

NRC and Supreme Court of India

Why in news?

The National Register for Citizens (NRC) in Assam is one of the cases that will occupy the attention of Justice Rajan Gogoi, the Chief Justice of India.

What is the NRC case?

- Initially, public interest litigations were filed between 2009 and 2012 before the Supreme Court challenging Section 6A of the Citizenship Act.
- Section 6A in the Citizenship Act, 1955 contains the provisions with respect to citizenship of persons covered by the Assam Accord, 1985.
- It also appealed to update the National Register of Citizens (NRC) for the State of Assam.
- It was argued that this was required to check illegal migration from across the border, and detect and deport non-citizens living in Assam.
- In the beginning, the court only monitored the government's progress, asked for status reports, and stimulated the administrative authorities.

How did the case progress?

- However there was a major change in the way SC handled the case in late 2014.
- A bench of the court headed by Justice Gogoi directed the State Coordinator of the NRC to submit a sealed cover with a report indicating the steps and measures to be taken to complete the work of updating of NRC.
- This step clearly pointed out that SC is shifting from mere oversight to directing both the modalities and the implementation.
- The bench of Justices Gogoi and Nariman then virtually took over the task of preparing the NRC.

What are the incidents that indicate the courts have taken over the NRC task?

- On 2017, the NRC Coordinator placed a "power point presentation" before the Court.
- The presentation set out both present and future steps involved in the preparation and upgradation of the NRC.
- However, the court did not make this public.

- The court had also approved an entirely new method of ascertaining citizenship, known as the “Family Tree Verification” based on this presentation.
- SC made an unrealistic deadline for the completion of the updation.
- The Attorney-General requested an extension in November, 2017.
- Attorney General submitted to the court that more than 75 lakh unverified claims would remain even after the deadline had expired.
- In this context, the court refused an extension, and ordered that a “partial” NRC be published on December 31, with the remainder published later.
- Finally, the State Coordinator submitted to the court the modalities for the process of filing objections with regard to the final draft of the NRC.
- The court refused to make the Coordinator’s reports public.
- It even refused to share them with the Union of India citing sensitivity of the issue as a reason.

Has the courts overstepped in the NRC case?

- Supreme Court has been praised for situating inefficient governments into action.
- Especially in the times of Public interest Litigation, Supreme Court has stepped in to fill legislative and executive vacuum.
- But with respect to this case, SC had acted as the executive and legislative instead of making them to do their job.
- Our Constitution envisages a detailed system of checks-and-balances before deprivation of rights can happen.
- First, Parliament must pass a law.
- Next, the executive – which is best acquainted with the facts and circumstances on the ground – must implement it.
- And finally, courts review legislative and executive action for constitutional compliance.
- The NRC court has become an “executive court” in implementing the NRC updating, and reviewing its own implementation.
- The means used to achieve it was through sealed covers and confidential reports.
- In a way, the executive court has set itself up as the first and final tribunal, without appeal or recourse.

Quick Facts

National Register of Citizenship (NRC)

- The National Register of Citizens (NRC) is the list of Indian citizens of Assam.

- It was prepared in 1951, following the census of 1951.
- For a person's name to be included in the updated NRC list of 2018, he/ she will have to furnish:
 1. Existence of name in the legacy data: The legacy data is the collective list of the NRC data of 1951 and the electoral rolls up to midnight of 24 March 1971.
 2. Proving linkage with the person whose name appears in the legacy data.

Source: The Hindu

