

ITEM NO.1501

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).274/2009

IN RE: SECTION 6A OF THE CITIZENSHIP ACT 1955

WITH

W.P.(C) No. 916/2014 (PIL-W)

W.P.(C) No. 470/2018 (X)

W.P.(C) No. 1047/2018 (X)

W.P.(C) No. 68/2016 (PIL-W)

W.P.(C) No. 876/2014 (X)

W.P.(C) No. 449/2015 (X)

W.P.(C) No. 450/2015 (X)

W.P.(C) No. 562/2012 (X)

Date : 17-10-2024 These petitions were called on for  
pronouncement of judgment today.

For Petitioner(s) Mr. Vijay Hansaria, Sr. Adv.  
Mr. Shyam Divan, Sr. Adv.  
Mr. Somiran Sharma, AOR  
Mr. Udayaditya Banerjee, Adv.  
Ms. Kavya Jhavar, Adv.  
Mr. Sudipto Sircar, Adv.  
Mr. Dhruvajit Saikia, Adv.  
Mr. Suryanusen Gupta, Adv.  
Ms. Anshula Laroiya, Adv.  
Mr. Adith Deshmukh, Adv.  
Mr. Arpit Jacob Varaprasad, Adv.  
Ms. Shristi Borthakur, Adv.  
Ms. Aadya Malik, Adv.

Mr. K N Choudhury, Sr. Adv.  
Mr. Manish Goswami, Sr. Adv.  
Mr. Rongon Choudhury, Adv.  
Mr. Fayaz, Adv.

Mr. Priyank Adharyu, Adv.  
Mr. Priyonkoo Gogoi, Adv.  
Mr. Rameshwar Prasad Goyal, AOR

Mr. Sunil Murarka, Adv.  
Mr. Partha Sil, AOR  
Mr. Tavish Bhushan Prasad, Adv.  
Ms. Sayani Bhattacharya, Adv.  
Mr. Srijit Datta, Adv.

Mr. Mukul Kumar, AOR  
Mr. Anish Roy, Adv.  
Mr. Girish Agarwal, Adv.

Mr. Fuzail Ahmad Ayyubi, AOR

Mr. Somesh Chandra Jha, AOR  
Mr. Anjani Kumar Mishra, AOR

For Respondent(s)

Mr. R Venkataramani, Attorney General for India  
Mr. Tushar Mehta, Solicitor General  
Mr. K M Nataraj, A.S.G.  
Mr. Kanu Agrawal, Adv.  
Mrs. Shraddha Deshmukh, Adv.  
Ms. Rekha Pandey, Adv.  
Mrs. Ruchi Kohli, Adv.  
Mr. Ankur Talwar, Adv.  
Mr. Shuvodeep Roy, Adv.  
Mrs. Diksha Rai, Adv.  
Mrs. Ruchi Gour Narula, Adv.  
Ms. Ruchi Gaur Narula, Adv.  
Mrs. Sneha Kalita, Adv.  
Mr. Anandh Venkataramani, Adv.  
Mrs. Vijayalakshmi Venkataramani, Adv.  
Mr. Vinayak Mehrotra, Adv.  
Mr. Kartikay Aggarwal, Adv.  
Mr. Abhishek Kumar Pandey, Adv.  
Ms. Mansi Sood, Adv.  
Mr. Gaurang Bhushan, Adv.  
Mr. Chitvan Singhal, Adv.  
Mr. Mukesh Kumar Maroria, Adv.  
Ms. Sonali Jain, Adv.  
Mr. Abhishek Kumar Pandey, Adv.  
Mrs. Mrinal Elkar Mazumdar, Adv.  
Mr. Raman Yadav, Adv.  
Mr. Anil Hooda, Adv.  
Mr. Rajesh Singh Chauhan, Adv.

Mr. Arvind Kumar Sharma, AOR

Mr. Tushar Mehta, Solicitor General  
Mr. Devajit Saikia, Adv. Gen.Assam/Sr. Adv.  
Mr. Shuvodeep Roy, AOR  
Mr. Diksha Rai, Adv.  
Mr. Deepayan Dutta, Adv.  
Mr. Saurabh Tripathi, Adv.  
Mr. Kanu Agrawal, Adv.  
Mr. P Nayak, Adv.  
Mr. Madhav Sinha, Adv.  
Mr. Gaurang Bhushan, Adv.  
Mr. Kritagya Kait, Adv.  
Mr. Tanmay Mehta, Adv.  
Mr. Rohit Khare, Adv.  
Mr. Akshay Nain, Adv.

Mr. Tushar Mehta, Solicitor General  
Mr. Devajit Saikia, Sr. A.A.G.  
Ms. Diksha Rai, AOR  
Mr. Kanu Agrawal, Adv.  
Mr. P. Nayak, Adv.  
Mr. Madhav Sinhal, Adv.  
Mr. Gaurang Bhushan, Adv.  
Mr. Kritagya Kait, Adv.  
Mr. Tanmay Mehta, Adv.  
Mr. Rohit Khare, Adv.  
Mr. Akshay Nainn, Adv.  
Mr. Deepayan Dutta, Adv.  
Mr. Sorabh Tripathi, Adv.  
Mr. Arijit Dey, Adv.  
Ms. Atiga Singh, Adv.  
Ms. Apurva Sachdev, Adv.

Mr. Gaurav Dhingra, AOR

Ms. Sneha Kalita, AOR

M/S. Corporate Law Group, AOR

Mr. Pradeep Misra, AOR

Mr. B. Krishna Prasad, AOR

Mr. Chanchal Kumar Ganguli, AOR

Ms. Sushma Suri, AOR

Mr. Debojit Borkakati, AOR

Mr. Mohit D. Ram, AOR

Mr. Sahil Tagotra, AOR

Mr. Sidhant Kumar, Adv.

Ms. Manyaa Chandok, Adv.

Mr. Sujay Jain, Adv.

Mr. Rakesh Talukdar, Adv.

Ms. Astha Sharma, AOR

Mr. Srisatya Mohanty, Adv.

Ms. Anju Thomas, Adv.

Mr. Sanjeev Kaushik, Adv.

Ms. Mantika Haryani, Adv.

Mr. Shreyas Awasthi, Adv.

Mr. Himanshu Chakravarty, Adv.

Ms. Ripul Swati Kumari, Adv.

Mr. Bhanu Mishra, Adv.

Ms. Muskan Surana, Adv.

Ms. G. Indira, AOR

Ms. Malvika Trivedi, Sr. Adv.

Mr. Ankit Yadav, AOR

Ms. Prakriti Rastogi, Adv.

Ms. Sujal Gupta, Adv.

Mr. Shailendra Slaria, Adv.

Ms. Shaoni Das, Adv.

Mr. T. Mahipal, AOR

Mr. Fuzail Ahmad Ayyubi, AOR

Mr. Guntur Pramod Kumar, AOR

Ms. Prerna Singh, Adv.

Mr. Dhruv Yadav, Adv.

Mr. Ashok Kumar Singh, AOR

Mr. Sumeer Sodhi, AOR

Mr. V. K. Sidharthan, AOR

Mr. D. S. Mahra, AOR

Mr. Gopal Singh, AOR

Mr. Merusagar Samantaray, AOR

Ms. Hemantika Wahi, AOR

Ms. Deepanwita Priyanka, AOR

Mr. Anuvrat Sharma, AOR

Mr. Manan Verma, AOR  
Ms. Ayushi Hatwal, Adv.

Mr. Anando Mukherjee, AOR

Mr. Saurabh Mishra, Sr. Adv.  
Mr. Sarad Kumar Singhania, AOR  
Ms. Rashmi Singhania, Adv.  
Mr. Yash Singhania, Adv.

Mr. C. K. Sasi, AOR  
Ms. Meena K Pouiose, Adv.

Mr. Manish Kumar, AOR  
Mr. Divyansh Mishra, Adv.

Mr. Shantanu Sagar, AOR  
Mr. Prabhat Ranjan Raj, Adv.  
Mr. Anil Kumar, Adv.  
Mr. Gunjesh Ranjan, Adv.  
Mrs. Divya Mishra, Adv.  
Mr. Keshav Khandelwal, Adv.  
Mr. Manoneet Dwivedi, Adv.

Mr. Sunny Choudhary, AOR

Mr. Siddharth Dharmadhikari, Adv.  
Mr. Aaditya Aniruddha Pande, AOR  
Mr. Bharat Bagla, Adv.  
Mr. Aditya Krishna, Adv.  
Ms. Preet S. Phanse, Adv.  
Mr. Adarsh Dubey, Adv.

M/S. K J John And Co, AOR

Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.  
Ms. Anupama Ngangom, Adv.

Mr. Amit Kumar, Advocate General, Sr. Adv.  
Mr. Avijit Mani Tripathi, AOR  
Mr. T.k. Nayak, Adv.  
Ms. Rekha Bakshi, Adv.  
Ms. Marbiang Khongwir, Adv.

Mr. Sandeep Kumar Jha, AOR  
Mr. Shiv Mangal Sharma, A.A.G.

Mr. V. N. Raghupathy, AOR  
Mr. Raghavendra M. Kulkarni, Adv.  
Mr. Vishwanath P. Allannavar, Adv.  
Ms. Mythili S, Adv.

Mr. K N Balgopal, Adv. Gen Nagaland/Sr. Adv.  
Ms. K. Enatoli Sema, AOR  
Ms. Limayinla Jamir, Adv.  
Mr. Amit Kumar Singh, Adv.  
Ms. Chubalemla Chang, Adv.  
Mr. Prang Newmai, Adv.  
Ms. Nitya Nambiar, Adv.

Ms. Swati Ghildiyal, AOR  
Ms. Devyani Bhatt, Adv.

Mr. Shiv Mangal Sharma, A.A.G.  
Mr. Milind Kumar, AOR

Mr. Ajay Pal, AOR  
Ms. Ranjeeta Rohatgi, AOR  
Mr. Kuldip Singh, AOR

Mr. Sameer Abhyankar, AOR  
Mr. Rahul Kumar, Adv.  
Mr. Aakash Thakur, Adv.  
Mr. Amish Tandon, Adv.  
Mrs. Ayushi Bansal, Adv.  
Mr. Sarthak Dora, Adv.  
Mr. Aryan Srivastava, Adv.  
Mrs. Ria Dhawan, Adv.  
Ms. Ayushi Bansal, Adv.

Mr. Amit Anand Tiwari, A.A.G.  
Mr. Sabarish Subramanian, AOR  
Ms. Devyani Gupta, Adv.  
Mr. Vishnu Unnikrishnan, Adv.  
Mr. C Kranthi Kumar, Adv.  
Mr. Danish Saifi, Adv.  
Ms. Tanvi Anand, Adv.

Mr. Sravan Kumar Karanam, AOR  
Ms. Shireesh Tyagi, Adv.

Mr. Aniket Singh, Adv.

Mr. Abhishek Atrey, AOR  
Mr. Parijat Sinha, AOR  
Mr. Mansoor Ali, AOR

Ms. Malvika Trivedi, Sr. Adv.  
Mr. Ankit Yadav, AOR  
Ms. Prakriti Rastogi, Adv.  
Ms. Sujal Gupta, Adv.  
Mr. Shailendra Slaria, Adv.  
Ms. Shaoni Das, Adv.

Mr. K N Choudhury, Sr. Adv.  
Mr. Manish Goswami, Sr. Adv.  
Mr. Rongon Choudhury, Adv.  
Mr. Rameshwar Prasad Goyal, AOR

Mr. Sunny Choudhary, AOR  
Mr. Krishna Dev Jagarlamudi, AOR  
Mr. Praveen Swarup, AOR

Mr. Sandeep Kumar Jha, AOR  
Mr. Shiv Mangal Sharma, A.A.G.

Mr. Mansoor Ali, AOR  
Mr. G. N. Reddy, AOR  
Mr. Partha Sil, AOR  
Mr. Abhishek, AOR  
Mr. Fuzail Ahmad Ayyubi, AOR

Ms. Aparna Bhat, AOR  
Mr. Chander Uday Singh, Sr. Adv.  
Ms. Aparna Bhat, Sr. Adv.  
Mr. Gautam Bhatia, Adv.  
Ms. Bidya Mohanty, Adv.  
Ms. Karishma Maria, Adv.  
Mr. Mrinmoy Dutta, Adv.

Mr. Somesh Chandra Jha, AOR  
Mr. Mahfooz Ahsan Nazki, AOR  
Mr. Mohan Pandey, AOR  
Mr. Mohit Chaudhary, AOR

Mr. Satish Kumar, AOR  
Mr. Syed Ali Ahmad, Adv.  
Mr. Syed Tanweer Ahmad, Adv.

Mr. S S Bandyopadhyay, Adv.  
Mr. Syed Miran Ahmad, Adv.  
Mr. S Kundu, Adv.  
Mr. Abhaya Nath Das, Adv.  
Mr. B C Bhatt, Adv.  
Ms. Monica Goel, Adv.

Mr. Shibashish Misra, AOR

Ms. Sneha Kalita, AOR

Mr. P V Surendranath, Sr. Adv.  
Mr. Biju P Raman, AOR  
Mr. Subhash Chandran K R, Adv.  
Mr. John Thomas Arakal, Adv.  
Ms. Krishna L R, Adv.  
Mr. Sawan Kumar Shukla, Adv.  
Mrs. Lekha Sudhakar, Adv.

Mr. Sanand Ramakrishnan, AOR

Mr. Sanjay R Hegde, Sr. Adv.  
Mr. Adeel Ahmed, AOR  
Mr. Abdur Rehman Sikdar, Adv.  
Mr. Raja Chatterjee, Adv.  
Mr. Md Sharuk Ali, Adv.  
Ms. Taqdees Fatima, Adv.  
Ms. Sana Parveen, Adv.  
Mr. Arshad Ayyub, Adv.  
Mr. Ausaf Ayyub, Adv.  
Mr. Rajib Ali, Adv.  
Mr. Jubair Mohammad, Adv.  
Mr. Saalik Islam, Adv.  
Mr. Anas Tanwir, Adv.  
Mr. Piyush Sachdev, Adv.  
Ms. Anupama Gupta, Adv.  
Ms. Riya Dutta, Adv.  
Mr. Mohd Talha Hasan, Adv.  
Ms. Bintul Huda, Adv.  
Mr. Ankit Tiwari, Adv.

Ms. Rashmi Singhanian, AOR

Ms. Bharti Tyagi, AOR  
Mr. Vikash Kumar, Adv.

Mr. Rahul Pratap, AOR



**Ms. Rashmi Nandakumar, AOR**  
**Mr. Dhawal Uniyal, AOR**  
**Mr. Fuzail Ahmad Ayyubi, AOR**

**Mr. Ashwini Kumar Upadhyay, Adv.**  
**Mr. Ashwani Kumar Dubey, AOR**

**Mr. Avijit Roy, AOR**

**Mr. Vivek Sharma, AOR**  
**Dr. Vijay Kumar Sharma, Adv.**

**Mr. Harsh Parashar, AOR**  
**M/S. Corporate Law Group, AOR**

**Mr. Colin Gonsalves, Sr. Adv.**  
**Mr. Ali Qambar Zaidi, Adv.**  
**Mr. Satya Mitra, AOR**

**Mr. Pashupathi Nath Razdan, AOR**

**Mr. Anjani Kumar Mishra, AOR**  
**Mrs. Hardeep Kaur Mishra, Adv.**  
**Mr. Praveen Mishra, Adv.**  
**Dr. P.N. Mishra, Adv.**  
**Mr. Harbhajan Singh Sidhu, Adv.**

1 Hon'ble Dr Justice Dhananjaya Y Chandrachud, Chief Justice of India, pronounced the judgment on behalf of himself with the following conclusions:

“a. Articles 6 and 7 of the Constitution prescribe a cut-off date for conferring citizenship for migrants from East and West Pakistan at the “commencement of the Constitution”, that is 26 January 1950. Section 6A of the Citizenship Act confers citizenship from 1 January 1966 for those who migrated before that date. Those

who migrated between 1 January 1966 and 24 March 1971, are conferred citizenship upon the completion of ten years from the date of detection as a foreigner. Section 6A confers citizenship from a later date to those who are not covered by Articles 6 and 7 of the Constitution. Thus, Section 6A is not violative of Articles 6 and 7 of the Constitution;

- b. Section 6A satisfies the two-pronged reasonable classification test:
  - i. The legislative objective of Section 6A was to balance the humanitarian needs of migrants of Indian Origin and the impact of the migration on the economic and cultural needs of Indian States; and
  - ii. The two yardsticks employed in Section 6A, that is migration to Assam and the cut-off date of 24 March 1971 are reasonable. Though other states share a longer border with Bangladesh, the impact of migration in Assam in terms of numbers and resources is greater. Thus, the yardstick of migration to Assam is reasonable. The cut-off date of 25 March 1971 is reasonable because the Pakistani Army launched Operation

Search light to curb the Bangladeshi nationalist movement in East Pakistan on 26 March 1971. Migrants before the operation were considered migrants of the Indian partition; and

- iii. Both the above yardsticks have a rational nexus with the object of Section 6A.
  
- c. Undocumented migrants could be registered as citizens under Section 5(1)(a) of the Citizenship Act before it was amended by the Citizenship (Amendment) Act 2003 to exclude 'illegal immigrants'. Thus, the claim of the petitioner that Section 6A is unconstitutional because instead of preventing migration to Assam, it incentivizes migrants in other states to come to Assam to secure citizenship through Section 6A is erroneous.
  
- d. The constitutional validity of a legislation cannot be tested for violation of Article 355. Article 355 was included in the Constitution as a justification for the exercise of emergency powers by the Union over States;
  
- e. Section 6A does not violate Article 29(1) of the Constitution. Article 29(1) guarantees the right to take steps to protect the culture, language and script of a

section of citizens. The petitioners have been unable to prove that the ability of the Assamese people to take steps to protect their culture is violated by the provisions of Section 6A;

- f. Section 6A(3) cannot be held unconstitutional on the ground of temporal unreasonableness; and
- g. Section 6A(2) cannot be held unconstitutional for not prescribing a procedure for registration.”

2 Hon’ble Mr Justice Surya Kant pronounced the judgment on behalf of himself, Hon’ble Mr Justice M M Sundresh and Hon’ble Mr Justice Surya Kant with the following conclusions:

“387. Drawing upon the comprehensive analysis presented in the preceding sections, we thus hold that Section 6A falls within the bounds of the Constitution and does not contravene the foundational principles of fraternity, nor does it infringe upon Articles 6 and 7, Article 9, Article 14, Article 21, Article 29, Article 326, or Article 355 of the Constitution of India. Furthermore, Section 6A does not clash with the IEAA or established principles of international law. Hence, the constitutional validity of Section 6A, as contested before us, is resolved accordingly.

388. Nevertheless, it is imperative to acknowledge and

address the valid concerns raised by the Petitioners regarding the persistent immigration in the State of Assam post 25.03.1971. Although Section 6A conferred citizenship rights exclusively to immigrants arriving before this cut-off date, there seems to still be an ongoing influx of migrants through various border States of India. Due to porous borders and incomplete fencing, this unceasing migration imposes a significant challenge.

389. On account of these concerns, we passed an order on 07.12.2023 and directed the Respondent Union of India to provide data, *inter alia*, the estimated inflow of illegal migrants into India after 25.03.1971, the number of cases presently pending before the Foreigner Tribunals for such immigrants and the extent to which border fencing has been carried out.

390. Regarding the inquiry into the estimated influx of illegal migrants post 25.03.1971, the Union of India was unable to provide precise figures due to the clandestine nature of such inflows. This underscores the necessity for more robust policy measures to curb illicit movements and enhance border regulation. Additionally, it was disclosed that approximately 97,714 cases are pending before the Foreigner Tribunals, and nearly 850 kilometres of border remain unfenced or inadequately monitored.

391. We hold that while the statutory scheme of Section 6A is constitutionally valid, there is inadequate enforcement of the same—leading to the possibility of widespread injustice. Further, the intention of Section 6A, i.e., to restrict illegal immigration post-1971 has also not been given proper effect. Accordingly, we deem it fit to issue following directions:

(a) In view of the conclusion drawn in paragraph 387, it is held that Section 6A of the Citizenship Act, 1955 falls within the bounds of the Constitution and is a valid piece of legislation;

(b) As a necessary corollary thereto, (i) immigrants who entered the State of Assam prior to 1966 are deemed citizens; (ii) immigrants who entered between the cut off dates of 01.01.1966 and 25.03.1971 can seek citizenship subject to the eligibility conditions prescribed in Section 6A (3); and (iii) immigrants who entered the State of Assam on or after 25.03.1971 are not entitled to the protection conferred *vide* Section 6A and consequently, they are declared to be illegal immigrants. Accordingly, Section 6A has become redundant *qua* those immigrants who have entered the State of Assam on or after 25.03.1971;

(c) The directions issued in *Sarbananda Sonowal (supra)* are required to be given effect to for the purpose of deporting the illegal immigrants falling in the category of direction (b) (iii) above;

(d) The provisions of the Immigrants (Expulsion from Assam) Act, 1950 shall also be read into Section 6A and shall be effectively employed for the purpose of identification of illegal immigrants;

(e) The statutory machinery and Tribunals tasked with the identification and detection of illegal immigrants or foreigners in Assam are inadequate and not proportionate to the requirement of giving time-bound effect to the legislative object of Section 6A read with the Immigrants (Expulsion from Assam) Act, 1950, the Foreigners Act, 1946, the Foreigners (Tribunals) Order, 1964, the Passport (Entry into India) Act, 1920 and the Passport Act, 1967; and

(f) The implementation of immigration and citizenship legislations cannot be left to the mere wish and discretion of the authorities, necessitating constant monitoring by this Court.

392 For this purpose, let this matter be placed before Hon'ble the Chief Justice of India for constituting a bench to monitor the implementation of the directions issued hereinabove."

3 Hon'ble Mr Justice J B Pardiwala pronounced a separate judgment with the following conclusions:

"a. Immigrants who migrated before 01.01.1966 and were conferred deemed citizenship on the date of commencement of Section 6A(2), subject to fulfilment of all the conditions mentioned therein, shall remain unaffected.

b. Immigrants who migrated between 01.01.1966 and 24.03.1971 (both inclusive) and have been granted citizenship after following the due procedure

prescribed under Section 6A(3) shall remain unaffected.

- c. Immigrants who migrated between 01.01.1966 and 24.03.1971 (both inclusive) and who have been detected as foreigners and have registered themselves with the registering authority as per the prescribed rules, shall be deemed to be citizens of India for all purposes from the date of expiry of a period of ten years from the date on which they were detected as foreigners.
- d. Immigrants who migrated between 01.01.1966 and 24.03.1971 (both inclusive) and who have been detected as foreigners but have not registered themselves with the registering authority within the prescribed time limit as per the Citizenship Rules, 2009 will no longer be eligible for the benefit of citizenship.
- e. Immigrants who migrated between 01.01.1966 and 24.03.1971 (both inclusive) and whose applications are pending for adjudication before the Foreigners Tribunal, or who have preferred any appeal against any order of such tribunal which is pending before any court will continue to be governed by Section 6A(3) as



it stood immediately prior to the pronouncement of this judgment, till their appeals are disposed of.

- f. From the date of pronouncement of this judgment, all immigrants in the State of Assam shall be dealt with in accordance with the applicable laws and no benefit under Section 6A shall be available to any such immigrant. To be precise, if someone is apprehended as an illegal immigrant after the pronouncement of this judgment, Section 6A of the Citizenship Act will have no application.”

- 4 In terms of the majority opinion, the writ petitions are disposed of.
- 5 Let this matter be placed before Hon’ble the Chief Justice of India for constituting a Bench to monitor the implementation of the directions issued in the judgments.
- 6 Pending application, if any, stands disposed of.

**(SANJAY KUMAR-I)**  
**ADDITIONAL REGISTRAR**

**(Signed order is placed on the file)**

**(SAROJ KUMARI GAUR)**  
**ASSISTANT REGISTRAR**