ৰাজহুৱা জাননী

(ৰিট্ পিটিচন (চিভিল) নং ২৭৪/২০০৯ৰ সন্দর্ভত ২৩-০৭-২০১৯ তাৰিখে মাননীয় উচ্চতম ন্যায়ালয়ে দিয়া হুকুমানুসাৰে প্ৰকাশিত)

ইয়াৰ দ্বাৰা জনসাধাৰণৰ জ্ঞাতাৰ্থে ওপৰত উল্লেখিত মাননীয় উচ্চতম ন্যায়ালয়ৰ হুকুমৰ উদ্ধৃতি তলত প্ৰকাশ কৰা হ'ল ঃ

"7. Another matter which the undersigned wishes to bring to the kind attention is about such cases of descendants of D Voter (DV)/ Declared Foreigner (DF)/Cases Pending at Foreigners Tribunals/Other Courts (PFT), whose one parent is DV/DF/PFT but the parent from whom the legacy is drawn for inclusion in NRC is not DV/DF/PFT and is also found eligible for inclusion in NRC. The Hon'ble Supreme Court in their order of 2 July 2018 have ordered that those persons who are Dvs or PFTs as well as their descendants are not to be included in updated NRC. As descendance can be drawn from either of the parents, clarification appears to be required in cases where one of the parents is clear from all angles (not DV/DF/PFT and eligible for NRC inclusion) while the other parent is a DV or DF or PFT. It also appears that while deciding eligibility of descendants, provisions of Section 3(1)(b) & (c) of the Citizenship Act, 1955 may be important to be taken into account, though citizenship purely by birth and not by descendance (Section 3(1)(a) is not eligible for inclusion in NRC. It is humbly felt that the sustance of Section 3(1)(b) & (c) is that while determining citizenship of any descendant born up to 3 December, 2004, citizenship eligibility of any one of the parents suffices, while for those descendants born on or after 3 December 2004, citizenship eligibility of both the parents needs to be taken into account. From a conjoint reading of Hon'ble Supreme Court's order dated 2 July 2018 and the provisions contained in Section 3(1)(b) & (c) of the Citizenship Act, 1955, the following appears to be the best course of action:

a. *For any NRC Applications/Claimants, if parent/legacy person through whom eligibility is sought to be established is a DV or DF or PFT, then such persons will not be included in NRC irrespective of the status of the other parent.*

b. *For those persons born before 3 December 2004, if the parent through whom legacy is drawn is not DV or DF or PFT and is found eligible for inclusion in NRC, but the other parent from whom legacy is not drawn is a DV or DF or PFT, then, such descendants may be included in NRC.*

c. *For those persons who are born on or after 3 December 2004, they will not be included in NRC if any of the parent is DV or DF or PFT even if the parent from whom legacy is drawn is clear from all angles.*

In this regard, it is submitted that the aforementioned matter was submitted by the deponent before the Judges Committee for opinion but the Committee advised to seek the order of the Hon'ble Court on the matter. As such the above is submitted for kind approval.

8. That the deponent also would like to seek clarification on the matter of validity of orders passed under the Illegal Migrants (Determination by Tribunal) (IMDT) Act. Some of the applicants have submitted orders passed under IMDT declaring them as Indian. This matter was also referred by the deponent to the Judges Committee, however, the Committee advised the deponent to seek order from the Hon'ble Court on the matter. As such, directions are sought about acceptability of orders of IMDT, whether declaring the person to be Indian or Illegal Migrant."

As grant of the aforesaid prayers/proposals made by the learned State Coordinator may affect legal rights, we permit all parties before the Court to have their say in the matter limited to the aforesaid two prayers. We also direct the learned Coordinator to issue a public notice in this regard to enable other stakeholders, in a representative capacity, to appear before the Court, if so desired. The aforesaid prayers will be heard on 7.8.2019 at 3.00 p.m., when this Bench will assemble again. We make it clear that in view of the exercise being time bound, it may not be possible for the Court to accept any prayer for adjournment of the matter."

সেই অনুসাৰে, ইচ্ছুক অন্যান্য পক্ষসমূহে মাননীয় উচ্চতম ন্যায়ালয়ৰ সমুখত তেওঁলোকৰ মতামত ব্যক্ত কৰিবলৈ যাতে সমর্থ হয়, সেই উদ্দেশ্যেৰে ওপৰত উল্লেখিত হুকুমাংশ 'ৰাজহুৱা জাননী' ৰূপে প্ৰকাশ কৰা হ'ল।

তাৰিখ ঃ ২৬-০৭-২০১৯
স্থান ঃ গুৱাহাটী

স্বাক্ষৰ/- **(প্ৰতীক হাজেলা, আইএএছ)**
ৰাজ্যিক সমন্বয়ক, এন আৰ চি, অসম