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Indian Constitution

SEMESTER IV

JOURNALISM AND MASS COMMUNICATION

BLOCK – 2

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BLOCK INTRODUCTION

This is the second block of the course on 'Indian Constitution'. This block comprises of eight units. In the first unit of this block and the eighth unit of the course "Citizenship", you will learn the meaning of citizenship, constitutional and legal provisions regarding citizenship in India. It also discusses the acquisition and loss of citizenship in the country. The ninth unit deals with the Panchayati Raj system in India in details, discussing its growth in India and Assam, along with the Constitution (73rd and 74th Amendment) Act, 1992. In the tenth unit, emergency and the state emergencies have been discussed, along with its effect on media freedom. In the eleventh unit, we have discussed about the parliamentary and legislative privileges and its effects on media freedom. The twelfth unit describes about the Supreme Court, High Courts, Subordinate Courts as well as gives you an idea about the judicial review, judicial activism and independence of the judiciary in India. The thirteenth unit discusses in details about the various legal aspects of media freedom. The fourteenth unit provides an overview of some of the autonomous offices under the Constitution. And the last unit of this block is a practical based unit which concentrates on the journalism related aspects of the Constitution.

While going through the units of the course, you will find that each unit is further divided into certain sections and sub-sections, wherever necessary, for your better understanding. Again, each unit carries certain *activities* after every section. These "ACTIVITIES" will provide you the opportunity to practically apply your own thoughts based on the knowledge gained from reading the text in a particular section. Besides, in order to give you additional information on certain relevant topics, you will find a category called "LET US KNOW" after the sections in each unit. Another category that has been included at the end of each section of a particular unit is "CHECK YOUR PROGRESS". The purpose of this category is to help you to asses for yourself as to how thoroughly you have understood a particular section. It will be better if you answer the questions put in these boxes immediately after you go through the sections of the units and then match your answers with "ANSWERS TO CHECK YOUR PROGRESS" given at the end of each unit.Further more, the category called "MODEL QUESTIONS" is intended to give you a hint of the kind of questions you are likely to get in the examination.

UNIT 8: CITIZENSHIP

UNIT STRUCTURE

8.1 Learning Objectives
8.2 Introduction
8.3 Meaning of Citizenship
8.4 Constitutional and Legal Provisions regarding Citizenship in Indian context
8.5 Acquisition of Citizenship in India
8.6 Loss of Citizenship in India
8.7 Let Us Sum Up
8.8 Further Reading
8.9 Answers to Check Your Progress
8.10 Model Questions

8.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain the meaning of Citizenship
- analyse the constitutional and legal provisions relating to the Indian citizenship
- discuss the condition for acquisition of Indian citizenship
- examine the conditions which lead to the loss of Indian citizenship.

8.2 INTRODUCTION

The concept of citizenship is one of the most debated issues in the academic discourse. The concept of citizenship indicates the relationship between the individual and the state. Citizenship denotes an individual's status as a responsible member of a state. For attaining all the facilities of citizenship, he or she must fulfil the duties and responsibilities along with obligations towards the state. The framers of the Indian Constitution basically put emphasis upon the concept of citizenship and a number of provisions have been incorporated in the Constitution accordingly. Regarding the acquisition and termination of Indian citizenship, there are lots of con-

stitutional and legal provisions. In this Unit we shall discuss the meaning of citizenship and the various issues related to Indian citizenship.

8.3 MEANING OF CITIZENSHIP

The notion of citizenship is seen in terms of a legal/formal status. Literally the term 'citizen' symbolises the person or resident of a country with certain privileges.Citizenship, very often focuses on a specific nationality, entitlements and claims, rights and duties for individuals enshrined in the Constitution of a country. It signifies that if the member of a particular political community performs their allotted duties and responsibilities according to the provisions of the Constitution, the state apparatus providesthem all the rights and privileges for enjoyment of a public life. Theconcept of citizenship originated in the ancient Greece. In ancient Greececitizenship was considered to be a narrow concept. During the time of ancient Greek philosopherAristotle, citizenship privileges were restricted to a limited section of the society. Aristotle limited the concept of citizenship by including only a few sections of people into the ambit of citizen status. He visualised purely an aristocratic idea of citizenship.However, with the gradual development of modern nation state system, the whole concept of citizenship becomes inclusive in its nature and it includes a larger political community. In any democratic country citizens are provided a number of rights and privileges and accordingly they must show their allegiance towards the state. The success of democracy also largely depends upon the qualities of the citizens.

8.4 CONSTITUTIONAL AND LEGAL PROVISIONS REGARDING CITIZENSHIP IN INDIAN CONTEXT

Though the Constitution of India has provided a federal structure, yet the very nature of Indian political system is federal in spirit and unitary in practice. Therefore, in India, each individual is entitled with single citizenship, i.e. Citizenship of India. In order to form a unified polity, the framers of Indian Constitution put emphasisbasically upon single citizenship.The framers of the Indian Constitution put enough importance upon the question of

citizenship basically at the time of framing of the Constitution.Articles 5 to 8 of the Indian Constitution offer citizenship on the date of adoption of the Constitution (26 January, 1950) to the following categories of domiciled persons—

(a) Persons born within the territory of India [(Art. 5(a)].

(b) Person, either of whose parents was born within the territory of India— irrespective of the nationality of his/her parents or the place of birth of such person [Art. 5(b)].

(c) Person, who had been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement [Art. 5(c)].

Though Article 5 of the Indian Constitution offers citizenship by domicile, but it did not define the term domicile. In a simple word, domicile represents the permanent residence of a citizen.

(d) Article 6 - A person who had migrated from Pakistan, provided —

(i) He/she or either his/her parents or grand-parents were born in India as defined in the Government of India act, 1935.

(ii) If he/she had migrated before July 19, 1948 and if he/she had migrated on or after July 19, 1948. Under Article 6, he/she further makes an application before the commencement of this Constitution for registering himself/herself as a citizen of India to an officer appointed by the Government of India, and is registered by that officer, being satisfied that the applicant has resided in the territory of India for at least 6 months before such application.

(e) Under Article 6(b) and Article 7, a person who migrated from India to Pakistan after 1st March, 1947, but had subsequently returned to India under a permit issued under the authority of the Government of India for resettlement or permanent return or under the authority of any law provided he/she gets himself registered in the same manner.

(f) According to Article 8 of the Indian Constitution, a person who, or any of whose parents or grand-parents was born in India as defined in the Government of India Act 1935 but who is ordinarily residing in any country out-

side India, on application in the prescribed form, to the consular or diplomatic representative of India in the country of his/her residence.

Articles 5, 6, 7, 8, 9, 10, 11 of the Indian Constitution mainly deal with the issue of citizenship.

Article 5: Citizenship at the commencement of the Constitution.

Article 6: Right of citizenship of certain persons who have migrated to India from Pakistan.

Article 7: Right of citizenship of certain migrants to Pakistan.

Article 8: Right of citizenship of certain persons of Indian origin residing outside India.

Article 9: Persons voluntarily acquiring citizenship of a foreign State not to be citizens of India.

Article 10: Continuance of the rights of citizenship.

Article 11: Parliament to regulate the right of citizenship by law.

The Constitution of India did not implement any comprehensive constitutional law and statutory basis of citizenship in India. Regarding the law of citizenship, the responsibility is vested upon the Indian Parliament of India to legislate certain laws related to citizenship. The Indian parliament enacted the Citizenship Act 1955,the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, the Citizenship (Amendment) Act, 2005 and Citizenship (Amendment) Act,2015 regarding Indian citizenship.



CHECK YOUR PROGRESS

Q.1: State the meaning of citizenship.

.....

Q.2: Greek philosopher Aristotle limited the concept of citizenship only to a limited section of people. (True/False)

.....

Q.3: Mention two provisions of the Indian Constitution regarding Indian citizenship.

.....

8.5 ACQUISITION OF CITIZENSHIP IN INDIA

According to the Citizenship Act 1955, citizenship can be acquired through various methods. This Act focuses upon the various modes of acquisition of citizenship. These methods of acquisition of citizenship are discussed below—

- ***Citizenship by Birth*:** Each person born in India on or after January26, 1950 shall be considered the citizen of India by birth. But in case of the children born to foreign diplomats who were posted in India are not eligible for Indian citizenship. In order to prevent the infiltration problem, an amendment was made in 1986 in the Citizenship Act of 1955 and thereby a person born in India can be able to become a citizen of India by birth if his or her parentsare a citizen of India at the time of his/her birth. In this way, an individual can attain Indian citizenship by birth.
- ***Citizenship by Descent*:** A person born outside India on or after January 26, 1950 shall be considered the citizen of India by descent if his/her parents are citizens of India at the time of his/her birth.
- ***Citizenship by Registration*:** Through registration with definite authority, a person can acquire Indian citizenship. Registration for Indian citizenship can be done through different methods. Persons of Indian Origin (PIOs) who generally reside in India for almost five years may apply for registration. A person, in case of citizenship, is deemed to be of Indian origin if his/her parents and grand-parents were born in undivided India. Ordinarily residing PIOs outside India can also be included under Citizenship by Registration. Those women who get married to Indian citizens too become the citizens of India through the process of registration.
- ***Citizenship by Naturalisation*:** A person can acquire Indian citizenship by naturalisation. To attain Indian citizenship, he/she must qualify the following conditions—

(a) He must belong to a country where the citizens of India are allowed to become subjects or citizens of that country by naturalisation.

(b) He/she needs to renounce the citizenship of his/herown country according to the prevailing law of that country.

(c) Before the date of giving the application for naturalization, he or she must reside or serve the concerned government authority for 12 months.

(d) The person needs to possess a good and moral character.

(e) He/she must have workable knowledge of a particular Indian language.

(f) After acquiring citizenship by naturalisation, he or she is considered to be the permanent resident of India or elsewhere to serve under the Government of India.

- *Citizenship by Incorporation of Territory*: If India includes any new territory within its border, then the people of that territory will automatically become the citizens of India. For example—the people of Sikkim acquired Indian citizenship after the annexation of Sikkim by India in 1976.

8.6 LOSS OF CITIZENSHIP IN INDIA

The Citizenship Act 1955 clearly lays down that under certain conditions a person may lose his/her Indian citizenship. Anyone may lose his or her citizenship under any of the three conditions. These conditions are: renunciation, termination and deprivation.

- *By Renunciation*: Any Indian citizen may voluntarily renounce his/her citizenship in order to become the citizen of another country. For this purpose, the concerned citizen needs to make a necessary declaration in the prescribed format.
- *By Termination*: If any Indian citizen voluntarily acquires the citizenship of another country, then his/her citizenship in India will beautomatically terminated. This kind of termination may take place by operation of law.
- *By Deprivation*: Deprivation is considered to be one kind of compulsory termination of Indian citizenship with the prior approval of Government Order. If any person obtains Indian citizenship by fraud,

false representation or concealment of any material fact or if the person becomes disloyal towards the Indian Constitution or if he/ shehelps or assists a country with whom India is at war, the Government of India by an Order can deprive that person from enjoying Indian citizenship.



CHECK YOUR PROGRESS

Q.4: Mention any three methods of acquisition of Indian citizenship as provided by the Citizenship Act 1955.

.....

.....

Q.5: The state of Sikkim was incorporated in India in the year ..... (Fill in the blank)

.....

.....

Q.6: Write about any two conditions under which an Indian citizen may lose his/her Indian citizenship.

.....

.....

Q.7: Write a short note on the acquisition of Indian citizenship by the method of naturalisation.

.....

.....



8.7 LET US SUM UP

- The concept of citizenship indicates the relationship between the individual and the state. Citizenship denotes all individual's status as a responsible member of a state. For attaining all the facilities

of citizenship, he or she must fulfil the duties and responsibilities along with obligations towards the state.

- Theconcept of citizenship originated in the ancient Greece. In ancient Greececitizenship was considered to be a narrow concept. Greek philosopher Aristotle limited the concept of citizenship by including only a few sections of people into the ambit of citizen status.
- But in the present time the concept of citizenship has become a inclusive one and it includes a larger political community.
- Though the Constitution of India has provided a federal structure, but the very nature of Indian political system is federal in spirit and unitary in practice. Therefore in India, each individual is entitled to single citizenship, i.e. Citizenship of India.
- The Constitution of India has provided a number of provisions regarding Indian citizenship. But the responsibility to make laws and other statutory provisions related to Indian citizenship is vested upon the Parliament of India. Accordingly the Indian Parliament has enacted a number of laws in this regard, such asthe Citizenship Act 1955, the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, the Citizenship (Amendment) Act, 2005 and Citizenship (Amendment) Act,2015.
- The Citizenship Act 1955 has provided a number of methods of acquisition of Indian citizenship. These methods are-citizenship by birth,citizenship by descent, citizenship by registration, citizenship by naturalisation, citizenship by incorporation of territory.
- The Citizenship Act 1955 also provided that under certain condition a person may lose his/her Indian citizenship. Anyone may loss his or her citizenship under any of the three conditions, such as - renunciation, termination and deprivation.



8.8 FURTHRER READING

1. Chander, Prakash. (2008). *Indian Government And Politics*. Gurgaon: Cosmos Bookhive (P) Ltd.

2. Ghai, K.K. (2007). *Indian Government And Politics*. New Delhi: Kalyani Publishers.



8.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: By citizenship, very often focuses on a specific nationality, entitlements and claims, rights and duties for individuals enshrined in the Constitution of a country. It signifies that if the member of a particular political community performs their allotted duties and responsibilities according to the provisions of the Constitution, the state apparatus provides them all the rights and privileges for enjoyment of a public life.

Ans to Q. No 2: True

Ans to Q. No 3:(i) Under Article 6(b) and Article 7, a person who migrated from India to Pakistan after 1st March, 1947, but had subsequently returned to India under a permit issued under the authority of the Government of India for resettlement or permanent return or under the authority of any law provided he/she gets himself registered in the same manner.

(ii) According to Article 8 of the Indian Constitution, a person who, or any of whose parents or grand-parents was born in India as defined in the Government of India Act 1935 but who is ordinarily residing in any country outside India, on application in the prescribed form, to the consular or diplomatic representative of India in the country of his/her residence.

Ans to Q. No 4: Citizenship by birth,Citizenship by descent, Citizenship by registration.

Ans to Q. No 5:1976

Ans to Q. No 6: (i) By Renunciation: Any Indian citizen may voluntarily renounce his/her citizenship in order to become citizen of another country. For this purpose, the concerned citizen needs to make a necessary declaration in the prescribed format.

(ii) By Termination: If any Indian citizen voluntarily acquires the citizenship of another country, then his/her citizenship in India will be automatically terminated. This kind of termination may take place by operation of law.

Ans to Q. No 7: A person can acquire Indian citizenship by naturalisation. To attain Indian citizenship, he/she must qualify the following conditions—

(g) He must belong to a country where the citizens of India are allowed to become subjects or citizens of that country by naturalisation.

(h) He/she needs to renounce the citizenship of his/herown country according to the prevailing law of that country.

(i) Before the date of giving the application for naturalization, he or she must reside or serve the concern government authority for 12 months.

(j) The person needs to possess a good and moral character.

(k) He/she must have workable knowledge of a particular Indian language.

(l) After acquiring citizenship by naturalisation, he or she is considered to be the permanent resident of India or elsewhere to serve under the Government of India.



8.10 MODEL QUESTIONS

(A) Very Short Questions

Q. 1: Mention any one provision of the Indian Constitution regarding citizenship.

Q. 2: State the name of one important Act enacted by the Parliament of India which provides the detailed provisions about Indian citizenship.

Q. 3: What is the full form of PIO in the context of Indian citizenship?

(B) Short Questions (Answer each question in about 150 words)

Q.1: Explain the conditions under which an Indian citizen may lose his/her Indian citizenship.

Q. 2: Write a short note on the meaning of citizenship.

(C) Long Questions (Answer each question in about 300-500 words)

Q.1: Discuss various provisions of the Indian Constitution regarding citizenship.

Q.2: Examine the various methods of acquisition of Indian citizenship.

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