Assam, there is no decision or directive issued from RGI or SCNR for categorization of Bengalis or any community as "Non-OI" at any level. In fact in NRC there is no provision to record anyone as non-OI anywhere. Elaborate clarification on this matter has continuously been issued to public through publicity in Print and Electronic media. Further the statement that Prateek Hajela, State Coordinator, NRC, Assam, went on record to say Bengalis, Hindus or Muslims, could not be referred to as the original inhabitants is fabricated as no such statement targeting Bengali or any community has ever been made by the SCNR. NRC is updated strictly as per provisions of law and all directives issued regarding the process of NRC update have been transparent and clear, and based on legal provisions and is available on public domain.

The concept of 'Original Inhabitant' is a matter of law as mandated by the statutory provisions of Clause 3(3) of Schedule of 'The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 which clearly provides that ***"The names of persons who are originally inhabitants of the State of Assam and their children and descendants, who are Citizens of India, shall be included in the consolidated list if the citizenship of such persons is ascertained***

beyond reasonable doubt and to the satisfaction of the registering authority". As the law provides for the 'Original Inhabitants' to be included in NRC, this provision is being implemented to ensure that no original inhabitant is deprived of this legal protection and is excluded from NRC due to unavailability of document or for any other reasons. It is reiterated that 'original Inhabitant' is not a special status in NRC and it does not give out any preferential/differential treatment to any NRC applicant. It may also be noted that no genuine Indian Citizen shall be left out from updated NRC irrespective of his/her religion, caste, creed, community and language. All persons whose names appear in the updated NRC shall have all rights available to citizens and all such persons shall be treated equally without any hierarchical categorization whether they enter in updated NRC by virtue of documentary evidence or by being marked as 'Original Inhabitants'. It is also a fact that many applicants identified to be original inhabitants by concerned LRCRs have submitted documents and their names would be included based on admissible documents alone. As such, it is to be noted that the determination of original inhabitant exercise is undertaken only to ensure inclusion of all the genuine persons in NRC which is also done meticulously in adherence of law and will be finalised after adequate vetting.

The legal position with regard to 'D'-voters in the context of NRC has also been made amply clear to the public through media. The order of the Hon'ble Supreme Court of India passed on 25-10-2013 in WP(C) No.274/2009 with WP(C) No. 562/2012 with respect to the voters in D List reads **"...As far as these persons are concerned, undoubtedly they are doubtful voters, and therefore their names cannot be included unless the NRC is updated and unless the Foreigners' Tribunal declares them to be Indian citizens"**.

With regards to the statement that "what is the value of NRC if Election Commission of India has already given people the right to cast their vote?" it is responded that NRC update process is being undertaken as per directives of the Hon'ble Supreme Court of India and in adherence to the Citizenship Act and Rules. There are substantial differences in modalities and processes designed for identifying citizens by NRC and by Election Commission. In so far the legal position is concerned, Electoral Rolls that are issued up to 24th March (Midnight), 1971 are only acceptable as List A document to qualify as an admissible document under List A to enable entry into updated NRC and can't be treated to confer Indian citizenship. This argument had already been raised before the Hon'ble Supreme Court wherein it was adequately addressed in the proceedings of July, 2015. As such, this argument is absolutely untenable.

Since no one is above the law of the land, as such, ACKHSA's views as published in the report are not only misleading and erroneous but also legally untenable.

Yours faithfully,

(Prateek Hajela, IAS)

Commissioner and Secretary to Govt of Assam,
Home and Political Deptt & State Coordinator, NRC,
Assam.

Memo No: SPMU/NRC/MR (Rej)/321/2016/3 -A

Dated Guwahati the 12th August, 2016

Copy to for Information:

1. P.S to Chief Secretary, Assam for kind appraisal of Chief Secretary.

(Prateek Hajela, IAS)

Commissioner and Secretary to Govt of Assam,
Home and Political Deptt & State Coordinator, NRC,
Assam.

o/c

Sh. Santinil - 8.10.16 @

ACKHSA vehemently opposes NRC categorization

FROM A CORRESPONDENT

SILCHAR, Aug 6: All Cachar-Kamrup-Hailakandi Students' Association (ACKHSA) joined the foray of condemning and criticizing the decision of the Registrar General of India for its anti-Bengali policy as reflected in its decision to tag Bengalis of Assam as 'non-original' inhabitants (NOI) in the updated National Registrar of Citizens (NRC) for the state. Rupam Nandi, Purkayastha, advisor, ACKHSA, at a press-meet held in the meeting hall of Madhyasohar Sanskritik Samiti, said, "We severely criticize Prateek Hajela, state coordinator, NRC and the government's decision to mark NOI status to the Bengalis of the State. NRC is an instrument, a medium like that of Assam Andolan, to get rid of the Hindu Bengalis. We are utterly shocked at the decision to deny the Bengalis living in Assam for centuries OI status."

He added that the labeling of the term 'OI' to identify the original inhabitants of the state could not be accepted on its face. It should be mentioned that Prateek Hajela, state coordinator, NRC, Assam, went on record to say Bengalis, Hindus or Muslims, could not be referred to as



Rupam Nandi Purkayastha, advisor, ACKHSA, addressing the media-persons, in the meeting hall of Madhyasohar Sanskritik Samiti, here today. (Sentinel)

the original inhabitants. "I personally spoke to Hajela this afternoon. He said that the statements about OI and NOI that have been published and telecast in the media should be treated as final. This clearly reflects that nothing can save the Bengalis if we the people do not protest against it."

Rupam Nandi Purkayastha said. Rupam Nandi Purkayastha added to say, "Hajela has disclosed that a total number of 137 cases have been registered against those who have submitted fake documents to enroll their names in the NRC. But, we apprehend about the fate of the

1,36,000 D-voters of the state. It has been informed that their names will not be entered in the NRC and that the Court shall take a decision about them after scrutinizing their documents."

Condemning such anti-Bengali policy, Rupam Nandi said, "It is a conspiracy against us. We will not bear this. We are giving a month time to the authorities concerned to change its decision, failing which protests and movements would strike the valley and eripple the administration and Hajela will be responsible for this".

said Rupam Nandi. It should be noted that Hajela is on record to say that the tea tribes have been recognized by the Supreme Court as original inhabitants and that in law there is no mention about the term 'non-original inhabitant', though the concept of 'original inhabitant' is there. Dhruboyoti Gupta, advisor, ACKHSA, said, "Mere words will not serve the purpose. It is high time that we should think about a mass movement from now." Siddhartha Sengupta, advocate, spoke about the nature and definition of NRC. He said, "There is nothing called National Register of Citizens, it is called National Register of Indian Citizens. The concept has been incorporated

into the body of the law under the Citizenship Act, 1955. There are various registers maintained in the National, state, district, sub-district and local levels. Then names are included in the national register."

Siddhartha Sengupta further said that apart from the Citizenship Act, 1955, another statute that governs NRC update process in Assam is the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003. "In this regard, if the Election Commission of India provides for voter identity cards and photo identity cards and enable an individual to cast his vote, the individual becomes a citizen", he added to say. He further stated that by indulging in NRC exercise, the government is questioning its own decision.

Siddhartha Sengupta further said, "What is the value of creation of a new NRC if the Election Commission of India has already given people the right to cast their vote?" He asks has Assam become America where dual citizenship prevails. Among others present at the press-meet included a number of advisors and conveners, Nitrajan Dutta, Biswajit Dey, Manoj Das, Dilip Baidyakar, Rippon Laskar, and Suktamal Das.

Siahtmel - 7-8-16

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