

Supreme Court by 4:1 majority upholds constitutional validity of Section 6A of Citizenship Act

The contentious provision recognises the Assam Accord. In his dissent, Justice J.B. Pardiwala deemed the provision unconstitutional with prospective effect

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THE HINDU BUREAU



A general view of Supreme Court | Photo Credit: The Hindu

In a 4:1 majority verdict, a Constitution Bench of the Supreme Court on Thursday (October 17, 2024) upheld the constitutionality of Section 6A of the Citizenship Act, 1955 that confers citizenship to immigrants who entered Assam between January 1, 1966, and March 25, 1971.

A five-judge Bench headed by Chief Justice of India (CJI) D.Y. Chandrachud delivered the verdict. Justice Surya Kant wrote the lead majority opinion, while the Chief Justice provided a concurring judgment. In contrast, Justice J.B. Pardiwala, in his dissent, declared the contentious provision unconstitutional with a prospective effect.

Watch: SC upholds constitutional validity of Section 6A of Citizenship Act, 1955 | Explained

The Chief Justice opined that the mere presence of diverse ethnic groups within a state does not, in itself, constitute a violation of Article 29(1) of the Constitution (protection of interests of minorities). Concurring, Justice Kant asserted that Section 6A embodies the “spirit of fraternity”.

However, Justice Pardiwala reasoned that while **the statutory provision may have been constitutionally valid at the time of its enactment, it has become “unconstitutional” with the efflux of time.**

What does Section 6A stipulate?

Section 6A is a special provision inserted into the 1955 Act in furtherance of a Memorandum of Settlement called the “Assam Accord” signed on August 15, 1985, by the then Rajiv Gandhi government with the representatives of the Assam Movement following the Indo-Pakistan War in 1971.

Under Section 6A, foreigners who had entered Assam before January 1, 1966, and been “ordinarily resident” in the State, would have all the rights and obligations of Indian citizens. Those who had entered the State between January 1, 1966 and March 25, 1971, would have the same rights and obligations except that they would not be able to vote for 10 years.

The verdict is likely to have a significant bearing on **Assam's contentious NRC exercise.**

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Key Updates

Section 6A may have been valid at the time of its inception, but has become unconstitutional with the passage of time: Justice Pardiwala

Attack on Article 6A misplaced; large influx of immigrants due to a lack of implementation of laws: Justice Kant

Mere presence of different ethnic groups in a State does imply an infringement of Article 29(1) of the Constitution: CJI

Section 6A balances the humanitarian need of migration with the economic effects of migration: CJI

SC in a majority verdict upholds the constitutional validity of Section 6A of the Citizenship Act

What is the case all about?

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Section 6A of Citizenship Act: Constitution Bench, in majority judgment, upholds validity

The Constitution Bench of the Supreme Court, in a 4:1 majority judgment, on Thursday (October 17, 2024) upheld the validity of **Section 6A of the Citizenship Act**. However, in his dissent, Justice J.B. Pardiwala held that Section 6A is unconstitutional with prospective effect. The Act is related to the grant of Indian citizenship to illegal immigrants in Assam.

A five-judge Constitution Bench, headed by Chief Justice D.Y. Chandrachud, said the Assam Accord was a political solution to the problem of illegal migration.

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