

অসম বিধান সভা
তৰাবিহীন প্ৰশ্ন নং - ২৫৩
উত্তৰ দানৰ তাৰিখ :- ১৩/০৭/২০২৬

বিষয়ঃ ডি ভোটাৰৰ সমস্যা

মোঃ নুৰুল ইছলাম, বিধায়কঃ

মাননীয় গৃহ ও ৰাজনৈতিক বিভাগৰ মন্ত্ৰী মহোদয়ে অনুগ্ৰহ কৰি জনাবনেঃ

- (ক) অসমৰ ভোটাৰ তালিকাত সম্প্ৰতি কিমানজন লোকৰ বিপৰীতে 'ডি' চিহ্ন লগোৱা হৈছে ? কোনটো বিধানসভা সমষ্টিত কিমানজন ডি ভোটাৰ আছে ? সম্পূৰ্ণ তালিকা দাখিল কৰিব।
- (খ) কি কি প্ৰক্ৰিয়াৰ মাজেৰে ব্যক্তি এজনক কোনটো প্ৰতিষ্ঠানৰ অনুমোদনৰ ভিত্তিত ডি ভোটাৰ হিচাপে চিহ্নিত কৰা হৈছে ? ডি ভোটাৰ চিহ্নিত কৰা প্ৰক্ৰিয়া সংক্ৰান্তীয় সকলো আদেশ, নিৰ্দেশ আৰু অনুমোদনৰ প্ৰতিলিপি সদনত দাখিল কৰিব।
- (গ) ভাৰতীয় নাগৰিকত্বৰ সকলো তথ্য প্ৰমাণ থকাৰ পিছতো ডি ভোটাৰ হিচাপে চিহ্নিত কৰাৰ বিষয়ে চৰকাৰ অৱগত নে ? যদি নহয়, অসমৰ কিমানজন ডি ভোটাৰক বিদেশী ন্যায়াধীকৰণ তথা উচ্চ ন্যায়ালয় আৰু উচ্চতম ন্যায়ালয়ে বিদেশী হিচাপে ঘোষণা কৰিছে আৰু কিমানজন ডি ভোটাৰক ভাৰতীয় নাগৰিক হিচাপে ঘোষণা কৰিছে ? (বিস্তৃত তথ্যসহ দিব)।

উত্তৰ :-

মাননীয় গৃহ ও ৰাজনৈতিক বিভাগৰ মন্ত্ৰী মহোদয় ড° হিমন্ত বিশ্ব শৰ্মা দেৱে উত্তৰ দিবঃ

- (ক) নিৰ্বাচন বিভাগৰ পৰা পোৱা তথ্য অনুসৰি অসমৰ ভোটাৰ তালিকাত সম্প্ৰতি ৯১,৩৮৫ লোকৰ বিপৰীতে 'ডি' চিহ্ন লগোৱা হৈছে। সমষ্টি ভিত্তিক 'ডি' ভোটাৰৰ সম্পূৰ্ণ তালিকা "Annexure-A" হিচাবে সংলগ্ন কৰা হৈছে।
- (খ) নিৰ্বাচন বিভাগৰ পৰা পোৱা তথ্য মতে ভাৰতীয় নিৰ্বাচন আয়োগৰ (ই. চি. আই.) ৰ নিৰ্দেশনা অনুসৰি 04/02/1997 তাৰিখৰ চিঠি নম্বৰ 23/AS/96/36-ৰ ভিত্তিত অসমত ভোটাৰ তালিকাৰ এক বিস্তৃত সংশোধন কৰা হৈছিল। আয়োগে 17/07/1997 তাৰিখৰ পৰবৰ্তী নিৰ্দেশনা নং 23/AS/96/1373-1374 and 2278 ত উল্লেখ কৰিছিল যে যদি কোনো ব্যক্তিৰ ভাৰতৰ নাগৰিক হোৱাৰ দাবী সন্দৰ্ভত নিৰ্বাচনী পঞ্জীয়ন বিষয়া গৰাকী যথাযথ প্ৰমাণীকৰণ আৰু তদন্তৰ পিছত সন্তুষ্ট নহয় আৰু যুক্তিসংগত সন্দেহ থাকে, তেওঁ ততালিকে এনে ব্যক্তিৰ দাবী নাকচ কৰিব নালাগে, কিন্তু এনে সন্দেহজনক ব্যক্তিৰ গোচৰটো প্ৰাসংগিক আইনৰ অধীনত নিৰ্ধাৰিত উপযুক্ত কৰ্তৃপক্ষৰ জৰিয়তে উপযুক্ত ন্যায়াধীকৰণলৈ প্ৰেৰণ কৰিব লাগে, যাতে এনে ব্যক্তি ভাৰতৰ নাগৰিক হয় নে নহয় সেই প্ৰশ্নটো নিৰ্ণয় কৰিব পাৰি। ইয়াৰ উপৰিও, ই.চি.আই. ৰ 12/11/1997 তাৰিখৰ চিঠি নম্বৰ 23/AS/96/36-Vol. III ৰ দ্বাৰা নিৰ্দেশনা দিয়া হৈছিল যে এনে সকলো ব্যক্তিৰ নাম চূড়ান্ত ভোটাৰ তালিকাত অস্থায়ীভাবে অন্তৰ্ভুক্ত কৰিব পাৰি যাৰ গোচৰসমূহ উপযুক্ত ন্যায়াধীকৰণলৈ প্ৰেৰণ কৰা হৈছে, আৰু তেওঁলোকৰ নাগৰিকত্বৰ স্থিতি সন্দেহজনক/ বিতৰ্কিত বুলি সূচাবলৈ ভোটাৰ তালিকাত এনে প্ৰতিটো নামৰ বিপৰীতে 'D' আখৰটো উল্লেখ কৰিব লাগে। এই সন্দৰ্ভত উল্লেখিত ১৯৯৭ আৰু ২০০৪ চনত অসমত বিস্তৃত সংশোধনসমূহ সম্পন্ন কৰাৰ বাবে জাৰি কৰা নিৰ্দেশনাসমূহ উল্লেখনীয়। লগতে, ২০০৯ চনৰ WP(C) নম্বৰ ১৩৩৪ ত মামেজা খাতুন বনাম ভাৰত চৰকাৰ আৰু অন্যান্যৰ ওপৰত গুৱাহাটী উচ্চ ন্যায়ালয়ৰ নিৰ্দেশনাত উল্লেখ কৰা হৈছে যে- যিসকলৰ নাম ভোটাৰ তালিকাত অন্তৰ্ভুক্ত কৰা হৈছে কিন্তু তেওঁলোকৰ নাগৰিকত্ব সন্দেহযুক্ত / বিতৰ্কিত আৰু যাৰ গোচৰসমূহ বিভিন্ন বিদেশী ন্যায়াধীকৰণত বিচাৰাধীন হৈ আছে তেওঁলোককো 'D' ভোটাৰ হিচাবে অন্তৰ্ভুক্ত কৰিব লাগিব।

ওপৰত উল্লেখ কৰা নিৰ্দেশনা আৰু আদেশসমূহৰ প্ৰতিলিপি ইয়াৰ সৈতে "Annexure-B" হিচাপে সংলগ্ন কৰা হৈছে।

- (গ) অসমৰ ৫৬,৭২৮ জন ডি ভোটাৰক বিদেশী ন্যায়াধীকৰণে বিদেশী হিচাবে ঘোষণা কৰিছে। পৰৱৰ্তী পৰ্য্যায়ত যিসকল লোকে উচ্চ ন্যায়ালয়ত আবেদন কৰিছে, তাৰ ভিতৰত উচ্চ ন্যায়ালয়ে ৮৩১ জনক বিদেশী বুলি ৰায় দিছে। ইয়াৰ তথ্য "Annexure-C" হিচাবে সংলগ্ন কৰা হৈছে।

ইয়াৰোপৰি, ৬৫১৭১ জন "ডি" ভোটাৰক বিদেশী ন্যায়াধীকৰণৰ দ্বাৰা, ৪২ জন উচ্চ ন্যায়ালয়ৰ দ্বাৰা আৰু ৩ জন উচ্চতম ন্যায়ালয়ৰ দ্বাৰা ভাৰতীয় নাগৰিক হিচাপে ঘোষণা কৰা হৈছে। ইয়াৰ তথ্য "Annexure-D" হিচাবে সংলগ্ন কৰা হৈছে।

....X....

(উত্তৰটো অসম বিধানসভাৰ ৱেবছাইট <https://cms.neva.gov.in> ত Annexure ৰ সৈতে upload কৰা হৈছে)

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D-Voter as on date

Sl. No	District Name	AC No.	AC Name	Total
1	Kokrajhar	1	Gossaigaon	56
		2	Dotma (ST)	37
		3	Kokrajhar (ST)	126
		4	Baokhungri	521
		5	Parbatjhora	800
2	Dhubri			1540
		6	Golakganj	1681
		7	Gauripur	1529
		8	Dhubri	1726
		9	Birsing-Jarua	1145
		10	Bilasipara	356
				6437
3	South Salmara	11	Mankachar	625
4	Goalpara	12	Jaleswar	1735
		13	Goalpara West (ST)	498
		14	Goalpara East	1577
		15	Dudhnoi (ST)	423
				4233
5	Bongaigaon	16	Abhayapuri	243
		17	Srijangram	470
		18	Bongaigaon	177
				890
6	Chirang	19	Sidli Chirang (ST)	103
		20	Bijni	130
				233
7	Barpeta	22	Mandia	3851
		23	Chenga	2083
		24	Barpeta (SC)	419
		25	Pakabetbari	1728
				8081
8	Bajali		Bhawanipur-Sorbhog	
		21		3462
		26	Bajali	530
				3992
9	Kamrup	27	Chamaria	947
			Boko-Chaygaon (ST)	
		28		86
		29	Palasbari	15
		30	Hajo-Sualkuchi (SC)	207
		31	Rangia	81
		32	Kamalpur	41
				1377
10	Kamrup Metro	33	Dispur	345
		34	Dimoria (SC)	1661
		35	New Guwahati	80
		36	Guwahati Central	1128
		37	Jalukbari	423
				3637
11	Nalbari	38	Barkhetri	29
		39	Nalbari	51
		40	Tihu	1
				81
12	Baksa	41	Manas	2509
		42	Baksa (ST)	25

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Sl. No	District Name	AC No.	AC Name	Total
				2534
35	Tamulpur	43	Tamulpur (ST)	454
		44	Goreswar	2050
				2504
13	Udalguri	45	Bhergaon	2081
		46	Udalguri (ST)	1836
		47	Mazbat	2624
		48	Tangla	1372
				7913
14	Darrang	49	Sipajhar	546
		50	Mangaldai	824
		51	Dalgaon	1786
				3156
15	Morigaon	52	Jagiroad (SC)	2474
		53	Laharighat	1691
		54	Morigaon	381
				4546
16	Nagaon	55	Dhing	2171
		56	Rupahihat	1208
		57	Kaliabor	1267
		58	Samaguri	1379
		59	Barhampur	361
		60	Nagaon-Batadraba	445
		61	Raha (SC)	1040
				7871
17	Hojai	62	Binnakandi	411
		63	Hojai	1416
		64	Lumding	524
				2351
18	Sonitpur	65	Dhekiajuli	3381
		66	Barchalla	3929
		67	Tezpur	2422
		68	Rangapara	1641
		69	Naduar	2346
				13719
19	Biswanath	70	Gohpur	596
		71	Bihpuria	1292
		72	GOHPUR	762
				2650
20	Lakhimpur	73	Bihpuria	164
		74	Rongonadi	210
		75	Nowboicha (SC)	113
		76	Lakhimpur	380
		77	Dhakuakhana (ST)	225
				1092
21	Dhemaji	78	Dhemaji (ST)	448
		79	Sissiborgaon	1155
		80	Jonai (ST)	1408
				3011
22	Tinsukia	81	Sadiya	1
		82	Doomdooma	285
		83	Margherita	379
		84	Digboi	218
		85	Makum	61
		86	Tinsukia	285
				1229
23	Dibrugarh	87	Chabua-Lahowal	18
		88	Dibrugarh	213
		89	Khowang	14

SA

Sl. No	District Name	AC No.	AC Name	Total
		90	Duliajan	189
		91	Tingkhong	105
		92	Naharkatia	97
				636
24	Charaideo	93	Sonari	0
		94	Mahmora	0
				0
25	Sibsagar	95	Demow	0
		96	Sibsagar	0
		97	Nazira	0
				0
26	Majuli	98	Majuli (ST)	10
27	Jorhat	99	Teok	0
		100	Jorhat	0
		101	Mariani	5
		102	Titabor	0
				5
28	Golaghat	103	Golaghat	412
		104	Dergaon	98
		105	Bokakhat	194
		106	Khumtai	125
		107	Sarupathar	884
				1713
29	Karbi Anglong	108	Bokajan (ST)	17
		109	Howraghat (ST)	406
		110	Diphu (ST)	430
				853
30	West Karbi Anglong	111	Rongkhang (ST)	3
		112	Amri (ST)	0
				3
31	Dima Hasao	113	Haflong (ST)	0
32	Cachar	114	Lakhipur	296
		115	Udharbond	456
		116	Katigorah	1082
		117	Borkhola	303
		118	Silchar	454
		119	Sonai	125
		120	Dholai (SC)	560
				3276
33	Hailakandi	121	Hailakandi	6
		122	Algapur-Katlicherra	2
				8
34	Sribhumii	123	Karimganj North	258
		124	Karimganj South	553
		125	Patharkandi	191
		126	Ram Krishna Nagar (SC)	177
				1179
			State Total	91385

ELECTION COMMISSION OF INDIA /

COURIER SERVICE

Nirvachan Sadan,
Ashoka Road,
New Delhi-110001.

No. 23/AS/96/36

Dated: 4th February, 1997

To

The Chief Electoral Officer,
Assam,
Dispur.

Subject: Intensive revision of electoral rolls in Assam
with reference to 1.1.1997 as the qualifying
date - Guidelines.

Sir,

In continuation of Commission's letter of even
number dated 15th January, 1997, I am directed to
forward herewith a copy of the guidelines issued by the
Commission to be followed by the enumerators,
supervisory staff and senior officers during the on-
going intensive revision of electoral rolls in Assam.

2. You are aware that a period of 8 weeks has been
given in addition to the normal period allowed for door
to door enumeration to enable the supervisory staff to
do 100% check of the work done by the enumerators. It
may also be noted that the supervisory officer who has
to do 100% supervisory check has to be supplied with a
copy of the existing electoral roll of the area
earmarked to him. The supervisors will carry with them
these copies of the electoral rolls when they make house
to house visits for such 100% verification and will

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cross verify the names in the enumeration cards with reference to these rolls and ensure that no names in the existing rolls are omitted unless the supervisor is sure that those persons are not actually residing at those places.

3. The Commission directs that the guidelines contained in the enclosed annexure are strictly followed by the enumerators and the supervisory staff. Any violation of the guidelines issued by the Commission will be viewed seriously and action taken against the delinquent officers. This may be brought to the notice of all Electoral Registration Officers, Assistant Electoral Registration Officers, Enumerators and Supervisory Staff deployed for the purpose.

4. The Commission further directs that apart from 100% checks by the Supervisory Staff, Assistant Electoral Registration Officers, Electoral Registration Officers, District Election Officers and Chief Electoral Officer should check the work done by the enumerators as checked by the supervisory staff and the minimum percentage for such checking as prescribed below should be strictly done:-

Assistant Electoral Registration Officers	12%
Electoral Registration Officers	05%
District Election Officers	02%

The Chief Electoral Officer will conduct random

checking and will also ensure that all the instructions and guidelines issued by the Commission are correctly and strictly followed.

5. The Commission further directs that periodical reports regarding the work done by the enumerators and the supervisory checks should be sent to the Commission fortnightly to enable it to monitor the work of intensive revision of rolls in Assam. Such reports should reach the Commission latest by the 5th and 20th of every month. Instructions regarding the further stages of programmes of revision of electoral rolls will be sent in due course.

Yours faithfully,


(K.J.RAO)
SECRETARY

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INTENSIVE REVISION OF ELECTORAL ROLLS IN ASSAM WITH
REFERENCE TO 01.01.1997 AS QUALIFYING DATE - GUIDELINES
FOR HOUSE TO HOUSE ENUMERATION AND SUPERVISORY CHECKS.

HOUSE TO HOUSE ENUMERATION

1.1 Each enumerator will be supplied with a list of house numbers alongwith a sketch map of the area which he is required to cover for enumeration. Each enumerator shall be informed about the area/sub area/locality to be covered by him in clear terms. It must be ensured that there is no overlapping in the jurisdiction of enumerators. The supervisors shall also be supplied with exact copies of the same.

1.2 The enumerator will not be supplied with copy of any previous electoral rolls. Nor will he be supplied with any list of persons enumerated during the last enumeration or during any earlier enumeration. If it is so supplied, the entire enumeration will be treated as null and void.

1.3 Every enumerator will personally visit each and every household in the polling area under his charge. During such visits if he finds any new house having come up which is not included in the list of house numbers given to him, he will include that house also by giving it a suitable auxiliary number. For instance, if between house numbers 33 and 34 a new habitation has come up, the enumerator will give 33A/33B/33C etc. as the auxiliary number for identification of the house and

proceed to enumerate the eligible electors therein.

1.4 A specific day may be fixed for enumeration of electors living in a specific cluster. This day should be widely publicised in the area concerned and notified to all recognized political parties. The political parties should be invited to appoint one agent each to witness the process of enumeration in the said cluster.

1.5 The enumerator on the day of actual enumeration fixed under para 1.4 accompanied by the supervisor should assign a temporary number with chalk or such like instruments in front of each individual construction in the cluster and complete the enumeration in one go on the same day. No piecemeal enumeration of the cluster will be accepted.

1.6 If any new clusters of temporary constructions come up during the process of enumeration the same should be dealt with only during the process of disposal of claims and objections.

1.7 When he visits a household, the enumerator will meet the head of the household or, in his absence, the senior adult member of that household. He will ascertain the names of adult Indian citizens, i.e., those Indian citizens who are of the age of 18 or above on the qualifying date and are ordinarily residents in that house. He shall enumerate the names of all such persons as are claimed to be adult Indian citizens and

ordinarily residents by the head/senior adult member of the household, in his enumeration pad given to him by the Electoral Registration Officer for the purpose of such enumeration.

1.8 The enumeration pad contains enumeration forms (Electoral Cards) in duplicate having identical serial numbers. The enumerator shall make entries in a clear legible hand in both the copies of the electoral card using a carbon paper, so that the entries in both the copies are identical in each and every respect.

1.9 After filling the entries in the Electoral cards and completing all columns in that card, the enumerator will affix his full signature along with the code number allotted to him by the Electoral Registration Officer and also the date on which he has made the entries in the card and affixed his signature.

1.10 Alongwith his own full signature, the enumerator shall also obtain full signature of the head of the household or, as the case may be, the senior adult member of the household. If he/she is illiterate, the enumerator shall obtain the thumb impression of the said head/senior adult member of the household (left thumb impression in the case of male person and right thumb impression in the case of female member for the sake of uniformity. Below such thumb impression, the full name of the person affixing such thumb impression

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shall be mentioned legibly by the enumerator along with words 'left thumb impression or right thumb impression' as the case may be.

1.11 The duplicate of the electoral cards shall be detached from the pad and supplied to each household by the enumerator. The original shall be retained in the enumeration pad.

1.12 If in any house/building, there is more than one household, each household should be enumerated separately, even if the house number is common. In no case should the name of members belonging to one household be included along with the names of members of another household in the same electoral card.

1.13 The enumerator should include in the 'Electoral Card' only the names of those adult citizens of a household who are ordinarily resident in that house. In no case should the name of a person who is not ordinarily resident in that house be included in the 'Electoral Card', even if he is a member of that household.

1.14 Normally, the serving members of the armed forces of the Union or Central Parliamentary forces, i.e., BSF, CRPF, CISF, ITBP, NSG, GREF and Assam Rifles to which provisions of the Army Act, 1950, have been made applicable (whether with or without modification (who are known as 'service voters')) are enrolled in

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their native places on the basis of their statements in Forms 2 and 2A appended to the Registration of Electors Rules, 1960 as to their place of ordinary residence where they would have been so resident, but for their service. They have, however, an option to get themselves enrolled as general electors at the place of their posting where they are actually resident ordinarily. If they so opt, during the enumeration, they should be enumerated and included in the electoral card alongwith their eligible family members.

1.15 If a member of the armed forces of the Union or of the Central Para Military Forces, referred to above, by virtue of his posting, remains away from his house in his native place, he is not repeat not to be enumerated and included in the electoral cards alongwith other eligible family members even if he is a member of that household and also happens to be present in the house at the time of enumeration.

1.16 The wife of any such person, as is referred to in para 1.15 above, if she is ordinarily residing with her husband at the place of his posting, should also not be enumerated even if she is present in the house at the time of enumeration.

1.17 The service personnel and their wives referred to in paras 1.15 and 1.16 are to be enrolled in the last part of electoral roll of the home constituency on the

basis of applications to be made by them in Form 2 and

2A appended to the Registration of Electors Rules, 1960

through their Record Office/Commandants. (That would entitle them to vote by post at elections).

1.18. During house to house visits, if any enumerator has any doubt with regard to the information about the Indian citizenship, ordinary residence or age qualification being furnished to him by the head/senior adult member of the household, either in respect of the whole household or any particular member of the household, the enumerator shall make a suitable endorsement to that effect on the original of the 'Electoral Card' in his enumeration pad so that the name (s) can be specially taken note of and verified both by the Supervisor during his supervisory checks and by the Assistant Electoral Registration Officer or the Electoral Registration Officer at the time of preparation of the consolidated list of enumerated persons.

1.19. At the time of enumeration if any person says that he and/or his members of the household have recently shifted after last house-to-house enumeration from some other part of India or some other part of the State itself, the enumerator should insist on documentary evidence including their names. He should indicate the nature of such documentary

evidence and full postal address of the previous place
of residence of

1.20 It is clarified that it is not the job of the enumerator to determine the citizenship of an individual. Therefore, the enumerators should not exclude any person from enumeration on the grounds of suspicion regarding citizenship. However, they have the power and responsibility to exclude any person on the basis of the qualification for registration regarding age or ordinary residence. Age can be verified with reference to, but not restricted to, the birth certificate, school or college certificate, passport wherever available, baptism certificate, record of service under the Govt./public sector undertaking, Life Insurance Policy, etc. Ordinary residence must be checked with reference to all possible evidence, including but not limited to, Municipal/Panchayat documents/ration cards, delivered mail, any other documents such as gas connection, telephone connection, bank account, post office account, etc.

1.21 Enumerators should clearly explain and bring home to the head or the senior adult member of the household that furnishing of any information which is false and which he/she knows or believes to be false or does not believe to be true, is an electoral offence. The persons furnishing such false information are liable

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for punishment with imprisonment for a term which may extend to one year or with fine or with both under section 31 of the Representation of the People Act, 1950.

1.22 If any enumerator finds a particular house locked or that no adult member of the household is available at the time of his visit, he shall visit that house at least three times on different occasions and during different hours in the morning or evening when he may reasonably expect to find some adult persons to be present/available in the house. If even after three such visits he is not able to meet any adult member of the household, he will make an entry to that effect in the electoral card pertaining to that house in his enumeration pad. He should also prepare a separate list of all such household and furnish that list to his supervisor.

1.23 Every enumerator shall maintain a day-to-day record of the households visited and enumerated by him. As soon as one enumeration pad is complete and all electoral cards therein have been duly filled, he shall hand over the pad to his supervisor against a proper receipt. The enumerator will also keep a correct account of all the enumeration pads given to him, returned by him to his supervisor after such pad is complete in all respects, and the blank enumeration pads

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still left with him. After he has completed the job of enumeration assigned to him, he shall return the blank enumeration pads, if any, to the supervisor within 24 hours of the completion of his job by him. Any enumeration pads found in his possession after expiry of the said 24 hours, shall be deemed to be unauthorised and will render him liable to severe disciplinary action for such unauthorised possession of the enumeration pad.

2. SUPERVISORY CHECKS

2.1 Every supervisor shall personally check and ensure every day that the enumerators under his charge are visiting the households in the polling areas assigned to them and performing their functions properly and strictly in accordance with the Commission's instructions. For this purpose, the Supervisors should make daily visits to the areas under their charge.

2.2 As soon as an enumerator has returned an enumeration pad, duly filled, to a Supervisor, he shall personally check each and every 'Electoral Card' serial-wise in the enumeration pad and verify that the pad contains all the cards which it is supposed to contain and that all 'Electoral Cards' have been properly filled in and duly completed in all respects and that no column has been left blank in any card.

2.3 Every Supervisor shall be supplied with a copy of the existing electoral roll of the area earmarked to

him. The supervisors will carry with them these copies of the electoral rolls when they make house to house visits for such 100% verification and will cross verify the names in the enumeration cards with reference to these rolls and ensure that no names in the existing rolls are omitted unless the supervisor is sure that those persons are not actually residing at those places.

2.4 In order to ensure that the enumerators have done their work properly, every Supervisor should personally check 100% (hundred percent) of the household covered by the enumerators.

2.5 During his visit to the households for checking, the Supervisor will also check and satisfy himself that the entries made in the 'Electoral Card' are complete and correct in all respects and that the persons whose names are enumerated are of the age of eighteen years or above as on the qualifying date and are actually ordinarily resident in that household. He should himself also verify that the 'Electoral Card' issued to the head of the household and its original in the enumeration pad bears the actual signature/thumb impression of the head of the household or senior adult member of the household and that of the enumerator and the entries have been correctly made on the basis of the information furnished by the head/senior adult member of the household.

2.6 He should also bring the penal provision section 31 of the Representation of the People Act, 1950, about making a false statement relating to inclusion or exclusion of any name to the notice of the head/senior adult member of the household when he makes the enquiry during his checking.

2.7 If during his checking, he finds that the name of any person not qualified for registration on the ground of age or ordinary residence, has been wrongly enumerated and included in the 'Electoral Card' he shall delete every such name both in the original of the 'Electoral Card' and its duplicate supplied to the household under his full signature with date indicating briefly the reason for such deletion.

2.8 Similarly, if a supervisor finds during his checking that any name of a member of the household which should have been included in the 'Electoral Card' has been left out for any reason, he will include that name in the 'Electoral Card' supplied to the household under his full name and signature with a suitable endorsement indicating the reason for such inclusion and exactly similar entries will be made by the Supervisor in the original of the 'Electoral Card' as contained in the enumeration pad.

2.9 Where, on his checking as aforesaid, any

Supervisor finds that there are large number of wrongful inclusions or wrongful exclusions of names in the 'Electoral Cards' issued by a particular enumerator such enumerator shall forthwith be removed from the job of enumeration and a report shall be made by the Supervisor to the Electoral Registration Officer for disciplinary action against the delinquent enumerator.

2.10 Where an enumerator reports to the Supervisor that a particular house has been found locked or no adult member of household is available in any house on his repeated visits, the Supervisor will himself visit that house and verify the fact. In case the house is found locked or no adult member of the household is available even at the time of the Supervisor's visit, he shall drop the letter of request in Form 4 in the premises. He shall make another visit to that house after two or three days and collect Form 4, if somebody is present at the time of his subsequent visit. He shall keep a proper account of his visits to such houses and also of the Forms 4 dropped by him in such houses and collected, if any, subsequently by him from such houses. He shall also make suitable entries to the above effect in the Electoral Card relevant to that household in the enumeration pad. As soon as a supervisor has completed his 100% checking as aforesaid, in respect of the household enumerated in the

enumeration pad, he shall deposit forthwith the verified

enumeration pad with the Electoral Registration Officer.

Before depositing the verified enumeration pad, he shall give a certificate on the cover page of the enumeration pad that he has conducted the required supervisory checks mentioning specifically the number of house/households visited and checked by him.

2.11 During supervisory checks, the Supervisor shall, apart from verifying specifically instances indicated in para 1.18 above, also make a similar endorsement in any new cases which are noticed by him where he has doubts about the information furnished.

3. CHECKS BY SENIOR OFFICERS

3.1 Apart from the 100% checks by Supervisors of the work done by the enumerators under their charge, supervisory checks shall also be made during the period of enumeration by the Assistant Electoral Registration Officers, Electoral Registration Officers, District Election Officers, and the Chief Electoral Officer. The minimum percentage of checking to be done by each of them by personal visits to the households shall not be less than the following. (This is only a lower limit. The actual should be higher).

Assistant Electoral Registration Officers	12%
Electoral Registration Officers	05%
District Election Officers	02%

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The Chief Electoral Officer will conduct random checking and also satisfy himself that all the instructions are being scrupulously and correctly followed.

3.2 The Supervisory checking by the AEROs, EROs and DEOs shall not be confined to visits to households, but shall include checking that no pockets have been completely left out or enumerated more than once in the constituency during enumeration and that no area or pocket of another constituency has been included in the enumeration for the constituency under checking. On the border areas of the constituency, it shall be particularly ensured that no area belonging to one constituency has been allowed to be included in the enumeration of another constituency. They shall certify that these aspects have been specially checked by them during their supervisory visits. The previous rolls may be used for conducting these supervisory checks.

3.3 During their supervisory checks if any of the above officers finds that the name of any person has been wrongly included or wrongly excluded from the 'Electoral Card' in possession of the household, he shall make appropriate entries by way of inclusion or deletion, as applicable, in the same manner in which the supervisor will make such entries under paras 2.7 and 3.8. If during such visits, the originals of the

relevant enumeration pads are not available with them,

they (other than the Electoral Registration Officers)

shall furnish full particulars of inclusions or

deletions made by them on the Electoral Cards to the

Electoral Registration Officers. In case of such

inclusions/deletions being made in any 'Electoral Card'

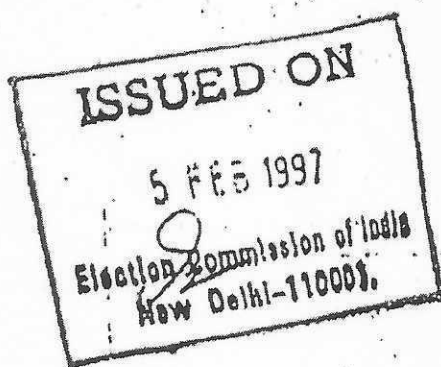
by Electoral Registration Officer himself, he shall keep

a record of such inclusions/deletions. It shall be the

duty of the Electoral Registration Officer to make

necessary corrections in the relevant originals of the

'Electoral Cards' in the enumeration pads concerned.



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ELECTION COMMISSION OF INDIA

C 561-561338
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Nirvachan Sadan,
Ashoka Road,
New Delhi-110 001

No. 23/AS/96 | 1373-1374
and 2278

Dated: 17th July, 1997

To

The Chief Electoral Officer
Assam,
Dispur.

Subject: Intensive Revision of Electoral Rolls in Assam
w.r.t. 1.1.1997 as the qualifying date -
Guidelines.

Sir,

In continuation of Commission's letter of even number dated the 16th July, 1997, on the subject cited above, I am directed to forward herewith a copy of the guidelines issued by the Commission which are to be followed by the Electoral Registration Officers during the further stages of intensive revision of electoral rolls.

2. The Commission directs that these guidelines should be strictly followed by all the officers concerned. Wide publicity should be given to these guidelines.
3. The Commission further directs that consolidated fortnightly periodical reports regarding the number of cases referred to the Local Verification Officers for verification, number of cases referred to

26.6.

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VARIOUS Com (Assembly
constituency-wise) should be sent to the Commission by
the Chief Electoral Officer in the prescribed format
enclosed herewith, to enable it to monitor the progress
of work of intensive revision of rolls in Assam. Such
reports should reach the Commission latest by 5th and
20th of every month, commencing with the first report to
reach the Commission on the 20th August, 1997.

4. The receipt of this letter shall be
acknowledged.

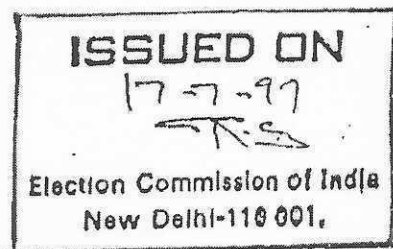
Yours faithfully,

Sd/-

(K.J.RAO)
SECRETARY

Copy together with a copy of the guidelines
forwarded to :-

1. The Chief Secretary, Assam, Dispur for
necessary action.
2. The Secretary to the Govt. of India, Ministry
of Home Affairs, New Delhi for information and necessary
action.



(K.J.RAO)
SECRETARY

C/L

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GUIDELINES FOR INTENSIVE REVISION OF ELECTORAL ROLLS
FROM THE STAGE OF DRAFT PUBLICATION OF ELECTORAL ROLLS

1. The following guidelines of the Election Commission shall be strictly followed by the Electoral Registration Officers of all the Assembly constituencies in the State of Assam in connection with the intensive revision of electoral rolls directed by the Commission with reference to 1.01.1997 as the qualifying date. The guidelines have been framed by the Commission keeping in view the Judgement and Order dated 28/1/1994 and 1.02.1994 of the Hon'ble Gauhati High Court in the case of H.R.A. Chaudhury vs. Election Commission and others (Civil Rule Nos. 1566, 1616, 1836 and 2814 of 1993), which was upheld by the Hon'ble Supreme Court by its judgement and Order dated 5.05.1994 in Civil Appeals No. 4171-4180 of 1994 arising out of SLPs (Civil) Nos. 2484-85 of 1994), and the judgement and order dated 6.02.1995 of the Hon'ble Supreme Court in the case of Lal Babu Hussain and others vs. Electoral Registration Officer and others [1995(3) SCC 100].

1.2 The Hon'ble Gauhati High Court has held in the case of H.R.A. Chaudhury vs. Election Commission and others (Supra) (upheld by the Hon'ble Supreme Court of India):

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"the draft rolls are to be prepared on the basis of the statements submitted by the heads of the households in a constituency in Form 6 under Rule 6 XXXXXXXXXXXXXXXX----- the statement made by a Head of the Household has its own value and can not be lightly brushed aside. Rules do not contemplate any inquiry into the question of citizenship at the stage of preparation of draft roll, although there is provision for objection after the draft roll is published on the ground that a person who is not a citizen of India has been erroneously included."

1.3 The Hon'ble Supreme Court has held in the case of Lal Babu Hussain vs Electoral Registration Officer and others (Supra):

" Thus, the question whether a person is a foreigner is a question of fact which would require careful scrutiny of evidence since the enquiry is quasi-judicial in character. This question has to be determined by the Central Government, vide Government of Andhra Pradesh vs. Syed Mohd. Khan 1962 Supp. 3 SCR 288 and State of U.P. vs. Rehametullah 1971 (2) SCC 113. xxxxxxxxxxxx --

It is obvious from the above that two situations arise; the first where the name is to be entered on the rolls for the first time and the second where the name already entered is required to be deleted. In the first mentioned situation before the name is entered on the rolls, the concerned officer must be satisfied that the person seeking to have his name entered is not disqualified by reason of his not being a citizen of India. Therefore, he would be justified in requiring the concerned person to show evidence that he is a citizen of India. In the second situation, since the name is already entered, it must be presumed that before entering his name the concerned officer must have gone through the procedural requirements under the statute. This would be so even if we invoke Section 114(e) of the Evidence Act. But then

possibilities of mistakes cannot be ruled out. These would have to be corrected or assumed (without deciding) "is otherwise not entitled to be registered in that roll" used in Section 32 of the 1950, Act or Rule 21A of the 1960 Rules are wide enough to cover the question relating to citizenship, the issue would have to be decided after giving the concerned person a reasonable opportunity of being heard. If the opportunity of being heard before deletion of the name is to be a meaningful and purposive one, it goes without saying that the concerned person whose name is borne on the roll and is intended to be removed must be informed why a suspicion has arisen in regard to his status as a citizen of India so that he may be able to show that the basis for the suspicion is ill-founded. Unless the basis for the doubt is disclosed, it would not be possible for the concerned person to remove the doubt and explain any circumstance or circumstances responsible for the doubt."

1.4 All Electoral Registration Officers have accordingly prepared the draft electoral rolls keeping in view the above principles laid down by the Supreme Court. Further procedure for finalisation of the draft electoral rolls, in conformity with the above-referred principles, shall be as given in the succeeding paragraphs.

DRAFT PUBLICATION OF ROLLS

2.1 The draft electoral roll prepared and printed polling station-wise shall be published for inviting claims and objections on the date specified for the purpose by the Election Commission.

2.2 The publication of draft electoral roll pertaining to a particular polling station shall be made at the polling station itself. No exception or any excuse will be acceptable. In addition, the draft rolls will be displayed at all prominent places and offices engaged in public dealings. The particulars of the designated officers and the places where they sit should also be mentioned in the draft rolls so displayed.

2.3 Widest publicity shall be given to the draft publication of rolls by all media of mass communication, including paid advertisements in the newspapers having wide circulation in the areas concerned, as directed in the Commission's letter No.23/94, dated 20th May, 1994.

2.4 A Designated Officer shall be appointed at each polling station where the draft roll is published. He shall be responsible for the display of the draft electoral roll, allowing inspection thereof to the persons/parties interested, supply (free of cost) of Forms for making applications for inclusion of names (Form-6), Forms for making objection to the inclusion of names (Form 7) and Forms for correction of entries in the electoral roll (Form-8). Sufficient numbers of these Forms shall be made available to every designated officer. Every designated officer will forward the

applications received

Electoral

are a necessary condition

applications as prepared in forms 9, 10, and 11.

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VERIFICATION BY ELECTORAL REGISTRATION OFFICERS

3.1 The essential conditions for registration of a person in the electoral roll under the Constitution of India, the Representation of the People Act, 1950, and the Registration of Electors Rules, 1960 are that (i) he must be a citizen of India, (ii) he must have attained the age of 18 years as on the qualifying date (1.01.1997), and (iii) he must be an ordinary resident of the place where he is to be enrolled as an elector.

3.2 The Electoral Registration Officers should ensure, as far as possible, that only the names of Indian citizens are borne on the electoral rolls. But basically it is not for the Electoral Registration Officers to determine whether a particular person is a citizen of India or not. This determination is to be made by the authorities vested with this responsibility under the Citizenship Act, 1955, The Foreigners Act, 1946, and the Illegal Migrants (Determination by Tribunals) Act, 1983. However, the Electoral

Registration Officer has to decide for the limited purpose of preparation/revision of the electoral roll, whether a person is eligible for inclusion of his name in the electoral roll or not on the ground of citizenship, as the citizenship of India is an essential condition for such registration.

3.3 As per the existing law, the following persons are to be treated as citizens of India for the purposes of the present revision of electoral rolls: -

- (i) Persons who are originally inhabitants of Assam and their children and descendants, who are citizens of India ab initio;
- (ii) Persons who are originally inhabitants of other States/Union Territories of India and have migrated to Assam for purposes of trade, business, etc. and their children and their descendants, who are also citizens of India ab initio;
- (iii) Persons who migrated to Assam from Bangladesh before 1.01.1966, including those whose names are borne on the electoral rolls used for the general elections to the House of the People from Assam in 1967 which were prepared with reference to 1.01.1966 as the qualifying date [vide Section 6A (2) of the Citizenship Act, 1955, as amended by the Citizenship (Amendment) Act, 1985];
- (iv) Persons who migrated to Assam from Bangladesh between 1.01.1966 and 24.03.1971 (inclusive), but only after the expiry of 10 years from the date of their detection as foreigners by the Foreigners Tribunals set up under the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964 [vide Section 6A(5) of the Citizenship Act];
- (v) Persons who are born in India ~~on or~~ before 1-7-1987, irrespective of whether their parents are citizens of India or not [vide Section 3(i)(a) of the Citizenship Act];

(vii) Persons granted citizenship by the Central Government under the Citizenship Act, 1955 and carrying certificate of citizenship.

Note: Persons who have migrated to Assam from Bangladesh on or after 25-03-1971 will be treated as illegal migrants.

3.4 The draft roll, shall consist of two categories of persons:-

- (a) Those electors whose names appear in the existing electoral rolls prepared in 1993/1994 and further revised with reference to 1.01.1996 as the qualifying date; and
- (b) Those electors whose names do not find a place in the said existing rolls revised with reference to 1.01.1996 as the qualifying date.

3.5 In view of the Supreme Court judgements cited in the earlier paragraphs, these two categories of enumerated persons will necessarily have to be treated differently in so far as consequential action to finalise the electoral rolls is concerned.

3.6 In respect of persons mentioned in para 3.1 (b) above, i.e., persons who have been enumerated and whose names are included in the published draft rolls, but whose names do not find place in the existing rolls revised with reference to 1.01.1996 as the qualifying date, these can be further sub-divided into six categories:-

- (i) Persons who have attained the age of 18 years as on the 1st January, 1997;

(iii) Persons enrolled in other constituencies within the State who have shifted to the constituency;

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(iii) Persons who have entered Assam from Bangladesh between 1.1.1966 and 24.3.1971 and detected to be foreigners by the Foreigners Tribunal under the Foreigners Act, 1946, but have completed a period of ten years from the date of such detection;

(iv) Persons who have migrated to Assam from outside after the last revision of rolls;

(v) Persons whose names have been deleted from the previous rolls on the ground of non-citizenship;

(vi) Persons whose names were not included in the existing rolls on any other ground.

3.7.1 So far as persons mentioned at 3.6(i) above (who have attained the age of 18 years as on 1st January, 1997) are concerned, their names may be straightaway included in the final rolls, provided there is linkage through father/mother to the existing rolls. In case no such linkage can be established, the Electoral Registration Officer shall cause a local verification to be made as prescribed hereunder in the forthcoming paragraphs.

3.7.2 In the case of persons mentioned at 3.6.(iii) above (who have entered Assam from Bangladesh between 1.1.1966 and 24.3.1971 and have completed a period of ten years from the date of their detection as foreigner), their names may be included straight

away in the final roll, as per provisions contained in Section 6A(5) of the Citizenship Act, 1955.

3.7.3 [In all] other cases of persons mentioned in para 3.6 above, the Electoral Registration Officer shall cause a local verification to be made by local officers. The local officers whose services the Electoral Registration Officer may use in this regard should have the prior approval of the Chief Electoral Officer. In no case, Teachers will be appointed as Local Verification Officers for this purpose. Nor should any officer who was actually engaged in the physical enumeration work in that area be engaged for this purpose.

3.7.4 The Local Verification Officer will conduct the verification by making an on-the-spot visit and the person concerned may adduce in support of his claim as citizen of India, any one or more of the following documents of evidentiary value under the Indian Evidence Act-

- (i) Certified copy/extract of electoral rolls of 1966 or any previous year;
- (ii) Patta (land holding record);
- (iii) Rent receipt issued by any revenue authority;
- (iv) Certified copy of entry in N.R.C. (National Register for Citizenship);

- (vi) Birth Certificate certifying place and date of birth issued by the competent authority under the Registration of Births and Deaths Act, 1969 and the Assam Registration of Births and Deaths Rules, 1978, 10^{hr} 352
- (vii) Citizenship certificate issued by any competent authority in the State of Assam;
- (viii) Citizenship certificate issued from outside the State (which all should be got verified from the issuing authority);
- (ix) Refugee registration certificate;
- (x) Passport issued by Government of India;
- (xi) Insurance policy;
- (xii) Any licence issued by any Government authority (other than ration cards);
- (xiii) Document showing service/employment under Government/Public Sector Undertaking;
- (xiv) Certificate issued by the Secretary of the Village Panchayat countersigned by the local revenue official in respect of females who have migrated to other villages after marriage;
- (xv) Any other document relevant and admissible under the Indian Evidence Act that the Electoral Registration Officer may consider fit to dwell upon to make up his mind on the question of citizenship.

3.7.5 After due verification as mentioned above and of the documentary evidence adduced during such verification, the Local Verification officer shall submit his report in the format at Annexure 'A'.

1.8. The Electoral Registration Officer shall, on receipt of the verification reports from the Local Verification Officers, consider the same. Where he is satisfied, on such report and such other material information as may be available to him, about the eligibility of a person, he shall allow his name to continue on the roll and include it in the final roll. Where, however, he is not so satisfied and has reasonable doubt, about the citizenship of any person, he shall refer all such doubtful cases to the competent authority under the Illegal Migrants (Determination by Tribunals) Act, 1983 or the Foreigners Act, 1946, as the case may be. For the convenience of the Electoral Registration Officer, the Commission has devised - a proforma (Annexure 'B') for making such reference which shall be adopted by all the Electoral Registration Officers. While making such a reference, the Electoral Registration Officer shall also furnish to the Competent authority all documentary evidence collected during the process of verification (including the local verification report) pertaining to the person concerned; and also inform the person concerned of his case having been referred by him to the competent authority.

3.9 After the case of a person has been referred by the Electoral Registration Officer to the competent authority as aforesaid, he shall wait for a decision of the relevant Tribunal in relation to that person and act according to such decision.

3.10 Where the relevant Tribunal decides that any such person is not a citizen of India, the Electoral Registration Officer shall proceed under Rule 21A of the Registration of Electors Rules, 1960 to have the name of such person deleted from the electoral roll, before it is finally published. The Electoral Registration Officer shall issue notice as required under the proviso to the said Rule 21A of the Registration of Electors Rules, 1960 to the individual concerned in the prescribed format. (Please see Para 16 of Chapter V - Claims and Objections - of the Hand Book for Electoral Registration Officers).

3.11 The Electoral Registration Officers shall keep the Election Commission informed from time to time about the disposal of the above doubtful cases by the Tribunals, to enable the Commission to decide about the date of final publication of the electoral roll of the constituency concerned. No Electoral Registration Officer shall finally publish the roll till he receives a written clearance from the Commission to that effect.

DISPOSAL OF CLAIMS AND OBJECTIONS

4.1 It shall be the duty of the Electoral Registration Officer to ensure that each and every claim and objection received in Form 6, Form 7 and Form 8 is duly disposed of, fully in accordance with law and the directions and instructions of the Commission.

4.2 The Electoral Registration Officer must personally scrutinise each and every application meticulously and ensure that it is complete in all respects. In the light of provisions of section 13C of the Representation of the People Act, 1950, the Commission has no objection to the disposal of claims and objections by Assistant Electoral Registration Officers. However, such delegation of powers to Assistant Electoral Registration Officer shall not absolve the Electoral Registration Officer of his responsibility of ensuring a defect-free electoral roll.

4.3 No material column in the claim application (Form 6) requiring the applicant to indicate his name in full, his father's/mother's/ husband's name and particulars of his place of residence should be left blank by the applicant. All the five declarations as prescribed in Form 6 should be complete in all respects and, in particular, of those two prescribed

alternative declarations in item (v), is inapplicable, should be scored off. If a claimant states in the declaration (v) that his name may have been included in some other roll, full address of his previous residence must be given in that declaration.

4.4 While disposing of a claim or an objection, the Electoral Registration Officer must bear in mind the dicta of the Hon'ble Supreme Court in its judgements referred to in paras 1.2 and 1.3 above.

4.5. The Electoral Registration Officer holding the enquiry shall further bear in mind the guidelines laid down by the Hon'ble Supreme Court in the case of Babu Hussain (Supra). These guidelines are:

- (a) The enquiry being quasi-judicial in nature, the Electoral Registration Officer must entertain all such evidence, documentary or otherwise, as the concerned affected person may like to tender in evidence and its evidentiary value assessed and applied in decision making. The Electoral Registration Officer shall disclose all such material evidence on which he proposes to place reliance, so that the concerned person has had a reasonable opportunity of rebutting such material evidence. The concerned person, it must always be remembered, must have a reasonable opportunity of being heard.
- (b) Needless to state that the Officer inquiring into the matter must apply his mind independently to the material placed before him and without being influenced by extraneous considerations or instructions.
- (c) Before taking a final decision in the matter, the Officer concerned will bear in mind the provisions of the Constitution of India, the

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CITIZENSHIP AND THE FOREIGNERS ACT, 1946
Tribunal and all related provisions
having a bearing on the question of citizenship
and then pass an appropriate speaking order.

- (d) If any person whose citizenship is suspected is shown to have been included in the existing Electoral Roll, the Electoral Registration Officer or any other officer inquiring into the matter shall bear in mind that the entire gamut for inclusion of the name in the Electoral Roll must have been undertaken and hence adequate probative value be attached to that factor before issuance of notice and in subsequent proceedings.
- (e) These guidelines not being exhaustive, the Officers concerned must, where special situations arise, conduct themselves fairly and in a manner consistent with the principles of natural justice and should not appear to be acting on any pre-conceived notions.
- (f) The onus of proof of the citizenship shall lie on the applicant who applies for inclusion of his name for the first time. The ERO must be satisfied that the person seeking to have his name enrolled is not disqualified, among others, by reason of his not being a citizen of India. Therefore, the Electoral Registration Officer would be justified in requiring the concerned person to show evidence that he is a citizen of India. (Some of the documents that could be adduced by the person concerned in support of his claim of citizenship are enumerated in para 3.7.4 hereinabove. It must, however, be borne in mind that the list of above mentioned documents is only illustrative and not exhaustive).
- (g) Any other documents having a bearing on the question of citizenship should also be entertained and evaluated.

4.6 The Electoral Registration Officers should also keep in mind that a certificate issued by village headman, panchayat president, etc., to the effect that a

person is a citizen of India is not by itself a reliable documentary evidence as conclusive proof of citizenship.

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4.7 In the case of married women who change their residence as a result of marriage and who cannot produce documentary evidence as proof of citizenship, but who are otherwise genuine Indian citizens eligible for registration as voters, the following documents, but not restricted thereto, may also be accepted by the electoral Registration Officer at the time of disposal of claims and objections:-

- (i) Proof of being registered as voter as an unmarried girl, if her name was registered;
- (ii) Proof of marriage, wherever possible;
- (iii) Certificates issued by the Secretary of the village panchayat countersigned by the local revenue official.

4.8 Especially in the case of persons producing citizenship certificates, the genuineness and authenticity of each such certificate should be duly verified. Wherever there is any doubt, those cases should be referred to the authorities who issued those certificates. This is necessary as there is reason to suspect that some of these certificates are bogus or not genuine.

4.9 In case of an objection filed in Form 7 seeking the deletion of name from the electoral roll on the

ground that the person objected to is not a citizen of India, the onus of proof shall lie on the objector. It shall be ensured that such onus is fully discharged in accordance with law.

4.10 Whenever the Electoral Registration Officer, after due enquiry in relation to a claim (in Form 6) or an objection (in Form 7), has a reasonable doubt about the citizenship status of the claimant or person objected to (whose name is already included in the draft roll), he shall refer the case of every such person to the Competent authority under the provisions of the Foreigners Act, 1946 or the Illegal Migrants (Determination by Tribunals) Act, 1983, as the case may be, in the prescribed proforma (Annexure C in the case of claim applications in Form-6 and Annexure D in the case of objections in Form -7), like the other doubtful cases referred to in para 3.8 hereinabove. He shall further proceed in relation to such persons in the same manner as directed in paras 3.9 to 3.11 and shall not finally publish the electoral roll, until and unless he receives a written clearance from the Commission to that effect.

4.11 Whenever an Electoral Registration Officer is in doubt in regard to the qualifying age or place of ordinary residence of a claimant, he shall decide that

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question with reference to, but not restricted to, the birth certificate, school or college certificate, passport, baptism certificate, telephone connection, LPG connection, Bank account, post office account, Life insurance policy, records of service under the government or public sector undertakings, etc., having a bearing on that question.

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(50)

4.12 In the case of persons who claim to be migrants from other parts of India, their statement should not be taken at face value. They will be required by the Electoral Registration Officer to adduce such evidence as may satisfy him in regard to their claim of migration from another place of India. In appropriate cases, the Electoral Registration Officer shall cross-check the position with the District Election Officer of the District from where the claimants claim to have migrated.

4.13 Only individual claim applications and objections should be accepted. However, if individual claim applications and objections relating to the members of the same household are presented together, they may be accepted and a common receipt issued. Claims and objections presented in bulk by any individual/organisation or political party should be refused and rejected summarily. The same procedure will be applicable to claims and objections sent by post.

FINAL PUBLICATION

5 The electoral roll shall be finally published on the date fixed for the purpose by the Commission. Such publication shall take place only after obtaining a prior written clearance from the Commission in respect of each assembly constituency separately and any publication in the absence of such clearance will be null and void. For the purpose, the Commission has already prescribed a standard proforma. The Electoral Registration Officer should send the proforma duly filled in through the Chief electoral Officer for obtaining the clearance of the Commission.

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- 52 - ANNEXURE 'A'

FORMAT FOR VERIFICATION OFFICER'S REPORT

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To

The Electoral Registration Officer for
.....assembly constituency.

Sir,

As desired by you, I have made necessary verification in respect of Shri/Smt/Ms..... by making an on-the-spot visit. My verification reveals the following particulars in his/her case:-

1. Name:
2. Address:
3. Father's/Mother's/Husband's Name:
4. Date of birth:
5. Place of birth:
6. Whether registered as an elector of any constituency in India: Yes/No
7. If so, Serial No and part No. of the concerned electoral roll, together with constituency Number, Name and the State:
State:-
No and Name of Constituency:-
Part No:-
Sl.No:-
8. Whether Father is registered as an elector of any constituency in India: Yes/No
9. If so, serial no and part no. of the concerned electoral roll, together with constituency Number, Name and the State:
State:-
No. and Name of constituency:-
Part No:-
Sl. No:-

10. Whether mother is registered as an elector of any constituency in India: Yes/No.
11. If so, serial no and part no. of the concerned electoral roll, together with constituency Number, Name and the State:

State:-

No. and Name of constituency:-

Part No:-

Sl. No:-

12. Mother tongue:

13. Inquiry Officers' assessment on the dialect spoken.....

14. Documentary evidence produced:-

*(i) Certified copy/extract of electoral rolls of 1986 or any previous year:
Year.....

*(ii) Patta (land holding record):
Year.....

Name of issuing authority.....

*(iii) Rent receipt issued by any revenue authority:
Year.....

Name of issuing authority.....

*(iv) Certified copy of entry in N.R.C. (National register for Citizenship);

*(v) Birth certificate, issued by competent authority under the provisions of the Registration of Births and Deaths Act, 1969 and the Assam Registration of Births and Deaths Rules, 1978, showing:

Place of birth:-

Date of birth:-

Date of issue:-

Name of issuing authority:-

State:-

- (vi) Citizenship certificate issued by any competent authority in the State of Assam:

Date of issue...

Name of issuing authority...

- (vii) Citizenship certificate issued from outside the State (which should be got verified from the issuing authority):

Date of issue...

Name of issuing authority...

- (viii) Refugee registration certificates

Date of issue...

Name of issuing authority...

- (ix) Passport issued by Govt. of India:

Date of issue...

Name of issuing authority...

- (x) Insurance Policy:

Date of issue...

Name of issuing authority...

- (xi) Any licence issued by any Govt. authority (other than ration cards); (specify nature of licence):-

Date of issue...

Name of issuing authority...

- (xii) Government/Public Sector Undertaking service records (specify documents produced)

- (xiii) Certificate issued by the Secretary of the village Panchayat countersigned by the local revenue official in respect of females who have migrated to other villages after marriage:

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Date of issue...

Name of issuing authority...

(xiv) Any other document relevant and admissible under the Indian Evidence Act (please specify documents produced) _____

15. Whether migrated into Assam: Yes/No

16. If yes,

(i) Place from where migrated:-

State/Country.....

(ii) whether migrated:-

- (a) before 1.1.1966
- (b) between 1.1.1966 and 24.3.1971
- (c) on or after 25.3.1971.

Place:

Date:

Signature of the Local
Verification Officer

(with full name and designation)

strike out whichever is not applicable.

ANNEXURE 'B'

Format for making reference to the Competent Authority
(in the case of suo motu local verification)

Office of the Electoral Registration Officer
for..... Assembly Constituency

No.

Dated:

WHEREAS, the Election Commission of India has ordered intensive revision of electoral roll for the Assembly Constituency in Assam with reference to 1.1.97 as the qualifying date; and

2. WHEREAS, house-to-house enumeration was done during the period from 16th January, 1997 to 15th April, 1997; and

3. WHEREAS, the name of Shri/Smt./Ms..... son/daughter/wife of Shri..... who has declared to be an Indian citizen and also an ordinary resident of (address), has been enumerated for inclusion in the draft electoral roll; and

4. WHEREAS, the electoral roll of the said constituency was published in draft on..... including therein the name of the said Shri/Smt./Ms.....; and

5. WHEREAS, I, the Electoral Registration Officer for the said Assembly Constituency, having doubt about the citizenship of the said person, got the matter verified by an on-the-spot local verification; and

6. WHEREAS, on consideration the report of such verification, I have reasonable doubt that he/she is not a citizen of India;

7. Now, therefore, the matter is forwarded to (Competent Authority) under the Illegal Migrants (Determination by Tribunals) Act, 1983 /The Foreigners Act, 1946 and Rules made thereunder, for

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deciding the question whether the said Sh./Smt.
 Mr. is a citizen of India or not. The
 following documents on the basis of which the aforesaid
 doubt has arisen are also enclosed herewith:-

- 1.
- 2.
- 3.

Signature of the E.R.O.

To
The Competent Authority

Formal for making reference to the Competent Authority
(in the case of claim application in Form-6)

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Office of the Electoral Registration Officer
for..... Assembly Constituency

No.

Dated:

WHEREAS, the Election Commission of India has ordered intensive revision of electoral roll for the Assembly Constituency in Assam with reference to 1.1.97 as the qualifying date; and

2. WHEREAS, house-to-house enumeration was done during the period from 16th January, 1997 to 15th April, 1997; and

3. WHEREAS, the electoral roll of the said constituency was published in draft on.....; and

4. WHEREAS, I, the Electoral Registration Officer for the said Assembly Constituency, have received a claim application in Form-6 for inclusion of name of Shri/Smt./Ms.....of.....(address) in the electoral roll for the said assembly constituency (a copy of which is enclosed); and

5. WHEREAS, on inquiry in relation to the said claim in Form-6 conducted by me in accordance with the provisions of the Registration of Electors Rules, 1960, I have reasonable doubt that he/she is not a citizen of India;

6. Now, therefore, the matter is forwarded to(Competent Authority) under the Illegal Migrants (Determination by Tribunals) Act, 1983 /The Foreigners Act, 1946 and Rules made thereunder, for deciding the question whether the said Sh./Smt./Ms.....is a citizen of India or not. The

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Foreigners Act, 1946 and Rules made thereunder, for deciding the question whether the said Sh. / Smt. / Mr. is a citizen of India or not. The following documents on the basis of which the aforesaid doubt has arisen are also enclosed herewith:-

- 1.
- 2.
- 3.

Signature of the E.R.O.

To
The Competent Authority

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ANNEXURE 'D'

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K

Form for making reference to the Competent Authority
(in the case of objection in form-7)

Office of the Electoral Registration Officer
for..... Assembly Constituency

No.

Dated:

WHEREAS, the Election Commission of India has ordered intensive revision of electoral roll for the Assembly Constituency in Assam with reference to 1.1.97 as the qualifying date; and

2. WHEREAS, house-to-house enumeration was done during the period from 16th January, 1997 to 15th April, 1997; and

3. WHEREAS, the name of Shri/Smt./Ms..... son/daughter/wife of Shri..... who has declared to be an Indian citizen and also an ordinary resident of (address), has been enumerated for inclusion in the draft electoral roll; and

4. WHEREAS, the electoral roll of the said constituency was published in draft on..... including therein the name of the said Shri/Smt./Ms.....; and

5. WHEREAS, I, the Electoral Registration Officer for the said Assembly Constituency, have received an objection in Form 7 against his/her citizenship status, a copy of which is enclosed; and

6. WHEREAS, on enquiry in relation to the said objection, conducted by me in accordance of the provisions of the Registration of Electors Rules, 1960, I have reasonable doubt that he/she is not a citizen of India;

7. Now, therefore, the matter is forwarded to (Competent Authority) under the Illegal Migrants (Determination by Tribunals) Act, 1983 /The

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following documents on the basis of which the aforesaid
doubt has arisen are also enclosed herewith:-

- 1.
- 2.
- 3.

Signature of the E.R.O.

To
The Competent Authority

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Annexure-A

SECRETARIAT OF THE
ELECTION COMMISSION OF INDIA

Nirva,
Ashoka Road,
New Delhi-110001

No 23/AS 96/Vol.III / 2/97

Dated 12th November, 1997

The Chief Electoral Officer,
Assam,
Dispur

Subject : Intensive revision of electoral rolls with reference to 1.1.1997 as the
qualifying date in all assembly constituency in Assam - guidelines

Sir,

I am directed to invite your attention to the Commission's letter of
even No. dated 4th August, 1997 wherein the Electoral Registration Officers
were directed not to finally dispose of the cases of claims and objections or
cases of suo-motu review which fall under sub-para (v) of para 3.3 of the
guidelines issued by the Commission, until such time the matter is reviewed by
the Commission and final instructions issued in this regard.

2. The Chief Electoral Officer, Assam has further reported that the
number of cases set aside on this account is only 73,101 as against 1,44,60,372
number of electors in the draft rolls. Thus, the issue involves 0.50% persons of
the total electorate.

(b3)

The matter has since been reviewed by the Commission and necessary legal opinion has also been obtained in the matter. After such review, the Commission is of the considered view that the guidelines issued by the Commission are consistent with Section 3 (1)(a) of the Citizenship Act, 1955, as it presently stands, and do not contravene either para 5.8 of the Assam Accord or Section 6(A) of the Citizenship Act, 1955.

4. In view of the above, the Commission hereby directs that these cases numbering around 73,101, as were set apart as per the Commission's instructions contained in its letter dated 4th August, 1997 referred to above, shall be disposed of by the Electoral Registration Officers immediately in accordance with the guidelines already issued by the Commission.

5. The Commission further directs that in cases which have been referred to the Tribunals through the Competent Authorities and where the decisions of the Tribunals have not been received by the Electoral Registration Officers, the names of such persons shall continue to be included 'provisionally' in the finally published rolls, but the letter "D" (meaning doubtful/Disputed) shall be indicated against each such name and a footnote "D means Doubtful/Disputed" added at the bottom of each relevant page of the electoral roll. As and when the decisions of the Tribunals are received in these cases, their names will either be retained or deleted accordingly.

The receipt of this letter may kindly be acknowledged

Yours faithfully



(K.J. RAO)
SECRETARY

Copy forwarded to :-

1. The Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
2. The Chief Secretary, Government of Assam, Dispur.



(K.J. RAO)
SECRETARY

By Speed Post/ e mail

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi - 110 001.

No.23/ER-Intensive/2004-PLN-II | 2671

Dated : 17th June, 2004

To

The Chief Electoral Officer
Assam,
Dispur.

Subject:- Intensive Revision of Electoral Rolls w.r.t. 01-01-2005 as the qualifying date.

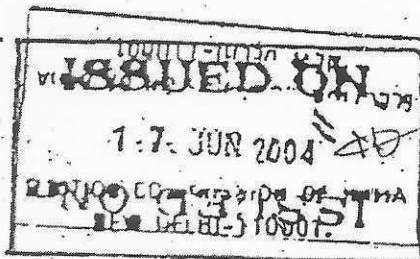
Sir,

In continuation of Commission's letter of even number dated 2nd June, 2004 communicating the programme of Intensive Revision of Electoral Rolls I am directed to forward herewith the detailed guidelines to be followed for the revision.

Kindly acknowledge the receipt.

Yours faithfully,

(K. R. PRASAD)
SECRETARY



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(C6)

INTENSIVE REVISION OF ELECTORAL ROLLS IN ASSAM
WITH REFERENCE TO 1-1-2005 AS QUALIFYING DATE

GUIDELINES

The Commission has ordered intensive revision of electoral rolls in Assam w.r.t. 01-01-2005 as qualifying date vide its letter dated 2nd June, 2004. The present guidelines relate to Assam and are in consonance with laws applicable to the state specifically.

1. **LEGAL FRAMEWORK:**

1.1. **CONSTITUTION OF INDIA**

Article 325 of the Constitution of India lays down that there shall be one general electoral roll for every territorial constituency for election to either House of Parliament or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Article 326 prescribes that election to the House of the People and State Legislative Assemblies shall be held on the basis of adult suffrage. Adult suffrage means every person who is a citizen of India and who is not less than 18 years of age on such date as may be fixed in that behalf by or under any law made by the appropriate legislature and is not otherwise disqualified, shall be registered as a voter at any such election.

1.2. **REPRESENTATION OF THE PEOPLE ACT, 1950**

The Representation of the People Act, 1950 provides for the qualifications and disqualifications for registration in electoral rolls, the administrative machinery in the field for the proper preparation and revision of rolls and the manner in which the rolls should be prepared or revised.

Section 21 (1) of the Representation of the People Act, 1950 provides that the electoral roll for each constituency shall be prepared in the prescribed

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manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act. 67

The 'qualifying date' in this context has been defined in section 14(b) of the R. P. Act, 1950 to mean the first day of January of the year in which the electoral roll is prepared or revised.

Section 21(2) of the said Act provides that the said electoral rolls:

- (a) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date,
 - (i) before each general election to the House of the People or to the Legislative Assembly of a State; and
 - (ii) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and
 - (iii) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission;

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said roll shall not thereby be affected.

Section 21(3) of the said Act also provides that notwithstanding anything contained in sub-section (2), the Election Commission may at any time, for reasons to be recorded, direct a Special Revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit;

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

1.3. CORRECTION AND INCLUSION OF NAMES IN ELECTORAL ROLLS AFTER FINAL PUBLICATION:

Section 22 of the R. P. Act, 1950 empowers the ERO for a constituency to take remedial action after giving the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him, in the event of an entry being erroneous or defective, entry should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency or deletion of the entry on account of death of a person or the person ceases to ordinarily reside in the constituency or is otherwise not entitled to be registered in that roll.

Section 23 provides for inclusion of names in electoral rolls in accordance with the provisions of Act and the rules thereunder. However, no transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in a parliamentary constituency within which that constituency is comprised and before the completion of that election.

1.4. REGISTRATION OF ELECTORS RULES 1960

The Registration Of Electors Rules 1960, framed under the said Act set out in detail the procedure to be followed in the preparation or revision of electoral rolls as well as the consideration and disposal of appeals arising out of non-inclusion or wrong inclusion of names in the rolls.

1.5. PROCEDURE OF PREPARATION AND REVISION OF ELECTORAL ROLL:

ROLLS PREPARED ASSEMBLY CONSTITUENCY-WISE

The Electoral Rolls are prepared Assembly Constituency-wise. A Parliamentary Constituency does not have a separate Electoral Roll except in the case of Jammu & Kashmir and the Union Territories not having a Legislative Assembly. In the case of J&K, there are separate rolls for Assembly

Constituencies and Parliamentary Constituencies as the Assembly rolls in J & K are prepared under the provisions of Section 140 of the Constitution of Jammu and Kashmir and Sections 10 to 20 of the Jammu and Kashmir Representation of the People Act, 1957. The Electoral Roll of a Parliamentary Constituency (except in Jammu & Kashmir) consists of the Electoral Rolls of all the Assembly Constituencies comprised within the said Parliamentary Constituency.

1.6. TYPES OF REVISION

The Electoral roll for a constituency can be revised either intensively or summarily or partly intensively and partly summarily as the Election Commission may direct. It can also order a special revision, if necessary. Thus there can be four types of revision of electoral rolls. These are :

- (i) Intensive
- (ii) Summary
- (iii) Partly summary and partly intensive
- (iv) Special

The procedure of revision of electoral rolls is as follows.

1.7. Intensive Revision of Rolls:

In an intensive revision, enumerators visit each house and note down the particulars of the eligible members of the house in an Electoral Card. A copy of the Electoral Card is handed over to the head of the household or, in his absence, to any adult member of the family. On the basis of such enumeration, draft rolls are prepared and published, inviting claims and objections. After disposal of such claims and objections, the rolls are finally published.

1.8. Summary revision of Rolls:

In a summary revision, there is no house-to-house enumeration. The existing roll is published in draft inviting claims and objections.

During the summary revision only a notice is issued advising electors to make individual applications for inclusion or exclusion in or from a particular roll

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as the case may be. Enquiry of a summary nature is conducted on applications received. Thereafter supplementary lists indicating additions and deletions are published. It is possible that at a given time there are multiple supplementary lists, which together with a last finally published roll constitute the current roll.

1.9. Partly Summary Partly Intensive Revision:

In a partly intensive and partly summary revision, existing rolls are published in draft. Simultaneously, enumerators are sent to each household. They prepare lists of additions/deletions. After disposing of claims and objections, integrated lists of addition/deletions are prepared which together with main roll form the Electoral Roll.

1.10. Special Revision:

Where by reason of any inaccuracies in the rolls, such as failure to cover any place or localities or blocks or any section of voters or for any other reasons, the Commission considers it necessary so to do, the Commission may, after recording such reasons, order special revision of the roll of any constituency or part thereof. The procedure for carrying out special revision is determined by the Commission in each case having regard to the circumstances of the case and other relevant factors. It may be intensive, summary or partly intensive and partly summary.

1.11. CONCEPT OF CONTINUOUS REVISION:

The Electoral Registration System in India is essentially in the nature of a continuous updation, even though this is not widely known as such or utilised except during the periods when elections are held. As per the law, applications for inclusion/deletion of names or modifications of entries in the roll can be given at any time even after the election process has started but during the latter the requests can be acted upon only up to the last date of nomination. Only during the period between the last date of nomination and the date of completion of the electoral process no requests are acted upon. As with summary revision,

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supplementary lists are produced containing additions and deletions or modifications of entries allowed during the period intervening between the last final publication and the last date of nomination. It is quite possible that such a supplementary list is an addition to the supplementary list, which has been produced through summary or intensive revision earlier. (71)

There is however no publication of separate addition/deletion lists at fixed intervals due to continuous revision, though the Electoral Registration Officers are required to maintain such lists corrected up-to-date at all times.

2. BACKGROUND:

2.1. After the first general election in 1952, the Commission directed that in respect of each of the 5 years from 1952 to 1956 the annual revision of electoral rolls in State should intensively cover $1/5^{\text{th}}$ of the entire area of the State so that every locality might have its electoral roll intensively revised at least once before the second general election. Apart from this, the Commission also directed the intensive revision of the rolls every year in respect of some special kinds of areas where the electoral rolls were likely to become inaccurate and out of date fairly soon after their preparation, e.g. (i) Urban Areas (ii) Areas with a floating labour population and (iii) Areas to and from where fairly large movements of population were known to have taken place. The Commission further directed all Electoral Registration Officers that the rolls for the year 1956 should be prepared or revised as accurately as possible and that special steps should be taken to ensure that the revised rolls for 1956 were finally published in time.

After the general election in 1957, the Commission directed that during each of the three following years the electoral rolls related to $1/3^{\text{rd}}$ of the entire area of every State should be revised intensively so that the electoral roll for every locality would have been revised intensively once at least before the next general election in 1962. During the year 1961 the revision taken up was non-intensive in respect of the entire rural area but intensive in respect of (a) Urban Areas (b) Areas where there were floating local population (c) areas to or from where migration was known to have taken place and (d) Service voters.

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(72)

In the CEOs' Conference held in 1960 the following decision was taken in regard to revision of rolls: "there should be an annual revision of rolls and the programme for such revision should start on the 1st January and the work completed on the 31st January of the year".

After the general elections of 1962, the Commission directed that the summary revision of electoral rolls should ordinarily be sufficient in the years 1963 and 1964. The Commission was convinced that it was a waste of effort to revise every year the electoral rolls of all the constituencies in the country. The device of summary revision made the task some what easier for the Electoral Registration Officers since they had only to prepare a list of amendments to the various parts of the electoral rolls on the basis of such information as might be readily available, published the roll together with this list in draft and finalise it after going through usual claims and objections procedure. The Commission issued a general direction that about 40% of the electoral rolls should be intensively revised in 1965 and the rest in 1966 and that the latter should include all urban areas, areas with a floating population and areas to or from which large scale migration was known to have taken place.

Shortly after the indications became clear that a great split in the Indian National Congress was certain, the Commission felt that such split might force the Prime Minister to advise the President to dissolve the House of the People at any opportune moment. The Election Commission did not wait till the dissolution of the Lok Sabha and called a one day conference of all the CEOs on 5th November, 1969 and directed them to take up the revision of rolls on 15th of November, 1969 and finish the entire process of revision by 15th January, 1970. This was an unprecedented step in the election history of India because previously the preparation or revision of rolls took a very longer period even in summary revision. And as such the Election Commission was in a position to take up the challenge of holding elections at a short notice. When the Lok Sabha was dissolved towards the end of December, 1970, the Election Commission felt confident to hold the general election well in time before the financial year was out. It may be pointed out here that whenever a general election is held either to

the Lok Sabha or to Legislative assembly during the first quarter of a year, the electoral rolls which can be used for such election can only be the rolls prepared or revised with reference to the first of January of the preceding year because it is physically impossible to hold and complete any general election by the middle of March of a year by preparing or revising the electoral rolls with reference to the first January of that very year. Therefore prior to 1971 whenever the general elections were held, by and large, in the first quarter of the year, the rolls which have been used for such general elections have always been the rolls prepared or revised with reference to the 1st January of the previous year and therefore the rolls which were used at the general election in February-March, 1971 were the rolls which were prepared with reference to the 1st January, 1970. It is pertinent to mention here that under Section 23 of the R. P. Act, 1950 any person whose name is not included in the electoral roll of a constituency may apply to Electoral Registration Officer for the inclusion of his name in that roll and the ERO, if satisfied that the applicant is entitled to be registered in the electoral rolls, is required by the law to direct his name to be included therein. Sub-Section 3 of section 23 sets a time limit for such inclusion that no direction for the inclusion of name in the electoral rolls of a constituency can be given after the last date for making nominations for an election in that constituency with the result that even if an application for inclusion is made before the last date of making nominations then in that case the application for inclusion will remain undisposed till the elections are held and completed.

In 1975 with a view to be prepared for general elections, the Commission took early steps for revision of the electoral rolls under a crash programme and directed all the States and Union Territories that the existing rolls should be published as draft rolls on 1st January, 1975 and claims for inclusion of names in, and objections for the deletion of entries from the rolls, should be invited up to 16th January, 1975. This procedure was intended to reduce the consumption of paper, volume of printing and expedite the revision of rolls. The Commission further directed that simultaneously there should be house to house enumeration of voters by the officially appointed enumerators in accordance with the system

of Electoral Card. On the basis of the enumeration, the enumerators were asked to prepare two lists, namely (i) list of persons who were eligible to be registered in the electoral roll but whose names were not previously included in the draft rolls and (ii) list of persons whose names were included in the draft rolls but who were since dead or had ceased to be ordinarily resident in the constituency. 74

Having regard to large scale shifting of population to various new colonies in Delhi it was considered desirable that the draft rolls should not be the existing rolls, as in the case of other states, but those prepared afresh after house to house enumeration. The rolls were published in the draft on 10th February 1975 and finally published by 7th April 1975 while in all other cases the rolls were finally published on 28th February 1975.

Since the general election to the House of the People was not held in 1976 as the duration of the existing House had been extended till March, 1977, in March, 1976 the Commission decided to undertake summary revision of rolls with reference to 1.1.1976 as the qualifying date. The electoral rolls so revised in 1976 were accepted to be valid for the general election in 1977. However with a view to updating rolls to the extent possible the Commission through a press note exhorted all duly qualified persons to file claims to the respective rolls not later than 5th February 1977. All efforts were made to dispose of all such claims and objections to ensure the accuracy of the roll.

Keeping in view the general elections in 1985, the Commission decided to stagger the revision of rolls in such a way that the electoral rolls of all rural constituencies could be intensively revised in 1983 with reference to 1.1.1983 as the qualifying date and those of all urban constituencies with reference to 1.1.1984 as the qualifying date. To achieve optimum accuracy of electoral rolls, the Commission directed that Chief Electoral Officers, Joint Chief Electoral Officers, Dy. Chief Electoral Officers and other senior officers of the election departments and District Election Officers to undertake frequent tours particularly at the time of house to house enumeration in various districts of the states to ensure that enumeration work progressed in an orderly and systematic manner. The Electoral Registration Officers and Assistant Electoral Registration Officers

were instructed to make spot checks at random in respect of areas where there were complaints of large-scale omissions of names in the past.

The electoral rolls of all constituencies were revised intensively in 1987 and 1988, followed by a special revision in 1989. In 1992 the summary revision was ordered and thereafter in 1993 Commission ordered for the intensive revision with reference to 1.1.1993 as the qualifying date.

Being aware of the presence of a substantial number of foreign nationals in some States of the country, the Commission, in consultation with the Ministry of Home Affairs, issued a direction in 1992 containing a special enumeration procedure for areas having a substantial presence of foreign nationals.

According to the abovementioned procedure the Assembly Constituencies having a large scale presence of foreign nationals were to be identified first by the State Govt. authorities concerned and within such Assembly constituencies, the polling areas having a substantial presence of foreign nationals were also to be likewise identified by those authorities and top priority was to be given for such identified areas and the enumeration work to such areas was to be completed by the 31st August, 1992.

Taking into all material facts and prevailing ground situation into consideration, the Commission directed that all further work relating to the above intensive revision of electoral rolls in respect of the State of Assam shall remain in total abeyance and directed 'de novo' intensive revision of electoral rolls in the State w.r.t. 01-01-1993 as the qualifying date. This was to be done as per the detailed guidelines issued by the Commission on 17-05-1993 which was framed taking into consideration all relevant rules in the State, Assam Accord, Citizenship Act, 1955, the Foreigners Act, 1946, IMDT Act, 1983 etc. The said guidelines was revised by the Commission during the intensive revision of electoral rolls with reference to 01-01-1995 as qualifying date ordered by the Commission on 06-12-1994, in view of the judgment and order dated 28-01-1994 and 01-02-1994 of the Hon'ble Guwahati High Court in cases of H.R.A. Chaudhury Vs. Election Commission of India and others (Civil Rules Nos.

1566, 1616, 1836 and 2814 of 1993), which was upheld by the Hon'ble Supreme Court by its judgment and order dated 05-05-1994 in Civil Appeals No. 4171-4180 of 1994 arising out of SLPs (Civil) Nos. 2484-85 of 1994). However, the said intensive revision of electoral rolls could not be undertaken as the process was stayed by the interim order of the Hon'ble High Court of Guwahati dated 22-12-1994, even before the first step of house to house enumeration was started. The Hon'ble High Court pronounced its final judgement dated 04-12-1995 dismissing the writ petition and holding that under rule 25 of the Registration of Electors Rules, 1960, the Election Commission only is vested with the power to revise the electoral rolls intensively or summarily or partly intensive or partly summary.

As the general election to the House of the People from 14 Parliamentary Constituencies in the State of Assam and general election to State Legislative Assembly were due shortly, the Commission could not undertake the intensive revision of electoral rolls as ordered above and therefore, summary revision of electoral rolls with reference to 01-01-1996 was ordered and rolls were finally published on 12-02-1996.

In 1997 intensive revision of electoral rolls was again undertaken in Assam and fresh guidelines were issued by the Commission on 04-02-1997 and 17-07-1997, taking into account all relevant Acts and Rules and also the judgments and orders mentioned above and also the judgment and order dated 06-02-1995 of the Hon'ble Supreme Court in the case of Lal Babu Hussain and Others Vs. Electoral Registration Officers and Others (1995 (3) SCC 100).

2.2 "D" voters

The Commission in its above said guidelines, issued in 1997, laid down clear instructions on how to proceed on the question of citizenship in so far as drawing up the electoral rolls were concerned. In the judgment of the Hon'ble Supreme Court in Lal Babu Hussain case (Supra), it has been decided that the question of citizenship is to be determined by the authorities vested with such powers under the Citizenship Act, 1955, and other relevant laws relating to citizenship. In so far as the State of Assam is concerned, the competent

authority to decide the ques.

is the Foreigners Tribunal, set up under the Foreigners Act, 1946, in respect of those persons who entered into the State from other countries on or before 24-03-1971; and the Illegal Migrants Determination Tribunal, set up under the Illegal Migrants (Determination by Tribunals) Act, 1983, in respect of those persons who entered into the State on or after 25-03-1971.

The Commission, in its aforesaid guidelines stated that where the Electoral Registration Officer is not so satisfied and had reasonable doubt, after due verification and inquiry, about the claim of any person being a citizen of India, he should not straight-away reject the claim of such person, but should refer the case of such doubtful person to the appropriate Tribunals, through the competent authorities prescribed under the relevant Acts, for determination of the question as to whether such person is a citizen of India or not. In the context of the above revision of electoral rolls in the State of Assam in 1997, objections and doubts were raised before the Electoral Registration Officers in relation to 17,99,857 persons, whose names found place in draft electoral rolls published on 22-07-1997 or who filed claims for inclusion of their names in the electoral rolls. The Electoral Registration Officers, in consonance with the aforesaid guidelines of the Commission accepted the claims of as many as 13,41,994 persons as being citizens of India and issued notices under rule 21A of the R.E. Rules, 1960 to 184619 persons and referred the cases of only 2,02,092 persons, about whom they have reasonable doubt, to the appropriate Tribunals, through competent authorities, for determination of the question of their citizenship.

As the judicial process of determining the citizenship status of those persons, referred to the Tribunals, was likely to take quite sometime and at the same time as the scheme of the Representation of the People Act, 1950, as contained in sections 14 to 21 thereof, is that the process of revision of electoral rolls must be completed in all respect and all electoral rolls should be finally published in the same calendar year, with reference to the 1st January whereof,

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as the qualifying date, such revision has been undertaken and thus the electoral rolls of all 126 assembly constituencies in Assam, had thus to be finally published before the end of the year, 1997, that is, before 31-12-1997, and as the relevant Tribunals would not be able to dispose of all cases referred to them before 31-12-1997, the Commission directed that electoral rolls of all 126 assembly constituencies in the State should be finally published on 09-12-1997. It was further directed that the names of all such persons, whose cases have been referred to the aforesaid appropriate Tribunals, may be provisionally included in the final electoral rolls and the letter 'D' may be indicated against each such names in the electoral rolls to denote that their citizenship status is doubtful/disputed. Their names shall either be deleted or retained in the electoral rolls by the Electoral Registration Officers concerned, only after the receipt of decisions from the appropriate Tribunals to whom such cases were referred.

Now the question arises as to whether the aforesaid persons, against whose names the letter 'D' appears in the electoral rolls, would be eligible to cast their votes or contest in any elections before their names are finally cleared by the Tribunals. The Commission after careful examination of the case and in pursuance of Articles 326, 84, 102, 173 and 191 of the Constitution, Section 16 of the Representation of the People Act, 1950 read with Sections 62(1) and 62(2) of the Representation of Peoples Act, 1951 had directed that all such persons shall not be eligible to vote or contest in any election, unless such Tribunal decides in his favour that he is a citizen of India. These instructions shall remain enforce till such time the Commission issues any directions on the contrary.

2.3. REVISION OF ELECTORAL ROLL WITH REFERENCE TO 01-01-2004

The electoral roll in respect of Assam was summarily revised with reference to 01-01-2004 as the qualifying date as per the following programme.

Sl. No.	Stages of Revision	Date/Period
1.	Publication of Draft Roll	17.11.2003
2.	Reading of relevant part of electoral roll in	Between 17.11.2003 to

	Gaon Sabha/Urban local bodies and Resident Welfare Association meetings and filing of Claims and Objection	23.12.2003
3.	Special campaign dates	6 th and 7 th December, 2003
4.	Disposal of claims and objections and printing of supplements by	30.01.2004
5.	Final publication	05.02.2004

3. INTENSIVE REVISION OF ELECTORAL ROLLS w.r.t. 01-01-2005 AS THE QUALIFYING DATE

3.1. THE SCHEDULE:

The Commission has announced the following schedule vide its order dated 2nd June, 2004 for intensive revision in Jammu and Kashmir and the North Eastern states including Assam.

	STAGES OF REVISION	PERIOD ALLOWED FOR EACH STAGE
1.	Preparatory work	01.07.2004 (Thursday) to 01.08.2004 (Sunday)
2.	House-to-house enumeration	02.08.2004 (Monday) to 03.09.2004 (Friday)
3.	Preparation of manuscript, comparison of manuscript with relevant parts of the previous electoral roll of 2003, data entry of new electors and carrying out corrections, wherever necessary, in respect of electors already included in the data base, generation of check list, comparison thereof and printing of draft roll. Supply of electoral rolls and Forms 6, 7, 8 & 8A to area Post Offices.	04.09.2004 (Saturday) to 28.10.2004 (Thursday)
4.	Draft publication of rolls on	29.10.2004 (Friday)
5.	Local verification/Period for filing of claims and objections and reading of relevant part/section of electoral roll in Gram Sabha / Urban Local Bodies and Resident Welfare Association	Between 29.10.2004 (Friday) and 20.11.2004 (Saturday)

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	Meetings etc.	
6.	Local verification/Disposal of claims and objections by	13.12.2004 (Monday)
	Preparation and printing of supplements of additions, deletions and corrections by	31.12.2004 (Friday)
7.	Final publication of Electoral Rolls on	03.01.2005 (Monday)

3.2. PRELIMINARY WORK BEFORE START OF ENUMERATION

3.2.1. Polling Station Areas - Maps and other details

The electoral roll shall be revised polling station wise and each part of the electoral roll shall cover the area falling within one polling station. In other words, the part number of the electoral roll and the polling station number shall be the same. Therefore, it is absolutely necessary that the list of villages/localities/sub-localities covered by a part of electoral roll is very clearly defined as a section in the part and tagged to the postal zone of the corresponding area. There shall be no scope for confusion and the enumerators should be clear about the area to be enumerated by him/her.

The ERO shall have each Polling Station Area surveyed in advance to ensure that all the residential units are included in the list of locations falling within the area. He shall also ensure that house numbers are assigned to each residential unit. Temporary constructions to which house numbers have not been assigned yet may also be surveyed for clear identification of polling areas in which they fall. Temporary collective numbers may be given to such clusters of temporary constructions, wherever necessary. The numbers allotted by Census Authorities, if available, may be adopted for enumeration purpose in these cases. These collective numbers should indicate the exact repeat exact number of households in the clusters and will not in any way be treated as regularizing any irregular unauthorized occupation/irregular unauthorized encroachment.

In order to avoid the error of mixing of electors of one polling area with other and / or inclusion of same area in two or more polling stations, Section falling within a particular Polling Station should be printed using the existing database of Control Tables and it should be compared with the extent of Polling

Stations approved by the Commission, a copy of which is provided to the political parties.

Each enumerator shall be supplied with a list of house numbers along with a sketch map of the area, which he is required to cover during enumeration. (It should be noted that all the polling station areas in an Assembly Constituency joined together constitute the constituency itself and no island should be left.) This is being provided to ensure that no areas are left out at the time of enumeration. A copy of this map should be safely preserved as the Commission is contemplating preparation of GIS maps for polling stations and Assembly Constituencies and these maps will be required at the time of preparation of the GIS maps.

The house numbering should, as far as possible, be the ones adopted by the authorities for preparation of electoral rolls for local bodies. This would greatly help in adopting of the electoral data of assembly constituencies, for preparation of rolls for local bodies elections. In case the polling area does not have proper house numbering, dummy house numbers (as is assigned by Census authorities at the time of census) should be assigned to all the dwelling units in these areas. Normally such house numbering is done starting from North-west and ending in South-East as is done in numbering of plots of land by the revenue authorities. It must be ensured that there is no overlapping in the jurisdiction of enumerators.

3.2.2. Appointment of Enumerators and Supervisors

Under the provisions of sub-section (2) of section 13B of the Representation of the People Act, 1950, an Electoral Registration Officer is permitted to employ such persons as he thinks fit for the preparation and revision of the electoral rolls.

Section 29 of the said Act provides that every local authority in a State shall make available to any Electoral Registration Officer such staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls.

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Enumerators are appointed to carry out enumeration of elector residing in each household in the area assigned to him. One enumerator should be appointed for each part of the existing electoral roll. Supervisors are to be appointed to oversee the work done by the enumerators. Normally, one supervisor shall be appointed to oversee the work of two Enumerators. However, there is no objection to appointment of one Supervisor for each Enumerator depending on the ground situation. Necessary planning may be done in advance to requisition the services of sufficient number of employees to be appointed as Enumerators and Supervisors.

Each Enumerator and Supervisor should be given Identity Card (specimen Annexed as IR-2005-01) by the ERO, which should be displayed on their person while on duty.

3.2.3. Disciplinary action

As per provisions laid down in Section 13CC of the said Act, officers or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections shall be deemed to be on deputation to the Election Commission of India for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Election Commission. The enumerators and supervisors are also covered by the above provision.

Enumerators and Supervisors shall further bear in mind the provisions of section 32 of the said Act which envisage that if any person required to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause, guilty of any act or omission in breach of such official duty, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.

3.2.4. Code of conduct

Enumerators and Supervisors appointed for house to house enumeration/verification in connection with the Intensive Revision of the electoral rolls have a very vital role in the matter of preparation of correct and accurate electoral rolls. The Enumerators and Supervisors should remember that they are doing a vital public service and not any favour. While on duty, they should have patience and exhibit good manners when dealing with the public. After reaching a house, they should greet the head of the family or senior adult member politely, explain their duty and ask for information using a very polite language.

3.2.5. Training of Enumerators and Supervisors

The District Election Officer (DEO)/Electoral Registration Officer (ERO) shall be organising comprehensive training classes covering all aspects of the Intensive revision for the enumerators and supervisors to clearly understand the job requirements and what they are expected to deliver in an efficient manner.

There may be a number of training classes and all enumerators and supervisors shall attend these training sessions without fail in order to have a very clear idea of their duties.

During the training sessions, copies of all Formats and Forms in which the data relating to electors is to be obtained should be supplied. Further thorough training will be provided as to the precautions to be taken for obtaining the information and the method to be used for filling up various columns of the Forms. All enumerators and supervisors should be advised to understand the procedure and ask detailed questions if they have any doubts. Unless the enumerators and supervisors have a clear and thorough knowledge of their duties, they will not be in a position to discharge their duties as required under law and will find it difficult to fill the required Forms. Ignorance or lack of training shall not be accepted as a defence in case of non-compliance of the Commission's instruction on revision of rolls.

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3.2.6. Printing of Electoral Cards

The format of the "Electoral Card" shall be in the form Annexed as IR-2005-02. The columns of the card are provided in accordance with the present format of the electoral roll. These cards should be printed and stitched in a book form. These books (enumeration pad) shall contain enumeration cards in duplicate and shall be serially machine numbered. The duplicate copy may be printed on a different coloured paper, to distinguish it clearly. The original copy and the duplicate copy should bear the same serial number and should have the printing properly aligned. The Declaration to be signed by the Head/Senior adult member of the household should be printed on both the copies. Groups of hundred or two hundred cards should be stitched together in pads.

It is left to the discretion of the Chief Electoral Officer to decide whether the enumeration pads for the entire State should be printed centrally or by the District Election Officers.

3.3. THE PRESENT REVISION OF ELECTORAL ROLLS

The following guidelines shall be strictly followed by the Electoral Registration Officers of all the Assembly constituencies in the State of Assam in connection with the intensive revision of electoral rolls with reference to 01-01-2005 as the qualifying date. These guidelines borrow heavily from the guidelines issued by the Commission in 1997 revision and have been framed by the Commission keeping in view the Judgement and Order dated 28-01-1994 and 01-02-1994 of the Hon'ble Gauhati High Court in the case of H.R.A. Chaudhury vs. Election Commission and others (Civil Rule Nos. 1566, 1616, 1836 and 2814 of 1993), which was upheld by the Hon'ble Supreme Court by its judgement and Order dated 05-05-1994 in Civil Appeals NO. 4171-4180 of 1994 arising out of SLPs (Civil) Nos. 2484-85 of 1994, and the judgement and order dated 06-02-1995 of the Hon'ble Supreme Court in the case of Lal Babu Hussain and others vs. Electoral Registration Officer and others (1995 (3) SCC 100).

The Hon'ble Gauhati High Court has held in the case of H.R.A. Chaudhury vs. Election Commission and others (Supra) (upheld by the Hon'ble Supreme Court of India):

'the draft rolls are to be prepared on the basis of the statements submitted by the heads of the households in a constituency in Form 4 under Rule 8-----

the statement made by a Head of the Household has its own value and can not be lightly brushed aside. Rules do not contemplate any inquiry into the question of citizenship at the stage of preparation of draft roll, although there is provision for objection after the draft roll is published on the grounds that a person who is not a citizen of India has been erroneously included."

The Hon'ble Supreme Court has held in the case of Lal Babu Hussain vs Electoral Registration Officer and others (Supra):

"Thus, the question whether a person is a foreigner is a question of fact which would require careful scrutiny of evidence since the enquiry is quasi-judicial in character. This question has to be determined by the Central Government, vide Government of Andhra Pradesh vs. Syed Mohd. Khan 1962 Supp. 3 SCR 288 and State of U.P. vs. Rehametullah 1971 (2) SCC 113. xxxxxxxxxxxxxxxxxxxx—

It is obvious from the above that two situations arise; the first where the name is to be entered on the rolls for the first time and the second where the name already entered is required to be deleted. In the first mentioned situation before the name is entered on the rolls, the concerned officer must be satisfied that the person seeking to have his name entered is not disqualified by reason of his not being a citizen of India. Therefore, he would be justified in requiring the concerned person to show evidence that he is a citizen of India. In the second situation, since the name is already entered, it must be presumed that before entering his name the concerned officer must have gone through the procedural requirements under the statute. This would be so even if we

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invoke Section 114(e) of the Evidence Act. But then possibilities of mistakes cannot be ruled out. These mistakes, if any, would have to be corrected. Even if we are to assume (without deciding) that the words "is otherwise not entitled to be registered in that roll" used in Section 22 of the 1950, Act or Rule 21A of the 1960 Rules are wide enough to cover the question relating to citizenship, the issue would have to be decided after giving the concerned person reasonable opportunity of being heard. If the opportunity of being heard before deletion of the name is to be a meaningful and purposive one, it goes without saying that the concerned person whose name is borne on the roll and is intended to be removed must be informed why a suspicion has arisen in regard to his status as a citizen of India so that he may be able to show that the basis for the suspicion is ill-founded. Unless the basis for the doubt is disclosed, it would not be possible for the concerned person to remove the doubt and explain any circumstance or circumstances responsible for the doubt."

3.4. HOUSE TO HOUSE ENUMERATION

3.4.1. Stationary to be supplied to the enumerator

The Enumerator will not be supplied with copy of any previous electoral rolls. He shall be supplied with a complete list of villages/localities/sub-localities along with a sketch map of the area under his/her jurisdiction.

Each enumerator will be supplied with the following materials :-

- a) Enumeration Pad containing enumeration forms (Electoral Cards);
- b) Sufficient number of new carbon papers;
- c) Good quality ball point pen;
- d) Stamp pad to get thumb impression of the illiterate electors;
- e) Adequate number of Form-4 appended to Registration of Electors Rules, 1960.

3.4.2. Enumeration of each household:

As mentioned here before, one enumerator is to be appointed for the area covered in each part of the existing roll. However, separate Enumeration Pad

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containing Electoral Cards shall be compulsorily used if there are more than one section in that part i.e. separately identifiable localities like block, mohallas, hamlets etc. On the cover page of each Enumeration Pad, the identity of the area/sub-area covered should be clearly written in capital letters.

When the enumerator visits a household, he will meet the *head of the household* or, in his absence, the *senior adult member* of that household. He will ascertain the names of adult Indian citizens i.e. those Indian citizens who are of the age of 18 or above on the qualifying date and are ordinarily residing in the house. He shall enumerate the names of all such persons as are claimed to be adult Indian Citizens and are ordinarily residents, by the head/senior adult member of the household, in the enumeration pad provided to him by the Electoral Registration Officer for the purpose of such enumeration.

The Enumerator should clearly explain and bring home to the head or the senior adult member of the household that no person can be enrolled at more than one constituency and not more than once in the same constituency and that furnishing of any information which is false and which he/she knows or believes to be false or does not believe to be true, is an electoral offence. The persons furnishing such false information are liable for punishment with imprisonment for a term, which may extend to one year or with fine or with both under section 31 of the Representation of the People Act, 1950.

The Enumerator should thereafter obtain the full signature of the head/senior adult member who furnished the information to him and if the head/senior adult member of the household is illiterate, the thumb impression of the person (left thumb impression in the case of male person and right thumb impression in the case of female member for the sake of uniformity) at the appropriate place on the right side of the Electoral Card. Below such thumb impression, the enumerator along with words 'LT' or 'RT' shall mention the full name of the person affixing such thumb impression legibly as the case may be.

The Enumerator should also append his signature thereafter on the left-hand corner of the Electoral Card with his name and date of enumeration. In no case the signature of either the senior/adult member of the household or that of

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the Enumerator should be blank in any of the Enumeration Card. In case the number of eligible members of a household is more than the number of entries that can be accommodated in one Electoral Card, then the next card may be used to enumerate all the eligible persons. The signature of the head/senior member of the household may be obtained only in last of such Electoral Cards used for enumeration. It is not necessary to obtain the signature on each card.

If in any house/building, there is more than one family residing, each family should be enumerated separately, even if the house number is common. In no case should the name of members belonging to more than one family be included along with the names of members of another household in the same electoral card.

Every enumerator will personally visit each and every household in the polling area under his charge. During such visits if he finds any new house having come up which is not included in the list of house numbers given to him, he will include that house also by giving it a suitable auxiliary number. For instance, if between house numbers 33 and 34 a new inhabited structure has come up and the eligible electors of the household have not been enumerated, the enumerator will give 33A/33B/33C etc. as the auxiliary number for identification of the house and proceed to enumerate the eligible electors therein.

A specific day may be fixed for enumeration of electors living in a specific cluster of unnumbered temporary constructions referred to above. This day should be widely publicized in the area concerned and notified to all recognized political parties. The political parties should be invited to appoint one agent each to witness the process of enumeration in the said cluster.

The enumerator on the day of actual enumeration, accompanied by the supervisor should assign a temporary number, if no other number is assigned by local authorities, with chalk or such like instruments in front of each individual construction in the cluster and complete the enumeration in one go on the same day. No piecemeal enumeration of the cluster will be accepted.

Any such additional temporary constructions or clusters that come up after the process of enumeration should be dealt with during the process of disposal of

claims and objections under Rule 21 and 21A of the Registration of Electors Rules, 1960. (89)

If any enumerator finds a particular house locked or that no adult member of the house hold is available at the time of his visit, he shall visit that house at least three times on different occasions and during different hours in the morning or evening when he may reasonably expect to find some adult person to be present/available in the house. If even after three such visits he is not able to meet any adult member of the household, he will make an entry to that effect against that house number in the List of house numbers provided. He should also prepare a separate list of all such households and furnish that list to his supervisor.

Where an enumerator reports to the Supervisor that a particular house has been found locked ~~or no~~ adult member of household is available in any house on his repeated visits, the Supervisor will himself visit that house and verify the fact. In case the house is found locked or no adult member of the household is available even at the time of the Supervisor's visit, he shall drop the letter of request in Form 4 (Appended to the Registration of Electors Rules, 1960) in the premises. He shall make another visit to that house after two or three days and collect Form 4, if somebody is present at the time of his subsequent visit. He shall keep a proper account of his visits to such houses.

3.4.3. Preparation of Manuscript

As soon as the enumerator completes an enumeration pad, the work of preparing the list of persons enumerated, as per the enumeration pad shall be started. It shall not be necessary to wait for the enumeration of the entire polling area to be completed before the work of such preparation of the list of enumerated persons is taken up.

Separate list should be prepared for each identifiable area covered in one part of the electoral roll. Like in rural areas if there are more than one village in a part then separate list should be prepared for each village. Similarly if there are more than one identifiable localities like mohalla, block, society, apartment colony

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etc. In a part of an urban area, separate list for each such segment shall be prepared. This will facilitate reading out of the rolls separately in different villages/localities/sub-localities.

The proforma to be used for preparing the list of enumerated persons shall be the same as that of the Electoral Card with an additional column to show the 'Sl. No. in the Existing roll'. The Enumerator will prepare the manuscript from the names of enumerated persons in the Electoral Cards. He shall not fill up the additional last column, as he will not be provided with relevant part of the previous electoral roll.

Immediately after a polling area has been completely enumerated and all the enumeration pads in respect of that area have been received and lists of persons enumerated therein prepared, all such lists shall be consolidated and arranged house-number wise starting with the first house and ending with the last house in that polling area. All such lists shall be prepared in quadruplicate (four copies) polling station-wise.

While preparing these lists polling station-wise, the information furnished by the households in Form 4 either through the supervisors or direct to the ERO shall also be included in the relevant places having regard to the house numbers where such households reside.

3.5. DUTIES OF THE SUPERVISOR

Every Supervisor shall personally check and ensure every day that the enumerators under his charge are visiting the households in the polling areas assigned to them and performing their functions properly and strictly in accordance with the Commission's instructions. For this purpose, the Supervisors should make daily visits to the areas under their charge.

As soon as an enumerator has returned a Enumeration Pad, duly filled, to a Supervisor, along with the manuscript of enumerated persons, he shall personally check each and every Electoral Card serial wise in the enumeration pad and verify that it contains all the pages which it is supposed to contain and

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that all 'Electoral Card' have been properly filled in and duly completed in all respects and that no column has been left blank. (a)

The Supervisors shall be provided with the previous electoral roll of the corresponding area covered by the Enumeration Cards in respect of a polling station area. As soon as the manuscript in respect of a polling area is handed over by the Enumerator along with the enumeration pad containing the original 'Electoral Cards', the Supervisor will prepare a list showing the serial number of the Enumeration Cards used to cover a polling station area vis-à-vis corresponding existing electoral roll. The unused number of electoral cards in a enumeration pad should also be noted by him.

He shall then compare the entries house number-wise with the corresponding entries in respect of each household in the previous electoral roll in the following manner: -

- (i) In case of such persons whose names do not appear in the previous electoral roll, he shall indicate the word "New" in the last column of the manuscript. In case the names in the manuscript appear in the previous electoral roll, the serial No. of such elector (in the previous electoral roll) shall be entered in the last column mentioned above;
- (ii) He shall correct the entries in the printed copy of the electoral roll from the manuscript wherever necessary and also tick (✓) the entries checked;
- (iii) Score the entries in the printed electoral roll that do not appear in the manuscript to indicate missing voters i.e. dead/shifted. However, in all such cases, it will be the personal responsibility of the supervisor to ensure that all such deletions are genuine and no person living in the area shall be removed from the list.
- (iv) Supervisor shall also check if name of any 'D' voter in the existing roll also finds a place in the enumeration pad received from the enumerator. If so, he will enter the letter 'D' in the relevant part of the enumeration pad against the name.

- (v) If the name of a 'D' voter does not find a place in the enumeration pad, he will strike out such name from the previous electoral roll but after physical verification only and also such names shall not be included in the draft roll. (92)

All these indications should be marked with red ink.

In order to ensure that the enumerators have done their work properly, every Supervisor should make random checking of not less than 25% of the households covered by the enumerators. During such checking, they should check the entries made in the original of the 'Electoral Card' in the enumeration pad with the duplicate supplied to the household and must satisfy that the entries in both the original and duplicate cards are identical in all respects. He should countersign the original Electoral Cards verified with Name and date.

During his visit to the households for checking, the Supervisor will also check and satisfy himself that the entries made in the 'Electoral Card' are of persons of the age of eighteen years or above as on the qualifying date and are actually ordinarily resident in that household. He should also verify that the 'Electoral Card' issued to the head of the household and its original in the enumeration pad bears the actual signature/thumb impression of the head of the household or senior adult member of the household and that of the enumerator and the entries have been correctly made on the basis of the information furnished by the head/senior adult member of the household.

He should also bring the penal provisions of section 31 of the Representation of the People Act, 1950, about making any false statement relating to inclusion or exclusion of any name to the notice of the head/senior adult member of the household when he makes the enquiry during his checking.

If during his checking, he finds that the name of any person not qualified for registration on the ground of age or ordinary residence, has been wrongly enumerated and included in Electoral Card he shall delete every such name under his full signature with date indicating briefly the reason for such deletion.

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Similarly, if a supervisor finds during his sample checking that any name of a member of the household which should have been included in the 'Electoral Card' has been left out for any reason, he will include that name in the 'Electoral Card' supplied to the household under his full name and signature with a suitable endorsement indicating the reason for such inclusion and exactly similar entries will be made by the Supervisor in the original of the 'Electoral Card' and also in the list of enumerated persons i.e. the manuscript.

Where, on his checking as aforesaid, any Supervisor finds that there are large numbers of wrongful inclusions or wrongful exclusions of names in the 'Electoral Cards' issued by a particular enumerator, he should undertake 100% verification of all the household enumerated by the said enumerator.

Such enumerator shall forthwith be removed from the job of enumeration and the Supervisor shall make a report to the Electoral Registration Officer for disciplinary action against the delinquent enumerator.

Where an enumerator reports to the Supervisor that a particular house has been found locked or no adult member of household is available in any house on his repeated visits, the Supervisor will himself visit that house and verify the fact. In case the house is found locked or no adult member of the household is available even at the time of the Supervisor's visit, he shall drop the letter of request in Form 4 appended to the Registration of Electors Rules, 1960 in the premises. He shall make another visit to that house after two or three days and collect Form 4, if somebody is present at the time of his subsequent visit. He shall keep a proper account of his visits to such houses. As soon as a supervisor has completed his random checking as aforesaid, in respect of the households enumerated, he shall deposit forthwith the verified 'Enumeration Pad' and the manuscript after filling the last column as explained above, and the corrected copy of the previous roll provided to him with the Electoral Registration Officer. Before depositing the verified 'Enumeration Pad' and the manuscript, he shall give a certificate that he has conducted the required supervisory checks mentioning specifically the number of house/households visited and checked by him.

During supervisory checks, the Supervisor shall, apart from verifying specific instances indicated above, also make a similar endorsement in any new cases, which are noticed by him where he has doubts about the information furnished. He shall make necessary corrections in the manuscript as may be necessary after verification by him.

He should compulsorily verify all the entries in the list of missing voters prepared by him after comparing with the list of enumerated persons and the existing part of the electoral roll. In case of persons shown to have been issued EPIC, included in the list, he must try to ascertain if the persons are dead or the place or complete address, wherever possible, where they have shifted.

3.6. CHECKS BY SENIOR OFFICERS

Apart from the checks by Supervisors of the work done by the enumerators under their charge, supervisory checks shall also be made during the period of enumeration by the Assistant Electoral Registration Officers, Electoral Registration Officers, District Election Officers, and Chief Electoral Officer. The minimum percentage of checking to be done by each of them by visits to the households shall not be less than the following. (This is only a lower limit. The actual should be higher).

Assistant Electoral Registration Officers	12%
Electoral Registration Officers	05%
District Election Officers	02%

The household checked by the senior officials should by and large be mutually exclusive. The official checking the household should also check the entries in the duplicate copy of the Electoral Card available with the household and sign and affix his name and date of checking.

The Chief Electoral Officer will conduct random checking and also satisfy himself that all the instructions are being scrupulously and correctly followed.

The supervisory checking by the AEROs, EROs and DEOs shall not be confined to visits to households, but shall include checking that no pockets have

been completely left out or enumerated more than once in the constituency during enumeration and that no area or pocket of another constituency has been included in the enumeration for the constituency under checking. On the border areas of the constituency, it shall be particularly ensured that no area belonging to one constituency has been allowed to be included in the enumeration of another constituency. They shall certify that they have specially checked these aspects during their supervisory visits. The previous rolls may be used for conducting supervisory checks.

The Supervisory checking would also ensure that no names appearing in the previous roll are deleted erroneously. The Supervisors have been given personal responsibility to check and verify all names that are to be deleted. However, the senior officer shall pay adequate attention to verify that the supervisors have done their job well. Ordinarily, at least two persons should verify that the deletions are correct, the cases of voters (in the previous roll) having EPIC, the names to be deleted, may be published and a copy of said deletions may be provided to political parties eliciting their cooperation in correcting the roll.

3.7. PRINTING OF DRAFT ROLL

Update of existing database

As soon as the manuscript and corresponding part of the previous electoral roll compared by the Supervisor is received in the office of the Electoral Registration Officer, the work of updating the existing electoral roll database with reference to the information collected shall be started.

The data entry operators should take the following actions to update the existing electoral roll database:-

- (i) Carry out the corrections in the respective fields to incorporate modifications indicated with red ink in the printed copy of the previous roll provided to the supervisor in respect of the entries already available in the database;

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- (ii) Delete the entries of missing voters i.e. dead/shifted voters that are struck out by the supervisor in the printed copy of the previous roll.
 - (iii) Thereafter insert the names of New electors at the appropriate place under the same household, renumber the serial no. of the electors according to the manuscript and sort out the data base after the above changes. Detailed step-by-step technical guidelines will be issued separately.
 - (iv) It must be scrupulously ensured by the Electoral Registration Officer that no name of any of those persons who have been declared/detected as foreigners by any of the Tribunals/authorities constituted under any Act of Parliament or the State Legislature is included in the said lists, even if any of these names are enumerated in any of the electoral cards.

It should be ensured that all the above operations in respect of one part (Polling Station) are done by the same data entry operator so that in case of negligence in data updation responsibility can be fixed.

The Electoral Registration Officer shall take every precaution to ensure that all the input collected by way of house-to-house enumeration by the enumerator and supervisor is reflected in the electors database before the same is used to generate draft rolls. He shall particularly verify and satisfy himself that the existing database has been duly modified with due care and nothing has been left out.

To ensure accuracy of the draft roll, he shall first generate a Check List from the database and shall have the entries necessarily compared with the manuscript and relevant printed copy of the previous roll and the list of missing electors provided by the supervisor and satisfy himself that the printed roll conforms exactly in all respects with the inputs and that no error either by design or by mistake has crept into the database. Instances have come to the notice of the Commission that proper comparison of the check list is not done before generating draft rolls resulting in improper deletion of entries of genuine electors, many a times enbloc causing embarrassment to the institution and

disenfranchisement of gentiles
seriously.

in this regard will be viewed

After making further necessary corrections in the data base, that might be necessary after comparison of the Check List, the ERO shall get required number of copies of the drafts rolls prepared.

3.8. DRAFT PUBLICATION

The electoral rolls prepared and printed as above, polling station-wise shall be published as draft for inviting claims and objections on the date specified for the purpose by the Election Commission.

3.8.1. Designated locations

The draft electoral roll shall be published on locations designated for this purpose. These designated locations, for the whole period of filing of claims and objections, shall be the offices of EROs/AEROs. Similarly, the Polling Station locations shall also be the designated locations, where the electoral rolls shall be published and claims and objections shall be received during the revision exercise. Further, the offices of rural and urban elected bodies shall also function as designated locations on the dates of meetings as and when organized by the ERO during this period.

During the current revision of electoral roll, the services of the Post Office shall also be used as Designated locations for display of draft electoral roll in the area covered by respective Delivery Post Offices. Claims and objections shall also be received in all the Post Offices.

Detailed guidelines about use of Post-offices and Postmen for display of rolls, receipt of duly filled in Forms and their verification etc. will be issued separately.

3.8.2. Dissemination of electoral rolls at a wider scale

Availability and Checking of Draft Rolls

The draft electoral rolls shall be published and disseminated at a wider scale for information of the public. The following procedure shall be followed to ensure this:-

(a) It has been decided that the draft roll prepared polling station wise, shall be published for inviting claims and objections during the period specified in the schedule given above for the purpose by the Election Commission at the offices of EROs/AEROs and at designated locations mentioned above and simultaneously copies shall be provided on the day of publication of the draft roll to the rural and urban local bodies. Copies of the relevant parts of the draft roll shall also be provided to the Residents' Welfare Associations (RWAs), Mohalla Sudhar Samitis, J.J. Sudhar Samitis/Housing Societies etc., where the rolls are to be read in the presence of the public. In addition, sufficient number of forms shall also be made available at these places. The availability of electoral rolls in these organizations will be helpful in eliciting their cooperation in the roll revision exercise and also in the continuous updation of rolls later.

(b) Widest publicity shall be given to the draft publication of roll by all media of mass communication, including paid advertisements in the news papers having wide circulation in the areas concerned.

3.8.3. Verification of draft rolls in the meetings of Gaon Sabhas/Ward Sabhas/RWAs

The modalities to be followed during this exercise are as follows:

Rural Areas :

a) The Village Panchayat Officer, who is the Secretary of the Gaon Sabha, shall convene the Gaon Sabha/ Ward Sabha meetings. The local revenue official (for instance Lekhpal in case of UP) may also be

deputed to attend these meetings. These revenue officials may be provided with sufficient number of Forms so that necessary claims and objections can be got filled in during the meeting itself. The members of the public especially those who contested the last Gaon Sabha election but could not be elected, should also be invited as special invitees to these meetings. Immediately after the meeting, the revenue official may record his report on these applications and forward the same to the Electoral Registration Officer for action at his level under rules 16 to 20 of the R.E. Rules, 1960.

- b) If the Gaon Sabha includes more than one village, these meetings may be organised village-wise and elector's verification exercise in respect of a village may be completed in the meeting held in that village only. If there are a number of hamlets in a Gaon Sabha, the meetings may be organised hamlet-wise. In states like Rajasthan, the institution of Ward Sabha has been functional and in such states the Ward Sabha meetings may be organised to verify the draft roll.
- c) The remedial measures wherever required, on the basis of information made available in these meetings, will also have to be taken *suo motu* under rule 21 and 21A of the R.E. Rules, 1960.

Urban Areas :

- a) In urban areas the electoral rolls have to be read out in the specially convened Ward meetings of Corporations, Municipal Boards, Town Area Committees, Notified Area Committees, Cantonment Boards and also in the meetings of the Mohalla Sudhar Samitis, JJ/Slum Sudhar Samitis etc. Residents Welfare Associations of the locality or any other forum available in the area and suitable for such an exercise. Any NGOs willing to be associated in the exercise should also be involved. The draft electoral roll which are prepared polling station-wise will be split section-wise in the first instance and distributed to the different localities/ Residents' Welfare Associations/ Housing Societies alongwith an appeal which inter-alia will seek their co-operation to

display the extract of the roll prominently for the benefit of the residents of that locality so that any person who is residing but is not a registered elector can take the necessary steps to enroll himself/ herself as well as members of his family.

b) If a Polling Station includes more than one mohalla or residential colony, these meetings may be organized mohalla-wise or colony-wise and the electors' verification exercise in respect of that mohalla or colony may be completed in the meeting held in that mohalla or colony.

If the area of any polling station is large and there is only one mohalla or colony, the mohalla or the colony, as the case may be, be divided into convenient parts at the discretion of the ERO concerned and the meetings may be organized in such parts of the mohalla or colony.

c) If the mohalla or colony or ward or any part thereof, does not have any Ward Sabha or RWA or any such body, the ERO concerned may choose a prominent non-political citizen, working or retired government officer, NGO or a professional like doctor etc. residing in the locality, to chair the meetings and help the exercise to be completed. In case of residential colonies of govt. or semi govt. bodies, the staff responsible for maintenance of these colonies, may be actively involved in this exercise.

d) The Electoral Registration Officer shall, in consultation with the Ward Sabhas/RWAs etc. concerned, decide the place, date and time for holding the meetings in such a way that the involvement of the people is assured. All such meetings shall be chaired by the member/office bearer of the Ward Sabha/RWA etc. concerned in the presence of an official designated to be present at the meeting. Here also, the procedure suggested in the preceding paragraphs for receipt and disposal of claims and objections under rules 16 to 20 and for *suo motu* action under rule 21 and 21A of the R.E. Rules, 1960 will have to be followed.

3.8.4. Minutes of the meetings:

The proceedings of the meetings in rural as well as the urban areas, referred to in the preceding paragraphs have to be meticulously recorded/minutes and a copy of the same should be forwarded to the Electoral Registration Officer who may take its help while disposing of the claims and objections received. These meetings may begin with the message from the Electoral Registration Officer/ District Election Officer/ Chief Electoral Officer regarding the responsibility of the members of the Gaon Sabha/ Samiti/ Association etc. in truthfully carrying out this exercise.

The EROs/DEOs shall also attend some of the meetings in rural and urban areas with a view to improve the quality of revision exercise.

4.1. AVAILABILITY OF BLANK FORMS

The Statutory Forms 6, 7, 8 and 8A appended to the Registration of Electors Rules, 1960 have been amended vide Ministry of Law and Justice Notification dated 18th August, 2003 along with certain other minor amendments in the Rules. A copy of the Notification has already been circulated vide Commission's letter No.3/2/2002/J.S.II dated 25th August, 2003.

Form 8B has been deleted. The revised Form 7 will now be used for filing objection to the inclusion of a name in the draft electoral roll between the period allowed for filing claims and objections during revision of rolls and also for deletion of entry after the final publication of rolls.

The use of the amended Forms shall be for the following purposes :-

FORM-6 - for inclusion of name for the first time and also for inclusion of name of a person already enrolled in a constituency for inclusion of name in another constituency.

FORM-7 - for objecting inclusion of name in the draft roll and also seeking deletion of name included in the final roll.

FORM-8 - for correction to particulars entered in the roll. This form can be used after draft publication as well as final publication.

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FORM-8A - for transposition of entry in any other part of the roll of the same constituency. This form can be used after draft publication as well as after final publication. (Prior to the amendment this Form could be used only after final publication of rolls during the process of continuous updation).

FORM-8B has since been repealed.

Blank forms for addition, deletion, correction & transposition in the draft electoral roll should be available in all the locations where the draft Rolls are displayed so that these can be distributed in advance of the campaign dates to the concerned persons. Adequate number of forms may, therefore, be printed for this purpose.

It is not necessary to use only Forms supplied by the registration authorities. Forms downloaded from the Election Commission website, cyclostyled, hand written or privately printed can also be used for submitting application for inclusion/deletion etc so long as they conform to the statutory Forms. However, these Forms should be on white paper of A-4 size and should not contain the name/symbol or any distinguishing mark of any political party/organization etc. This should be made clear during publicity.

4.2. On line Forms

The Commission has taken up a pilot project to provide facility to file claims and objections on line through Internet. Necessary guidelines in this regard, shall be sent to the CEO before the date fixed for draft publication of the roll.

4.3. Manuscript for supplements

Preparation of manuscript for addition (Form 6), deletion (Form 7), modification (Form 8) and transposition (Form 8A) should be meticulously done. Data entry for all such electors should be done meticulously and checklist should be printed. These check list should also be compared with the manuscript for such supplements and necessary corrections should be made wherever required.

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5.1. ARRANGEMENTS AT THE DESIGNATED LOCATIONS

(a) Staff

The draft roll will be published at the designated locations and will be available with a government official designated for the purpose, who will make the draft roll available to the public for inspection and receive claims and objections. These officials shall also participate in the meetings stated above, collect the minutes of the meetings and also the claims and objections received during these meetings. Schedule of meetings to be held in the designated area shall be displayed at the designated locations for information of the public.

In order to provide prompt and efficient service to the electors, adequate number of staff should be mobilised and counters set up. The DEOs/EROs and Supervisory Officers shall ensure that all Designated Locations remain functional with full complement of staff. Strict action be taken against such officials who are found to be guilty of dereliction of duty.

Further, Control Rooms and help desks should be fully functional during the period of filing of claims and objections. It shall be further ensured that the officials at all designated locations are fully conversant with the duties to be performed and shall respond to public queries promptly.

5.2. Assistance to Electors

Electors who wish to complete forms can be assisted to ensure completeness and consistency of the Forms. There should be adequate space at each designated location for the electors to sit and complete the forms.

5.3. Acknowledgements

The completed forms should be accepted and proper acknowledgements printed on the lower part of the forms should be immediately issued.

5.4. Receiving forms

Forms 6, 7, 8 and 8A shall be received on all working days in the offices of EROs/AEROs and designated locations including area Post Offices from the date of draft publication till the period specified for the purpose. Acknowledgement for receipt of Application printed below each Form should be filled up, detached and

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handed over to each applicant compulsorily. Applications in bulk should not be accepted at Post Offices and at any other designated locations except at the offices of EROs/AEROs only by the RWAs/office bearers of political parties/ Mohalla Sudhar Samiti/JJ Sudhar Samiti office bearers etc. stated in the following para.

The above Forms shall also be received in the meetings of the rural and urban elected bodies by the Lekhpal for rural bodies and the government officer deployed to be present in the meeting for the urban bodies on the date(s) of meeting.

5.5. Receipt of Claims and Objections in bulk

Ordinarily, the claimant concerned should submit each claim in Form-6 for inclusion of name in the electoral roll individually. However, such claim forms in respect of the members of the same household may be allowed to be filed by one person of the same household at all designated locations, if authorized by the claimants in their claim forms in the appropriate column provided for the purpose.

(A) Therefore, claim application should not be received by the ERO and designated officers in bulk. The above instructions will, however, be subject to the following exceptions:-

- (i) The claim applications may be received in bulk only at the offices of EROs/AEROs pertaining to more than one household, if they are duly forwarded by the President or Secretary of a Residents Welfare Association (RWA) etc. and the President/ Secretary of these organizations forwards these applications on its letter head along with a complete list of the claim applications being forwarded therewith, and the said list is duly authenticated by the said President/ Secretary.
- (ii) The same will hold good in the case of applications forwarded by the Executive Officer (by whatever name called) of the Gaon Sabha.

- (iii) The President/Secretary of a recognized political party to whom the copies of the electoral rolls have been furnished under the provisions of the Registration of Electors Rule, 1960, may also follow the above procedure in the presentation of claim applications in bulk.

(B). (i) Objections in Form-7, seeking deletion of entries from the electoral rolls should also, normally, be filed by the objectors concerned individually. An objector should, ordinarily, be permitted to file objections in Form-7 pertaining to the members of the same household.

(ii) The instructions contained in sub-para 1(i), (ii) and (iii) above will apply *mutatis-mutandis* in relation to submission of objections in Form-7 by the RWAs etc., Gaon Sabhas and recognized political parties, as they apply in relation to submission of claim applications in Form-6 by them.

(iii) If any person, other than the aforementioned office bearer of an RWA etc. or Gaon Sabha or recognized political party, wishes to submit objections in Form-7 in respect of more than seven persons, either belonging to the same household or to different households, such person should be asked to submit a complete list, duly authenticated by him, of each objection in Form-7 being submitted by him. In addition, he should be asked to submit an affidavit duly sworn before a Magistrate of the first class or a Notary Public or a Commissioner of Oaths, verifying the list of objections being submitted by him.

(C) In all cases, where the claims and objections are being submitted in bulk by any person or an office bearer of a Resident's Welfare Association, Gaon Sabha or a recognized political party etc., as the case may be, he may be asked to make a statement in his forwarding letter that he is aware of the provisions of Section 31 of the Representation of the People Act, 1950, under which the making of a statement or declaration which is false and which the person making that statement/declaration either knows or believes to be false or does not believe to be true is a penal offence and vouch for particulars like name, father's name, address and genuineness of the applicant as given in the prescribed list duly authenticated by him. The ERO will dispose off the genuine applications as

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 23/AS/2005 | 191

Dated 25th July, 2005

To

The Chief Electoral Officer
Assam, Dispur

Subject:- Intensive revision of electoral rolls- judgment of the Hon'ble Supreme Court of India dated 12.7.2005 setting aside the IMDT, Act 1983- revised instructions on persons marked "D" in the draft electoral rolls --reg

Madam,

I am directed to invite your attention to Commission's instructions on persons marked "D" in the draft electoral rolls on the basis of enumeration taken w.r.t. 1.1.2005 as qualifying date, as contained in its letter of even number dated 11th July, 2005. Subsequent to the issue of the said letter, the Hon'ble Supreme Court in its judgment dated 12th July, 2005 in Writ Petition (Civil) No. 131 of 2000 (*Sarbananda Sonowal versus Union of India & Anr.*) quashed the Illegal Migrants (Determination by Tribunals) Act, 1983 as ultra vires the Constitution of India. In view of the above judgment of the Supreme Court, in partial modification of the instructions contained in letter dated 11th July, 2005, the following instructions are issued in respect of the persons marked "D" in the draft electoral rolls:-

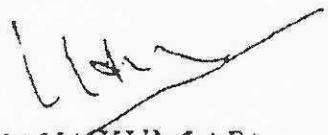
- (i) The cases of all persons marked "D" in the finally published electoral rolls of 1997 (as subsequently summarily revised from year to year till and including the year 2004) and referred to the competent authorities under the Illegal Migrants (Determination by Tribunals) Act, 1983 and are pending before such Tribunals shall stand transferred to the Tribunals set up under the **Foreigners (Tribunals) Order, 1964** by virtue of para 58(3) the Supreme Court's judgment. The names of all such persons shall continue to be marked "D" in the electoral rolls till their cases are decided one way or the other by the said Foreigner's Tribunals.
- (ii) The cases of all new persons marked "D" in the draft rolls (published on the basis of enumeration done w.r.t. 1.1.2005 as qualifying date) and whose

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citizenship status. in view of the orders of the Supreme Court in para 30(4) & (6) of its judgment mentioned above.

3. You are accordingly requested to take appropriate action accordingly in the matter.

Yours faithfully,


(K. AJAYA KUMAR)
SECRETARY



THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court Of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

Page No. 1

CASE NO : WP(C) 1334/2009

District : Dhubri

Category : 10176 (Orders of Foreigners Tribunal/Illegal Migrant(D) Tribunal)

MAMEZA KHATUN
D/O LT. HARAN KAZI,
R/O SHAKHARI PARA,
P.O. JAMADGHT,
P.S. SOUTH SALMARAI,
DIST. DHUBRI, ASSAM.

Petitioner/appellant/applicant

Versus

- 1 THE UNION OF INDIA & ORS
REP. BY THE MINISTRY OF HOME AFFAIRS, NEW
DELHI.
- 2 THE STATE OF ASSAM
TO BE REPRESENTED BY THE COMMISSIONER &
SECY, DEPARTMENT OF HOME, DISPUR, GHY-6.
- 3 THE SUPERINTENDENT OF POLICE (B)
CITY GHY.
- 4 THE OFFICER-IN-CHARGE,
NOONMATI POLICE STATION, GHY.
- 5 THE MEMBER FOREIGNERS TRIBUNAL,
KAMRUP (M), GHY-7.

Respondent/Opp. Party

Advocates on record for Petitioner/ap

- 1 MD. M H RAJBARBHUIYAN
- 2 MR. A RAHMAN

Advocates on record for Respondents

- 1 MR. M BHAGABATI
- 2 C.G.C.
- 3 MR. D BARUAH
- 4 SC, ELECTION COMMISSION.
- 5 MS. R CHAKRABORTTY
- 6 ADDL. SR. GA, ASSAM

Summary Of Case And Prayer In Brief

CERTIFIED COPY OF JUDGEMENT / ORDER

DATE OF FILING APPLICATION	DATE WHEN COPY WAS READY	DATE OF DELIVERY
24/03/2011	24/03/2011	24/03/2011

BEFORE

THE HON'BLE MR JUSTICE B. K. SHARMA

DATE OF ORDER : 23/03/2011

This matter was last taken up on 11.3.2011 to consider the stand of the respondents i.e. the State Government, Union Government and the Election Commission of India, in respect of the question as to whether the persons whose cases are pending in the various Foreigner's Tribunals and the

persons who are shown as 'D' voters in the electoral rolls, should be allowed to cast their votes.

In response to the said query made in the earlier order passed on 8.3.2011, the Election Commission of India filed an affidavit through the Deputy Chief Electoral Officer, Assam, in which the order of the Election Commission of India dated 5.1.1998 was referred to. As recorded in the order dated 11.3.2011, in the affidavit, upon a reference to the said order dated 5.1.98, it has been stated thus :-

"That I say that the Election Commission of India had clearly stipulated in its Order No. 23/AS/96-Vol.III dated 05.01.98 that all those persons against whose names the letter 'D' has been marked in the electoral rolls to denote that the citizenship status of such person is doubtful/disputed shall not be allowed to cast their votes and shall also be ineligible to contest any election as long as the citizenship status of such persons is not determined in their favour by the Appropriate Tribunal to whom their cases have been referred.

I further say that in view of the order of the Election Commission of India mentioned hereinabove, persons marked 'D' in the Electoral Rolls of the relevant year are not allowed to cast their votes or contest elections and in that regard all officials involved in poll conduct up to the polling station level are under strict instructions to ensure that no persons marked 'D' in the Electoral Rolls are allowed to cast their votes. I further say that the Order of the Election Commission of India dated 05.01.1998 shall stands good and on the basis of the said order ; persons marked 'D' against their names in the electoral rolls shall neither be allowed to vote in the ensuing Assam Legislative Assembly Polls, 20011 nor would be allowed to contest in the said polls."

In the aforesaid order dated 5.1.98 of the Election Commission of India, the doubts expressed by the Electoral Registration Officer in respect of 3,13,043 persons about their Indian citizenship was recorded. Their cases were referred to the Tribunals for determination of the question of their citizenship. Considering the question as to whether such persons should be allowed to cast their votes in the then general election to the House of the People and upon a reference to Article 326 of the Constitution, the Election Commission of India under its plenary power of superintendence, direction and control of preparation of electoral rolls for, and conduct of elections to, Parliament and Legislature of every State, issued direction that such persons, whose names have been provisionally entered into the electoral rolls in the State of Assam and against whose names, the letter 'D' has

been indicated to denote that his citizenship status is doubtful / disputed, should not be allowed to cast their votes. It was further provided that they should not be allowed to cast their votes in any latter election either to the House of People or to the Legislative Assembly in the State of Assam. 110

Submission of Mr. D. Baruah, learned counsel appearing for the Election Commission, was as follows :-

"Mr. D. Baruah, learned counsel appearing for the Election Commission, submits that as per his instruction, the persons whose cases are under reference in various Tribunals through out the State, are indicated as 'D' voters in the electoral rolls and the said persons are not entitled to cast their votes."

Appreciating the stand of the Election Commission of India, it was observed thus :-

"While appreciating the stand of the Election Commission of India, it will also have to be ascertained as to whether the aforesaid order dated 5.1.98 issued by the Election Commission has been translated into action by the respective Governments i.e. the Union Government and the State Govt., more particularly, the State Govt.. It will also have to be ascertained as to whether the persons whose cases are pending in various Foreigners' Tribunals and who claimed to be Indian citizens on the basis of inclusion of their names in various voter list have been shown as 'D' voter in the electoral rolls. If such persons are allowed to cast their votes, that will be an infraction of mandate of Article 326 of the Constitution of India, about which mention has been made in the aforesaid order of the Election Commission of India.

This is a serious issue, more particularly, when the number of such persons indicated in the affidavit filed by the state Government is quite high. As recorded in the order dated 8.3.2011, the number of such persons and for that matter, the total number of cases referred to Foreigners' Tribunals is 3,36,560 (92,867 FT Cases + 76,465 transferred IMDT cases + 1,67,228 cases of 'D' voters). The total number of such persons as of 31.12.2010 as indicated in the said affidavit is as high as 4,06,451. Under no circumstances, such persons can be allowed to cast votes, about which the Election Commission of India has emphasised in their aforesaid order dated 5.1.1998."

Although, the Chief Secretary of the State was to file an affidavit in terms of the earlier order passed on 8.3.2011 clarifying the stand of the

State in respect of the query made but no such affidavit having been filed, a direction was issued to file the affidavit within 16.3.2011.

The stand of the Union Government made through Shri R. Sarma, learned ASGI that the Union Government has got nothing to do in the matter and that the matter is within the domain of the state Government and that the State Govt. is to act as per the directives of the Election Commission of India, was also recorded.

Referring to the case of the petitioner, who was already declared to be a foreigner (illegal Bangladeshi migrant) and who has done the act of vanishing, it was directed thus :-

"In the instant case, the petitioner Mameza Khatun, who has been declared to be a foreigner (illegal Bangladeshi migrant) has done the act of vanishing and as per the reports furnished by the State Home Department from time to time, her whereabouts are not known and that she is not traceable. As a test case, Mr. D. Baruah, learned Standing Counsel, Election Commission, shall take up this case to show as to whether her name is included as a 'D' voter or not. On the next date fixed, he will produce the voter list containing her name to find out as to whether her name is included as 'D' voter or not. In the writ petition, the petitioner has enclosed the copy of the voter list of 2005 clearly showing her name without any indication that she is a 'D' voter, although her case was referred to then IMDT in 2004."

The Election Commission of India was also directed as follows :-

"In the mean time, the Election Commission of India shall find out as to the number of cases pending in various Foreigners' Tribunals in the State of Assam and shall also collect the identity of the persons whether they are shown as 'D' voter or not and which will ensure that such doubtful citizens do not cast their votes. The Commission shall also ensure indication of such suspected foreigners as 'D' voters in the electoral rolls, debarring them from voting."

In response to the aforesaid order passed on 11.3.2011, the Chief Secretary of the State has filed an affidavit, in which it has been stated that whether persons whose cases are pending before the Foreigner's Tribunals (other than doubtful voters) are eligible to cast their votes or not, is a matter to be decided by the Election Commission of India. Significantly, in paragraph 3 of the said affidavit, it has been stated thus :-

"3. That, the State Government is of the view that since the category of 'D' voters has been in existence for several years, those 'D' voters who are found to be eligible may be allowed to cast their votes, subject to Election Commission's approval."

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In the aforesaid affidavit filed by the Chief Secretary, the queries raised by this Court, referred to above, have not been dealt with, rather a stand has been taken that since the category of 'D' voters has been in existence for several years, they should be allowed to cast their votes, if found eligible.

On perusal of the affidavit, the Court has reason to believe that the State Government is not adverse to allowing the 'D' voters and also the voters whose citizenship are in question and subjudiced before the various Foreigner's Tribunals. In this connection, the case in Review Petition No. 115/2009 / WP(C) No. 464/2009) (Md. Samsul Haque & Ors Vs. Member, Foreigner's Tribunal & Ors) may be referred to. In that case, although the petitioners involved therein had been declared to foreigners (illegal Bangladeshi migrants) within the stream of 1966-1971, requiring registration of their names with the Registering Authority and deletion of their names from the Electoral Rolls but for long 7(seven) years, nothing was done by the jurisdictional Electoral Registration Officer. Their names were deleted only on insistence of this Court in the year 2009 and in between they merrily kept on casting their votes, on the basis of incorporation of their names in the Electoral Rolls. On being asked as to how that could happen, the answer was that there was some communication gap.

In another case reported in 2008(3)GLT 402 (Adbul Hasim (Md) Vs. State of Assam and others), the petitioner could obtain a passport taking recourse to forgery and at a time when the proceeding against him was pending in the Foreigner's Tribunal.

In most of the cases, the Foreign nationals after invoking the writ jurisdiction against the orders passed by the Foreigner' Tribunals have done the act of vanishing, after their writ petitions have been dismissed. In this connection, mention may be made of the cases in WP(C) 643/2009 (Ms. Anowara Khatun Vs. Union of India), WP(C) 1258/2009 (Mrs. Aisa Bibi Vs. Union of India & Ors), WP(C) 1311/2009 (Nidhan Biswas Vs. Union of India & Ors), WP(C)1307/2009 (Md. Khused Ali Vs. Union of India & Ors), WP(C) 190/2009 (Md. Abdul Kuddus Vs. State of Assam & Ors), WP(C) 698/2009 (Munindra Ch. Roy Vs. Union of India & Ors), WP(C)747/09 (Himangshu Sarkar Vs. State of Assam & Ors), WP(C) 152/09 (Rajia Khatun Vs. Union of India & Ors), WP(C)464/09 (Md. Samsul Haque & Ors. Vs. State of Assam & Ors), WP(C) 1044/09 (Salema Bibi(Khatun) Vs. Union of India & Ors), WP(C) 80/09 (Smt. Malati Das Vs. Union of India & Ors), WP(C) 1334/09 (Mameza Khatun Vs. Union of India & Ors), WP(C)191/09 (Upendra Roy Vs. Union of India), WP(C) 1708/08 (Samsul Hoque Vs. State of Assam & Ors),

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WP(C) 5497/08 (Nathu Ram Biswas Vs. Union of India & Ors), WP(C) 5545/08 (Gopal Ch. Das Vs. Union of India & Ors), WP(C) 1166/09 (Tarabhanu Vs. Union of India & Ors), WP(C) 1045/09 (Mustt. Sahera Khatun Vs. Union of India & Ors), WP(C) 5542/2008 (Mustt. Hazera Khatun Vs. Union of India & Ors) and WP(C) 5560/2008 (Md. Jalal Uddin Vs. Union of India & Ors).

Both Mr. D. Baruah, learned counsel representing the Election Commission of India and Mr. K.N. Choudhury, learned Addl. Advocate General, upon a reference to the provisions of the Representation of the People Act, 1950 and 1951, have submitted that it may be difficult to debar persons whose cases are sub-judice in the Foreigner's Tribunals from casting their votes on the basis of inclusion of their names in the Electoral Rolls. In this connection, they have referred to the decisions of the Apex Court reported in 1985 (1) SCC 21 (Inderjit Barua and others Vs. Election Commission of India) and the one reported in 2000(8) SCC 46 (Shymadeo Pd. Singh Vs. Nawal Kishore Yadav). Both the cases dealt with the power of the Election Commission to revise the electoral rolls. In the instant case, we are not concerned with any revision of electoral rolls. What we are concerned with is as to whether along with the 'D' voters, the persons whose cases are under reference in the Foreigner's Tribunals, should be allowed to cast their votes till determination of their citizenship, in accordance with law. The answer can be found in the aforementioned Election Commission's order dated 5.1.98, in which it has been ordered thus :-

"Whereas, the conjoint reading of the above referred Article 326 of the Constitution, Section 16 of the R.P. Act, 1950 and Section 62 of the R.P. Act, 1951, leaves no one in any manner of doubt that only a citizen of India alone, and no one else, is eligible to vote at elections to the House of People and the State Legislative Assemblies ; and

Whereas, in the light of the above unambiguous mandate of the Constitution of India and R.P. Acts, 1950 and 1951 that only the Indian citizens alone, and no one else, shall vote at the aforesaid elections, logically follows that a person, whose citizenship status is in question and under consideration before a Foreigners Tribunal or an Illegal Migrants Determinations Tribunals shall not be eligible to vote, unless such Tribunal decides in his favour that he is a citizen of India".(Emphasis added).

In the last order passed on 11.3.2011, the above quoted direction was issued requiring the Election Commission of India to find out the number of

cases pending in various Foreigners Tribunals in the State of Assam and also to collect the identity of the persons whether they are shown as 'D' voters or not. Such a direction was issued to ensure that such doubtful voters do not cast their votes. Direction was also issued to ensure indication of such suspected foreigners as 'D' voters in the electoral rolls debarring them from voting. However, today, a submission has been made on behalf of the Election Commission of India as well as the State Government that in view of Section 23(3) of the Representation of the People Act, 1950, it is now not possible to make any amendment, transposition or deletion of any entry under Section 22 of the Act. A duty having been enjoined both on the State Government and the Union Government as well as the Election Commission of India and there being dereliction of the said duty, resulting in failure to discharge constitutional obligation, it does not lie on the mouth of the Election Commission of India and the State Government to express helplessness in the matter, falling back on the provisions of Section 23 of the Act.

What is required is to treat the persons whose cases are pending before the Foreigners Tribunals as 'D' voters, as has been done in case of 'D' category voters. If the said category can be kept as 'D' voters in the electoral rolls debarring them from casting their votes, I see no reason as to why the other category i.e. whose cases are pending in the Foreigners Tribunals cannot be treated as 'D' voters, which would ensure that they do not cast their votes.

Considering the fact that there is huge number of such voters about which mention has been made in the earlier order dated 11.3.2011, the Election Commission of India must take stern and prompt action in the matter. As indicated in the said order, the total number of cases referred to Foreigners' Tribunals is 3,36,560 (92,867 FT Cases + 76,465 transferred IMDT cases + 1,67,228 cases of 'D' voters).

From the entire approach of the authorities to such a burning issue about which detailed discussions have been made in Sarbananda Sonowal - I & II cases reported in AIR 2005 sc 2920 and 2007 (1) SCC 174, what has transpired is that there is absolutely no endeavour to solve the problem once for all rather the same has been kept alive for the obvious reason. The stand of the State Government in such an important matter has been noted above. It has shifted the burden to the Election Commission of India but at the same time, has taken the stand that the 'D' voters whose names are in existence in the Electoral Rolls for several years, should be allowed to cast their votes. A better response was expected from the State Government in such a serious issue. If 'D' voters of both the categories are allowed to cast their votes, same will have far reaching effect in the election results, about

which, it appears that those at the helm of affairs, are not at all bothered rather insist to allow them to cast their votes.

It is not for nothing, the Apex Court in Sarbananda Sonowal-II (supra) observed that there is a lack of will in the matter of ensuring that illegal migrants are sent out of the country. Not to speak of deporting the foreign nationals, they are allowed to roam around merrily conferring them all the rights of an Indian citizen including the right to cast votes. It is on that basis, Peoples' representatives are elected and they decide the destiny of the nation.

It is the experience of this Court that once a reference is made to the Foreigners Tribunals and the same is answered against the foreigners, those at the helm of affairs, do not take any follow up action including the action for deleting his/her name from the electoral rolls. It is because of the persistence and monitoring of this Court only, in the given cases follow up action is taken and not otherwise. There is also no collaboration amongst the authorities towards achieving the ultimate goal, which is to make the State free of foreigners or at-least not to allow such foreigners to cast their votes. Their presence in the State in huge numbers with the potential of rendering the indigenous people to a minority community is no longer in any doubt.

For all the aforesaid reasons, I am inclined to issue the following directions :-

1. The Election Commission of India shall ensure that the 'D' voters are not allowed to cast their votes. 'D' voter will also include the persons whose names are included in the electoral rolls but their citizenship are in doubt/disputed and whose cases are pending in various Foreigners Tribunals.
2. To facilitate the above exercise, the Superintendent of Police (B) of all the Districts shall collect names of such persons whose cases are pending in the Foreigners Tribunals and furnish the same to the jurisdictional Electoral Registration Officer/ Returning Officer towards ensuring that they are not allowed to cast their votes.
3. All the concerned authorities will act in the matter promptly and no excuse will be entertained. They will bear in mind that there allegiance is to the Constitution of India and not to the political bosses.
4. The aforesaid direction should be carried out in war-footing towards ensuring that such doubtful/disputed voters are not allowed to cast their votes in the ensuing election to the State.
5. Any dereliction of duty towards implementation of the directions contained in this order would be viewed seriously. The Officers concerned

will bear in mind that such dereliction may result in initiation of departmental proceeding including invocation of the provisions of Article 311 of the Constitution of India.

List again on 19.04.2011.

Let copies of this order be furnished to Ms. R. Chakraborty, learned State Counsel as well as Mr. D. Baruah, learned Standing Counsel, Election Commission of India, during the course of the day, for their necessary follow up action. Copies of this order may also be sent to Union Government in the Ministry of Home Affairs and the State Home Department respectively, for their necessary follow up action.

Registry shall forward copies of this order to all the Deputy Commission and Superintendent of Police(B) of all the Districts of Assam by quickest possible means, during the course of the day.

Bring this order to the notice of the Deputy Registrar (J).

SD/- B. K. Sharma
Judge

S2-No. 163732
Dt. 24/3/11

CERTIFIED TO BE TRUE COPY
Date.....
Superintendent (Copying Section)
Gauhati High Court
Authorised U/S 76, Act 1, 1872

24/3/11

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Annexure "C"

District-wise number of "D" Voters declared as Foreigner by Foreigners Tribunals/High Court/Supreme Court.

AQ Dy. 12 (Ga)

SL No	DISTICTS	No of "D" Voters declared as Foreigner by F.T	No of "D" Voters declared as Foreigner by High Court	No of "D" Voters declared as Foreigner by Supreme Court
1	BAJALI	141	0	0
2	BAKSA	0	0	0
3	BARPETA	5619	0	0
4	BISWANATH	1769	5	0
5	BONGAIGAON	38	0	0
6	CACHAR	6376	4	0
7	CHARAIDEO	0	0	0
8	CHIRANG	57	57	0
9	DARRANG	3126	5	0
10	DHEMAJI	2139	0	0
11	DHUBRI	5763	642	0
12	DIBRUGARH	349	0	0
13	DIMA HASAO	0	0	0
14	GOALPARA	2662	0	0
15	GOLAGHAT	1059	0	0
16	GUWAHATI	2685	1	0
17	HAILAKANDI	0	0	0
18	HOJAI	593	0	0
19	JORHAT	18	0	0
20	KARBI-ANGLONG	95	0	0
21	KAMRUP(R)	889	0	0
22	KOKRAJHAR	533	0	0
23	LAKHIMPUR	2471	0	0
24	MAJULI	8	0	0
25	MORIGAON	4308	94	0
26	NAGAON	3267	0	0
27	NALBARI	0	0	0
28	SOUTH SALMARA	379	22	0
29	SADIYA	39	0	0
30	SIVASAGAR	0	0	0
31	SONITPUR	5056	0	0
32	SRIBHUMI	3571	0	0
33	TAMULPUR	0	0	0
34	TINSUKIA	459	0	0
35	UDALGURI	3241	1	0
36	HAMREN (WKA)	18	0	0
Grand Total		56728	831	0

Annexure "D"

**District-wise number of "D" Voters declared as Indian/Not Foreigner by
Foreigners Tribunals/High Court/Supreme Court.
AQ Dy. 12 (Ga)**

SL No	Districts	No of "D" Voters declared by FT as Indian /Not Foreigner	No of "D" Voters declared by High Court as Indian /Not Foreigner	No of "D" Voters declared by Supreme Court as Indian /Not Foreigner
1	BAJALI	127	0	0
2	BAKSA	0	0	0
3	BARPETA	11599	0	0
4	BISWANATH	1837	0	0
5	BONGAIGAON	461	5	0
6	CACHAR	3886	0	0
7	CHARAIDEO	0	0	0
8	CHIRANG	417	0	0
9	DARRANG	2187	0	0
10	DHEMAJI	2997	0	0
11	DHUBRI	7296	0	0
12	DIBRUGARH	397	0	0
13	DIMA HASAO	0	0	0
14	GOALPARA	7306	0	0
15	GOLAGHAT	182	0	0
16	GUWAHATI	2108	0	0
17	HAILAKANDI	0	0	0
18	HOJAI	64	0	0
19	JORHAT	11	0	0
20	KARBI-ANGLONG	1166	0	0
21	KAMRUP(R)	874	0	3
22	KOKRAJHAR	1097	0	0
23	LAKHIMPUR	2471	0	0
24	MAJULI	1	0	0
25	MORIGAON	1247	19	0
26	NAGAON	4027	0	0
27	NALBARI	0	0	0
28	SOUTH SALMARA	470	0	0
29	SADIYA	6	0	0
30	SIVASAGAR	0	0	0
31	SONITPUR	6872	0	0
32	SRIBHUMI	2157	6	0
33	TAMULPUR	0	0	0
34	TINSUKIA	360	0	0
35	UDALGURI	3523	12	0
36	HAMREN (WKA)	25	0	0
Grand Total		65171	42	3