

**IN THE SUPREME COURT OF INDIA
(CIVIL EXTRA ORDINARY JURISDICTION)
PUBLIC INTEREST LITIGATION
WRIT PETITION (CIVIL) NO. 206 OF 2020
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**

IN THE MATTER OF:

1. UDAGAR RAM

S/O KESWAR RAM
R/o KHAIRI BANKA,
WARD NO. 12, P.S. BISFI
DIST.- MADHUBANI
BIHAR, PIN CODE: 847121

2. BIMALESH KUMAR YADAV

S/O GUMANI YADAV
R/o WARD NO.2, BISFINURCHAK
DIST.- MADHUBANI
BIHAR, PIN CODE: 847122

3. SANJAY SAFI

S/O RAMNARAYAN SAFI
R/o HOUSE NO. 54, KHASRA NO. 1047
VILLAGE BHALSWA, BHALSWA
DIST. :- NORTH WEST DELHI
DELHI, PIN CODE: 110033

... PETITIONERS

AND

1. **UNION OF INDIA**
THROUGH SECRETARY
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA,
NORTH BLOCK,
NEW DELHI-110001

...RESPONDENT

**WRIT UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA
SEEKING TO CHALLENGE SECTION 14-A OF THE CITIZENSHIP
ACT, 1955 AND THE CITIZENSHIP (REGISTRATION OF CITIZENS
AND ISSUE OF NATIONAL IDENTITY CARDS) RULES, 2003 AND
NOTIFICATION S.O. 2753 (E) DATED 31.07.2019 AS BEING ULTRA
VIRES THE PREAMBLE AND THE CONSTITUTION OF INDIA**

TO,

HON'BLE THE CHIEF JUSTICE OF INDIA AND
OTHER COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF
THE PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH

1. That the Petitioner herein seeks to challenge Section 14-A of The Citizenship Act, 1955 and The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 and Notification S.O. 2753 (E) dated 31.07.2019 as being ultra vires Articles 9, 14 and 21 of the Constitution of India.
- 1A. That Amendment of the Citizenship Act, 1955 to insert S. 14-A, framing of The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 and issuance of Notification S.O. 2753 (E) dated 31.07.2019 by the Home Ministry, inter alia, constitutes the cause of action.
- 1B. That the rights of persons under Articles 9, 14, 21 being trammelled, in as much as the Right to Equality and Privacy being invaded in terms of the impugned Section, Rules and Notification herein is the nature of injury likely to be caused to the public.
- 1C. That all the Petitioners herein have not moved the concerned government authority for reliefs sought herein, as such, there is no result thereof.
- 1D. That all the Petitioners herein are farmers who do not have PAN Cards nor last filed IT Returns. As such, these documents are not available. It is however submitted that the all the Petitioners herein have annual

incomes of Rs. 80,000-100,000. Accordingly, the Petitioners herein seek exemption from disclosure and filing of PAN and filing of latest IT Returns as may be required as per order XXXVIII, Rule 12 (2) (i) (a) of the Supreme Court Rules, 2003.

2. That the details of the Petitioners are as under:
 - a. Petitioner No. 1, namely Mr. Udagar Ram is engaged in agriculture. His _____ . He does not hold a PAN Card and has not filed his Income Tax Returns. A true copy of the Petitioner No. 1's Aadhaar Card is annexed herewith and marked as **ANNEXURE P-1** (Please see pg. _____).
 - b. Petitioner No. 2, namely Mr. Bimlesh Kumar Yadav is engaged in agriculture. His _____ . He does not hold a PAN Card and has not filed his Income Tax Returns. A true copy of the Petitioner No. 2's Aadhaar Card is annexed herewith and marked as **ANNEXURE P-2** (Please see pg. _____).
 - c. Petitioner No. 3, namely Mr. Sanjay Safi is engaged in agriculture. His _____ . He does not hold a PAN Card and has not filed his Income Tax Returns. A true copy of the Petitioner No. 3's Aadhaar Card is annexed herewith and marked as **ANNEXURE P-3** (Please see pg. _____).
3. That all the Petitioners do not have any personal interest or any personal gain or private motive or any other oblique reason for filing the present writ petition in public interest.
4. That all the Petitioners are themselves bearing the litigation costs and other charges of the present petition in public interest.
5. That all the Petitioners have not been involved in any other civil or criminal or revenue litigation which could have any legal nexus with the issues involved in the present writ petition in public interest.
6. That Respondent No. 1 is the Union of India through Ministry of Home Affairs which is responsible for a myriad of functions including but not limited to internal security, border management, Centre-State relations, and administration of Union Territories and of advising the Central Government on related matters. The said Respondent falls within the definition of 'State'.

FACTS OF THE CASE

7. That certain articles of the Constitution of India came into force on 26.11.1949 and the remainder of the Constitution of India came into force on 26.01.1950 as per Article 394.
8. That the Census Act, 1948 came into force on 03.07.1948 to provide for the taking of census in India or any part thereof whenever necessary or desirable and to provide for certain matters in connection with the taking of such census. In terms of Section 15 of the said Act, the provision of the records of Census not being open to inspection or admissible in evidence was made. S. 15 of the Census Act, 1948, reads as under:

'15. Records of census not open to inspection nor admissible in evidence:-

No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such, or any schedule delivered under section 10, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any such book, register, record or schedule shall be admissible evidence in any civil proceeding whatsoever or in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.'

9. That the Citizenship Act, 1955 came into force on 30.12.1955 to provide for the acquisition and determination of Indian citizenship. The said Act was amended in 1985, 1986 and 1992. Needless to say, the Citizenship Act, 1955 and the Census Act, 1948 operate in entirely different fields.
10. That the Citizenship (Amendment) Act, 2003 was granted Presidential Assent on 07.01.2004 and published in the Gazette of India, on 08.01.2004. In terms of the said amendment, S. 14-A was inserted into the Citizenship Act, 1955. The said section is impugned herein. The Statement of Objects and Reasons of the Act of 2003, wherein the reason for the insertion of S. 14-A, has been stated, inter alia reads as under:-

'...Subsequently, the High Level Committee on Indian Diaspora constituted by the Central Government, inter alia, recommended the amendment of this Act to provide for the grant of dual citizenship to persons of Indian origin belonging to certain specified countries. The Central Government has accordingly decided to make provisions for the grant of dual citizenship and has taken the opportunity of introducing a scheme for the compulsory registration of every citizen of India, and for this purpose to issue national identity cards.'

A true typed copy of the Statement of Objects and Reasons of the Citizenship (Amendment) Act, 2003 is annexed herein and marked as **ANNEXURE P-4** (Please see pgs.....to.....).

11. That in exercise of the powers conferred by sub-sections (1) and (3) of Section 18 of the Citizenship Act, 1955, the Central Government made the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003. The said Rules, framed to give effect to the then newly inserted S. 14-A, in their entirety are challenged herein. In terms of Rule 2(k), 'Population Register' has been defined the register containing details of persons usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area. The scheme of the exercise of the making of the National Register of Indian Citizens (NRC), under the said Rules is as under:

Rule 3(4): The Central Government is to declare a date by which the Population Register shall be prepared by collecting information relating to all persons who are usually residing within the jurisdiction of Local Registrar.

Rule 4(3): For the purposes of preparation and inclusion in the Local Register of Indian citizens, the particulars collected of every family and individual in the Population Register shall be verified and scrutinized by the Local Registrar, who may be assisted by one or more persons as specified by the Registrar General of Citizen Registration.

Rule 4(4):During the verification process, particulars of such individuals, whose citizenship is doubtful, shall be entered by the Local Registrar with appropriate remark in the Population Register for further enquiry and in case of doubtful citizenship, the individual or the family shall be informed in a specified pro forma immediately after the verification process is over.

A true typed copy of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 dated 10.12.2003 is annexed herein and marked as **ANNEXURE P-5** (Please see pgs.....to.....).

12. That the Citizenship Act, 1955 was further amended in terms of the Citizenship (Amendment) Act, 2005. The Statement of Objects and Reasons of the Act of 2005, inter alia reads as under:-

'...The Central Government has, accordingly, notified the Citizenship (Amendment) Act, 2003 (6 of 2004) making provision for acquisition of Overseas Citizenship of India (OCI) by the Persons of Indian Origin (PIOs) of 16 specified countries other than Pakistan and Bangladesh. The Prime Minister in the PravasiBhartiya Divas, 2005 made a statement on OCI scheme that the Government has decided to grant OCI to all overseas Indians who migrated from India after 26th January, 1950 as long as their home countries allow dual citizenship under their local laws. In order to implement the Government's decision, an Ordinance called the Citizenship (Amendment) Ordinance, 2005 was promulgated on 28th June, 2005 to extend the scope of OCI for PIOs of all countries except Pakistan and Bangladesh as long as their countries allow dual citizenship. The said Ordinance is proposed to be replaced by a Bill by amending the provisions of the Citizenship Act, 1955 so as to...'

A true typed copy of the Statement of Objects and Reasons of the Citizenship (Amendment) Act, 2005 is annexed herein and marked as **ANNEXURE P-6** (Please see pgs.....to.....).

13. That the UK Parliament passed the Identity Cards Act 2006 being an Act to make provision a national scheme of registration of individuals and for the issue of cards capable of being used for identifying registered individuals; to make it an offence for a person to be in possession or control of an identity document to which he is not entitled, or of apparatus, articles or materials for making false identity documents; to amend the Consular Fees Act 1980; to make provision facilitating the verification of information provided with an application for a passport; and for connected purposes. The said Act was subsequently amended before being repealed as stated herein after.
14. That the Identity Cards Act 2006 was the subject of severe criticism on the grounds of Costs, Effectiveness, Ethnic minorities, Concerns raised by the Information Commissioner, Feature creep, Database extent and access, Vulnerable individuals, Identity theft and Technology. An article dated 09.10.2006 published in BBC News UK stated the criticisms of the National ID Scheme as voiced by Ministers of the then UK Govt. as being too expensive, redundant and risk of misuse. A true typed copy of Article dated 09.10.2006 is annexed herein and marked as **ANNEXURE P-7** (Please see pgs.....to.....).
15. The said Act was eventually repealed in terms of the Identity Documents Act 2010. An important document considered by the UK Parliament before the repeal of the 2006 Act was an Impact Assessment Report dated 26.05.2010. The said Report stated that the introduction of ID Cards was an unnecessary and expensive program which would not make the public safer but rather would pose a greater risk identity fraud. It was further stated that the ID Cards would not prevent acts of terrorism as Spain was the victim of the Madrid Bombings, despite having a National ID Cards scheme. It was further stated that the National ID Cards scheme would leave the public vulnerable to more data being collected by yet another arm of the Government and to potential future data loss. A true typed copy of the Impact Assessment dated 26.05.2010 is annexed herein and marked as **ANNEXURE P-8** (Please see pgs.....to.....).

A true typed copy of the Identity Documents Act 2010 is annexed herein and marked as **ANNEXURE P-9** (Please see pgs.....to.....).

16. That as per a Press Release from the Government of UK dated 10.02.2011, it seems that all the data collected under the National Identity Scheme was destroyed. A true typed copy of Press Release dated 10.02.2011 is annexed herein and marked as **ANNEXURE P-10** (Please see pgs.....to.....).
17. That this Hon'ble Court on 04.07.2011, in terms of the judgment reported as *Ram Jethmalani v. Union of India, (2011) 8 SCC 1*, laid down law that Right to privacy is an integral part of right to life. This is a cherished constitutional value, and it is important that human beings be allowed domains of freedom that are free of public scrutiny unless they act in an unlawful manner.
18. That the Citizenship Act, 1955 was further amended in terms of the Citizenship (Amendment) Act, 2015 in terms whereof seemingly certain lacunae that were noticed during the implementation and review of provisions in the Citizenship Act were rectified. A true typed copy of the Citizenship (Amendment) Act, 2015 is annexed herein and marked as **ANNEXURE P-11** (Please see pgs.....to.....).
19. That this Hon'ble Court on 24.08.2017, in terms of the judgment reported as *K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1*, declared Privacy to be an inalienable right under the Constitution of India and further prescribed tests that legislations must pass to impede the right to privacy in any manner. These tests were legality, need and proportionality.
20. That the Government of India, in terms of a Press Release dated 04.04.2018, has stated that the Cabinet Committee on Economic Affairs had approved the Revised Cost Estimates of the Updation National Register of Citizens (NRC), 1951 in Assam at a cost of Rs. 1220.93 Crores till 31.12.2018. A true typed copy of Press Release dated 04.04.2018 is annexed herein and marked as **ANNEXURE P-12** (Please see pgs.....to.....).

21. That the Ministry of Home Affairs in terms of Notification S.O. 2753(E) dated 31.07.2019 has declared 01.04.2020-30.09.2020 as the period for the updation of the NPR and field work for house to house enumeration, under Rule 3(4) of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003. A true typed copy of Notification S.O. 2753(E) dated 31.07.2019 is annexed herein and marked as **ANNEXURE P-13** (Please see pgs.....to.....).
22. That an article published on 09.12.2019 in Outlook stated that the Central Govt has spent approximately Rs. 1600 crores in the NRC exercise in Assam. A true typed copy of the Article dated 09.12.2019 is annexed herein and marked as **ANNEXURE P-14** (Please see pgs.....to.....).
23. That the Citizenship Act, 1955 has further been amended in terms of the Citizenship (Amendment) Act, 2019 which received Presidential assent on 12.12.2019. In terms thereof, Section 2 has been amended, Section 6-B has been added and Section 7-D, Section 18 and the Third Schedule of the Citizenship Act, 1955 have been amended.
24. That in terms of Notification dated 18.12.2019, the Governor of Bihar has declared that the period between 15.05.2020 and 28.06.2020 for the exercise of updating of house listing and house counting and updation of the National Population Register. A true translated copy of Notification dated 18.12.2019 is annexed herein and marked as **ANNEXURE P-15** (Please see pgs.....to.....).
25. That the Government of India, in terms of a Press Release dated 24.12.2019, has stated that the Cabinet has approved a sum of Rs. 8,754.23 crores for Census of India, 2021 and a wholly additional sum of Rs. 3,941.35 crores for the updation of the National Population Register. A true typed copy of Press Release dated 24.12.2019 is annexed herein and marked as **ANNEXURE P-16** (Please see pgs.....to.....).
26. That in terms of Gazette of India Notification S.O. 119(E) dated 07.01.2020, the Ministry of Home Affairs has declared 01.04.2020-30.09.2020 as the period in which the house listing operations of the

Census of India, 2021 shall take place in exercise of powers conferred by Section 3 and Section 17A of the Census Act, 1948 read with Rule 6A of the Census Rules, 1990. A true typed copy of India Notification S.O. 119(E) dated 07.01.2020 is annexed herein and marked as **ANNEXURE P-17** (Please see pgs.....to.....).

27. That in terms of Gazette of India Notification S.O. 120(E) dated 07.01.2020, the Ministry of Home Affairs has instructed all census officers to ask the following questions in exercise of powers conferred by Section 8(1) of the Census Act, 1948. It is pertinent to note that such questions are materially different than the questions asked under the updation of the National Population Register.

- a. Building Number.
- b. Census House Number.
- c. Predominant material of floor, wall and roof of the census house.
- d. Ascertain use of census house.
- e. Condition of the census house.
- f. Household number.
- g. Total number of persons normally residing in the household:
- h. Name of the head of the household.
- i. Sex of the head of the household.
- j. Whether the head of the household belongs to Scheduled Caste/Scheduled Tribe/Other.
- k. Ownership status of the census house.
- l. Number of dwelling rooms exclusively in possession of the household.
- m. Number of married couple(s) living in the household.
- n. Main source of drinking water.
- o. Availability of drinking water source.
- p. Main source of lighting.
- q. Access to latrine.
- r. Type of latrine.
- s. Waste water outlet.
- t. Availability of bathing facility.
- u. Availability of kitchen and LPG/PNG connection.
- v. Main fuel used for cooking.

- w. Radio/Transistor.
- x. Television.
- y. Access to internet.
- z. Laptop/Computer.
- aa. Telephone/Mobile Phone/Smartphone.
- bb. Bicycle/Scooter/Motorcycle/Moped.
- cc. Car/Jeep/Van.
- dd. Main Cereal consumed in the household.
- ee. Mobile Number (for census related communications only).

A true typed copy of India Notification S.O. 120(E) dated 07.01.2020 is annexed herein and marked as **ANNEXURE P-18** (Please see pgs.....to.....).

28. That the Office of the Registrar General and Census Commissioner, India has issued an Instruction Manual for Updation of National Population Register (NPR) 2020 dated NIL. The updation of the NPR seemingly seeks to piggyback on the Census of India, 2021 exercise as is evident from Section 4 of the Instruction Manual which instructs the enumeration of the Household as per the information collected for the Census. Further, the information sought under the updation of the NPR exercise is as under:

- a. Name in full
- b. Availability of members of the household
- c. Relationship to the head
- d. Sex
- e. Martial Status
- f. Date of Birth
- g. Place of Birth
- h. Nationality as declared and Passport Number, if issued
- i. Educational Qualification
- j. Occupation/Activity
- k. Mother tongue
- l. Permanent Residential Address
- m. Duration of Stay and Place of Last Residence
- n. Details of Father, Mother and Spouse.
- o. If available

- i. Aadhaar Number
- ii. Mobile Number
- iii. Voter ID Number
- iv. Driving Licence Number

A true typed copy of Instruction Manual for Updation of National Population Register (NPR) 2020 dated NIL is annexed herein and marked as **ANNEXURE P-19** (Please see pgs.....to.....).

29. That in the circumstances mentioned herein, this Petition is being preferred by the Petitioner inter alia on the following amongst other grounds without prejudice to each other:

GROUNDS

- A. Because Article 9 of the Constitution of India and the Citizenship Act, 1955 bars dual citizenship for Indian Citizens and the stated object for the insertion of S. 14-A into the Citizenship Act, 1955 states that '*The Central Government has accordingly decided to make provisions for the grant of dual citizenship and has taken the opportunity of introducing a scheme for the compulsory registration of every citizen of India, and for this purpose to issue national identity cards*'.
- B. Because the exercise of the updation of NPR is manifestly arbitrary as the said seeks to put Citizens and non-Citizens of India and persons desirous of an OCI at par inasmuch as the same information is sought from the entire population of persons residing within the territorial boundaries of India.
- C. Because Rule 4(4) of the (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 is manifestly arbitrary as it does not specify how the particulars of an individual would be classified as 'doubtful'.
- D. Because S. 14-A of the Citizenship Act, 1955 and Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 are ultra vires Article 21 of the Preamble and the

Constitution of India in as much as they invade the privacy of persons.

- E. Because the following details/information as is sought to be collected in the exercise of updation of NPR, as per Notification dated 31.07.2019 and the NPR Manual is private information of a person:
- a. Name in full
 - b. Availability of members of the household
 - c. Relationship to the head
 - d. Sex
 - e. Martial Status
 - f. Date of Birth
 - g. Place of Birth
 - h. Nationality as declared and Passport Number, if issued
 - i. Educational Qualification
 - j. Occupation/Activity
 - k. Mother tongue
 - l. Permanent Residential Address
 - m. Duration of Stay and Place of Last Residence
 - n. Details of Father, Mother and Spouse.
 - o. If available
 - i. Aadhaar Number
 - ii. Mobile Number
 - iii. Voter ID Number
 - iv. Driving Licence Number
- F. Because this Hon'ble Court in *K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1* laid down that for any legislation to impede a person's fundamental and inalienable right to privacy, it must pass the muster of the tests of Legality, Need and Proportionality.
- G. Because S. 14-A of the Citizenship Act, 1955 and Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 do not pass the test of NEED for the said legislation. The Central Govt. does not have a stated need to prepare a National Register of Indian Citizens for which the

creation and updation of a Population Register is first step, as the stated object of S. 14-A of the Citizenship Act, 1955 is the grant of dual citizenship. Further, the The Aadhaar (Targeted Delivery of Financial and other Subsidies, benefits and services) Act, 2016 and Rules framed there under, already provides for a unique Identity Number and ID card.

- H. Because S. 14-A of the Citizenship Act, 1955 and Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 do not pass the test of PROPORTIONALITY i.e. there is no rational nexus between the stated object and reasons of S. 14-A of the Citizenship Act, 1955 and the exercise of creation of a National Register of Indian Citizens. The grant of an OCI Card to an individual applicant does not require the creation of a National Register of Indian Citizens.
- I. Because stated object of S. 14-A of the Citizenship Act, 1955 and the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 do not warrant the unnecessary expenditure of public money for the creation and or maintenance of a National Register of Indian Citizens. In comparison, the cost of the NRC exercise in Assam, is reported to be Rs. 1600 Crores approximately, for a population of 3.3 crores as per the Article dated 09.12.2019.
- J. Because the Press Release dated 24.12.2019, has stated that the Cabinet has approved a sum of Rs. 8,754.23 crores for Census of India, 2021 and a wholly additional sum of Rs. 3,941.35 crores for the updation of the National Population Register.
- K. Because as per the law laid down by this Hon'ble Court in *Ram Jethmalani v. Union of India, (2011) 8 SCC 1*, the State cannot invade the privacy of a person unless they act in an unlawful manner. The relevant portions of the said judgment are as follows:

'83. *Right to privacy is an integral part of right to life. This is a cherished constitutional value, and it is important that human beings be allowed domains of freedom that are free of public scrutiny unless they act in an unlawful manner...*

...88. *The revelation of details of bank accounts of individuals, without establishment of prima facie grounds to*

accuse them of wrongdoing, would be a violation of their rights to privacy...'

- L. Because the exercise of updation of the NPR by deeming fiction assumes that all the persons residing within the territory of India are not Citizens of India and shifts the onus to the person to disclose information to prove their citizenship. This is seemingly done, without an investigation by the State to establish that the person is engaged in an unlawful activity.
- M. Because the State has to arrive at probable cause by way of an investigation before it can seek information of a person i.e. seek to invade a person's privacy.
- N. Because the exercise of the updation of the NPR is not an exercise under the Census Act, 1948 or Rules framed thereunder. Rather is wholly an exercise under the Citizenship Act, 1955 and has nothing to do with the Census Act.
- O. Because the exercise of the updation of NPR is seemingly being done by way of piggybacking on the exercise of Census of India, 2021. The questions of the Census, 2021 are compulsory to answer as per S. 8(2) of the Census Act, 1948, however, the information sought under the updation of NPR is not warranted by any such statute. The NPR Manual further, does not instruct the field workers, to ensure that the persons of whom the information is sought is made aware that they are free to not volunteer any information for the updation of the NPR.
- P. Because the nature of questions asked under the Census, 2021 and the updation of NPR exercise are vastly different. The questions asked under the Census do not seemingly offend the privacy of an person, however, the nature of the information sought for the updation of the NPR is intrusive.
- Q. Because the updation of the NPR and the Census are entirely different exercises. The Press Release dated 24.12.2019 states different amounts of expenditure to be incurred for the Census and the NPR, meaning thereby, that said exercises is unique and different requiring entirely separate budget allocations.

Further, the Notification dated 31.07.2019 issued by the Ministry of Home Affairs and the Notification dated 03.01.2020 issued by the Governor of Bihar demonstrate, in terms of their wording and the statute referred to that the exercises of updation of NPR is distinct from the Census, 2021.

- R. Because the private information collected under The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 for the purposes of S. 14-A of the Act of 1955 is not guaranteed the same safeguard as the information collected for the Census. In terms of Section 15 of the Census Act, the records of Census are not open to inspection or admissible in evidence. As such the collection of such information not enjoying the same security as the Census Act, is manifestly arbitrary.
- S. Because the private information collected under the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 for the purposes of S. 14-A of the Act of 1955 is not guaranteed the same safeguard as the information collected under the provisions of the Aadhaar (Targeted Delivery of Financial and other Subsidies, benefits and services) Act, 2016. As such the collection of such information, not enjoying the same security as the Aadhaar (Targeted Delivery of Financial and other Subsidies, benefits and services) Act, 2016 and Rules framed thereunder, is manifestly arbitrary.
- T. Because this Hon'ble Court, in *K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1*, articulated its apprehension of possible misuse of private information in term of para 300-308 thereto. Thereafter, this Hon'ble Court has observed as hereunder:

'310. While it intervenes to protect legitimate State interests, the State must nevertheless put into place a robust regime that ensures the fulfilment of a threefold requirement. These three requirements apply to all restraints on privacy (not just informational privacy). They emanate from the procedural and content-based mandate

of Article 21. The first requirement that there must be a law in existence to justify an encroachment on privacy is an express requirement of Article 21. For, no person can be deprived of his life or personal liberty except in accordance with the procedure established by law. The existence of law is an essential requirement. Second, the requirement of a need, in terms of a legitimate State aim, ensures that the nature and content of the law which imposes the restriction falls within the zone of reasonableness mandated by Article 14, which is a guarantee against arbitrary State action. The pursuit of a legitimate State aim ensures that the law does not suffer from manifest arbitrariness. Legitimacy, as a postulate, involves a value judgment. Judicial review does not reappraise or second guess the value judgment of the legislature but is for deciding whether the aim which is sought to be pursued suffers from palpable or manifest arbitrariness. The third requirement ensures that the means which are adopted by the legislature are proportional to the object and needs sought to be fulfilled by the law. Proportionality is an essential facet of the guarantee against arbitrary State action because it ensures that the nature and quality of the encroachment on the right is not disproportionate to the purpose of the law. Hence, the threefold requirement for a valid law arises out of the mutual interdependence between the fundamental guarantees against arbitrariness on the one hand and the protection of life and personal liberty, on the other. The right to privacy, which is an intrinsic part of the right to life and liberty, and the freedoms embodied in Part III is subject to the same restraints which apply to those freedoms...

315...Since the Government has initiated the process of reviewing the entire area of data protection, it would be appropriate to leave the matter for expert determination so that a robust regime for the protection of data is put into place. We expect that the Union Government shall follow up on its decision by taking all necessary and proper steps.'

- U. Because the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 nor the NPR Manual, 2020 specify the robust system in place to ensure that the data collected will be properly protected against misuse. There is no mention anywhere of where the data collected and stored. This is materially unlike the Census Act and the data collected under Aadhar.
 - V. Because it is established case law that this Hon'ble Court may look at the actions of foreign legislatures to arrive at conclusions regarding the vires and implementation of universally accepted principles. The UK Parliament had enacted an Act in 2006 to achieve similar objectives as is sought to be achieved by the Central Govt. by way of the impugned Section and Rules. The said Act was repealed in 2010 as the scheme of National ID Cards was found to be too expensive, ineffective in the fight against terrorism, and risked grave misuse such as identity theft apart from the concern of additional invasion of privacy by the Government. Some criticism of the 2006 UK Act is in the article dated 09.10.2006. All the data collected under the said scheme was eventually destroyed by the UK Government.
 - W. Because the information being collected for the updation of the NPR may lead to unsanctioned State surveillance or unauthorized access by other arms of the State or even unauthorized access by third parties leading to grave misuse.
30. That in view of the above it is in the interest of justice and equity that the Petitioner seeks to pray following directions from this Hon'ble Court under Article 32 of the Constitution of India.
 31. That the Annexures to the present writ petition are true or true typed copies of their respective original.
 32. That this Petition has been filed in bonafide and in public interest and the Petitioners crave the leave of this Hon'ble Court to amend the Grounds taken herein, if and when required.

33. That this Hon'ble Court has jurisdiction to decide this writ petition in public interest under Article 32 of the Constitution of India.
34. That no similar petition seeking similar relief has been filed by the Petitioner before this Hon'ble Court or any other Court.

PRAYER

In the circumstances it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Pass appropriate writ, order or direction declaring Sections 14-A the Citizenship Act, 1955 as unconstitutional, null and void and ultra vires Articles 9, 14, and 21 of the Constitution of India and hence void ab initio.
- b) Pass appropriate writ, order or direction declaring Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003as unconstitutional, null and void and ultra vires Articles 9, 14, and 21 of the Constitution of India and hence void ab initio;
- c) Pass appropriate writ, order or direction declaring that the Notification S.O. 2753 (E) dated 31.07.2019, issued by the Ministry of Home Affairs, as ultra vires Articles 14, and 21 of the Constitution of India and hence void ab initio
- d) Pass such other and further order/orders as are deemed fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER SHALL IN DUTY BOUND EVER PRAY.

DRAWN BY:

M.R.SHAMSHAD ADV &
ADITYA SAMADDAR, ADV

FILED BY:

DRAWN ON: 03.01.2020
FILED ON : 20.01.2020

[M R SHAMSHAD]
ADVOCATE FOR THE PETITIONERS