

### 4.3 The Citizenship



An Act to provide for acquisition and determination of Indian citizenship. Citation [Act No 57 of 1955](#) Enacted by

Parliament of India

Date assented to

30 December 1955

Amendments

The Citizenship (Amendment) Act, 1986, the Citizenship (Amendment) Act, 1992, the Citizenship (Amendment) Act, 2003, and the Citizenship (Amendment) Act, 2005 Summary

Along with the Constitution of India, the Citizenship Act, 1955, is the exhaustive law relating to citizenship in India.

#### **Granting of Citizenship**

##### **Cover of an Indian passport:**

Citizenship at the commencement of the constitution of India

Persons domiciled in the territory of India as on 26 November 1949 automatically became Indian citizens by virtue of operation of the relevant provisions of the Indian Constitution coming into force, and most of these constitutional provisions came into force on 26 January 1950.

The Constitution of India also made provision regarding citizenship for migrants from the territories of Pakistan which had been part of India before partition.

#### **Citizenship by birth**

Any person born in India on or after 26 January 1950, but prior to the commencement of the 1986 Act on 1 July 1987, is a citizen of India by birth.

A person born in India on or after 1 July 1987 is a citizen of India if either parent was a citizen of India at the time of the birth. Those born in India on or after 3 December 2004 are considered citizens of India only if both of their parents are citizens of India or if one parent is a citizen of India and the other is not an illegal migrant at the time of their birth.

In September 2013, Bombay High Court gave a judgement that a birth certificate, passport or even an Aadhaar card alone may not be enough to prove Indian citizenship, unless the parents are Indian citizens.

### **Citizenship by descent**

Persons born outside India on or after 26 January 1950 but before 10 December 1992 are citizens of India by descent if their father was a citizen of India at the time of their birth. Persons born outside India on or after 10 December 1992 are considered citizens of India if either of their parents is a citizen of India at the time of their birth.

From 3 December 2004 onwards, persons born outside of India shall not be considered citizens of India unless their birth is registered at an Indian diplomatic mission within one year of the date of birth. In certain circumstances it is possible to register after one year with the permission of the Central Government. The application for registration of the birth of a child must be made to an Indian diplomatic mission and must be accompanied by an undertaking in writing from the parents of the child that he or she does not hold the passport of another country.

### **Citizenship by registration**

The Central Government may, on an application, register as a citizen of India under section 5 of the Citizenship Act 1955 any person (not being an illegal migrant) if s/he belongs to any of the following categories:

- a person of Indian origin who is ordinarily resident in India for seven years before making application under Section 5(1)(a) (throughout the period of twelve months immediately before making application and for six years in the aggregate in the eight years preceding the 12 months)
- a person of Indian origin who is ordinarily resident in any country or place outside undivided India
- a person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration; minor children of persons who are citizens of India;
- a person of full age and capacity whose parents are registered as citizens of India.

- a person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and has been residing in India for one year immediately before making an application for registration;
- a person of full age and capacity who has been registered as an overseas citizen of India for five years, and who has been residing in India for one year before making an application for registration.

### **Citizenship by Naturalization**

Citizenship of India by Naturalisation can be acquired by a foreigner (not illegal migrant) who is ordinarily resident in India for 12 years (throughout the period of 12 months immediately preceding the date of application and for 11 years in the aggregate in the 14 years preceding the 12 months) and other qualifications as specified in Third Schedule to the Citizen Act.

