



Moot Court Committee
NLU Assam

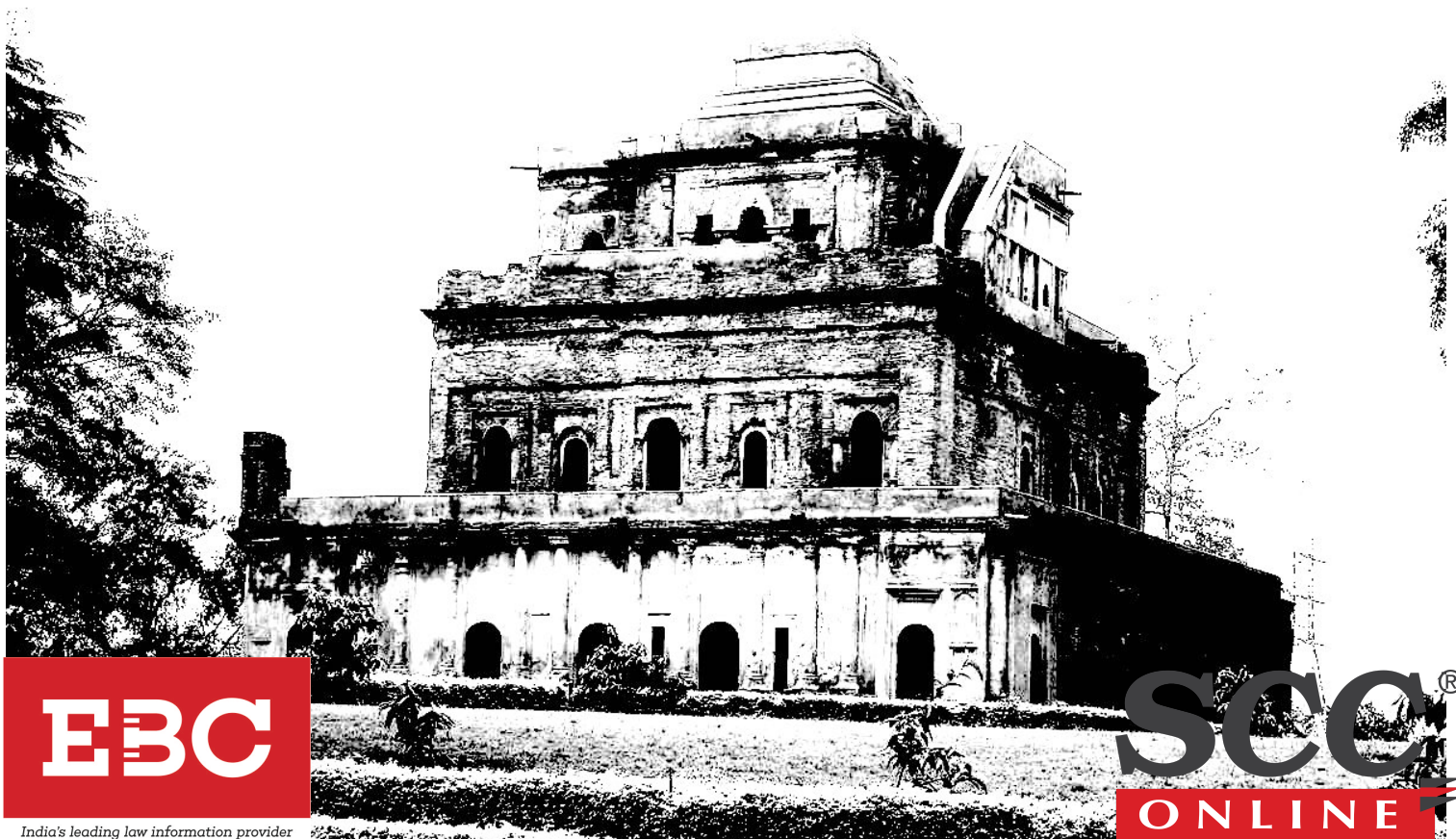


1ST VOX ANATOLIS NATIONAL MOOT COURT COMPETITION

1ST-3RD MARCH, 2019

NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

MOOT PROBLEM



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Moot Problem

Pochinki is a country which believes in unity in diversity. It is made up of 30 States and 8 Union Territories. It is surrounded by 6 countries which more or less share the same culture heritage. Two out of these six countries namely Gatka and Mylta were once a part of Pochinki, but they separated out of Pochinki in 1947. Gatka and Mylta lie on the West and East of Pochinki respectively. Pochinki was partitioned into 3 parts in 1947 on the basis of religion. Before partition, the population of Pochinki comprised of: Ralivs or the followers of Ralivism (67%), Galivs or the followers of Galivism (30%), Tsalivs or the followers of Tsalivism (2%) and the remaining 1% of the population was that of other religious minorities.

The Galivs were mainly concentrated in the western and eastern parts of Pre-Partition Pochinki. After partition, Gatka and Mylta became Galiv majority states. The other religious groups in these two newly formed countries were persecuted and as a result of which a huge number of minorities from these countries migrated to Pochinki. The government of post-partition Pochinki provided citizenship to such migrants. Thus 4 years after partition the religious demography of Pochinki was:- Ralivs (90%), Galivs (5%) and Tsalivs and other minorities (5%). Some of the Ralivs living in Gatka and Mylta stayed back in the hope of good days.

Kameshki is a state located in the North Eastern part of Pochinki. The Culture of Kameshki is slightly different from the other parts of Pochinki. Various different tribal communities reside in Kameshki. The language of Kameshki is also different from that of the other parts of Pochinki and is known as Kameshkian. The state shares the longest border with Mylta. During the post partition violence in 1947 against the Ralivs, a huge number of them took shelter in Kameshki. The Ralivs who came from Mylta have a different culture from the indigenous population of Kameshki. The language of the Ralivs of Mylta is Myltan. Thus although their religion is same, their culture and language vastly differ from one another.

Even after Partition, because of the high population density of Mylta , Galivs kept on coming to Kameshki and settled there. This influx of immigrants changed the demography of Kameshki .Thus in 1978 , the students and youths of Kameshki started an agitation against the illegal migrants who came from Mylta, irrespective of their religion . After 7 long years in 1985, the agitation ended and it culminated into a Memorandum of Settlement that was signed between the representatives of the Government of Pochinki and leaders of the Kameshki Agitation, this was known as the Kameshki Accord of 1985 .

The leaders of the agitation accepted 24th March,1971 as the date after which anyone who came to Kameshki would not be considered to eligible for citizenship of Pochinki and would have to be deported back to Mylta . Thus for the rest of Pochinki the reference date was different and that for Kameshki the reference date for being eligible for citizenship was 24th March,1971. As per the Kameshki Accord of 1985, the Union Govt. of Pochinki also promised to take steps to protect the language and culture of the indigenous communities of Kameshki .

In the meanwhile, influx of immigrants continued in Kameshki from Mylta . And this severely altered the demographics of Kameshki . The Ralivs who stayed back in Mylta after partition hoping that the situation will change, faced even worse forms of religious persecution and thus they left Mylta and settled in Kameshki, without following the procedure established by law .

In 2016, during the Elections to the Legislative Assembly of Kameshki , a newly formed political party named People's Party of Pochinki (PPP) promised that it will do justice to the Ralivs who were refugees and victims of religious persecution . After forming the Government in both the State and the Centre , the PPP government in the Centre introduced a bill to amend the existing Citizenship Law of Pochinki. The bill named Citizenship (Amendment) Bill,2016 was passed in both the houses of the parliament and became an act after getting the consent of the President of Pochinki on 1st July,2017.

The purpose of the bill is to provide Citizenship to the non-Galivs who came to Pochinki fleeing religious persecution from Gatka and Mylta and were residing in different parts of Pochinki.

But the indigenous people of Kameshki didn't welcome this step taken by the government. They feared that the Act may endanger their very own existence by threatening their culture and language. They opposed the Act stringently saying that legalising illegal immigrants would jeopardise the Kameshki Accord and thus violate the memorandum of settlement signed between the Union Government and the Kameshki Agitators in 1985. They also feared that their limited resources would be depleted and they would face difficulty in getting jobs and holding back their lands. Several organisations of the indigenous people of Kameshki organised wide-spread protests across Kameshki and other parts of Pochinki against this new law. After the bill was passed in the parliament and made into an Act, the law and order situation in Kameshki deteriorated rapidly. There were riots across the state and Myltan Ralivs who were already residing in the state were attacked.

On 30th July ,2017, All Kameshki Student's Union , a student body having roots across Kameshki approached the Supreme Court to declare the Act as constitutionally invalid and thus scrap it . They claimed that the Act was against the basic structure of Constitution of Pochinki, which declared Pochinki as a Secular Nation . They also claimed that the Act is against the Kameshki Accord and it was detrimental to the culture , language and land rights of the indigenous people of Kameshki. They urged the Supreme Court to order the Union Government to immediately deport all the illegal immigrants who came to Pochinki (mainly Kameshki) after 24th March,1971. The law officials of the Government of Pochinki while having an informal conversation among themselves were of the view that at no cost can Pochinki deport the non-Galiv immigrants , who were persecuted in Gatka and Mylta on the basis of their religion , because Pochinki followed the policy of non-refoulment. Frame Arguments from both sides. The laws of Pochinki are pari-materia to the laws of India and the laws related to Kameshki are pari- materia to the laws of the State of Assam.

Themes:- *Constitutional Law, Citizenship , Rights of Indigenous People, Rights of Refugees.*

THE IMPUGNED ACT

The Citizenship (Amendment) Act ,2017

An

Act

further to amend the Citizenship Act, 1955.

1. (1) *This Act may be called the Citizenship (Amendment) Act, 2016.*

(2) *It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.*

2. *In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), after clause (b), the following proviso shall be inserted, namely:-*

"Provided that persons belonging to minority communities, namely, Ralivs and Tsalivs, who have been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any order made thereunder, shall not be treated as illegal migrants for the purposes of this Act."

3. *In the principal Act, in the Third Schedule, in clause (d), the following proviso 5 shall be inserted, namely:—*

"Provided that for the persons belonging to minority communities, namely, Ralivs and Tsalivs, Mylta and Gatka , the aggregate period of residence or service of a Government in India as required under this clause shall be read as "not less than six years" in place of "not 10 less than eleven years".