

AS INTRODUCED IN LOK SABHA

Bill No. 349 of 2019

**THE DISQUALIFICATION OF PERSONS OF FOREIGN ORIGIN
BILL, 2019**

By

SHRI PARVESH SAHIB SINGH, M.P.

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BILL

*to disqualify persons of foreign origin from holding offices of public importance
and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER 1

PRELIMINARY

1. This Act may be called the Disqualification of Persons of Foreign Origin Act, 2019. Short title.

5 **2.** In this Act, unless the context otherwise requires,— Definitions.

(a) "Birth Certificate" means the certificate issued by the Registrar of Births and deaths or the Municipal Corporation or any other prescribed authority, whosoever has been empowered under the Registration of Births and deaths Act, 1969 to register the birth of a child born in India:

18 of 1969.

Provided that for persons born on or after 26th January, 1989, Birth Certificate issued by the Municipal Authority or the Office of the Registrar of Births and Deaths only shall be acceptable:

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Provided further that the Birth Certificate shall contain the name of child, name of the father and the mother, date of birth, place of birth, sex, registration number and date of registration;

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(b) "naturally born Indian" means a person who is born within the territory of India and includes persons born in undivided British India on or before 15th August 1947;

(c) "office of public importance" means offices as defined in the Schedule to this Act;

(d) "person of foreign origin" means a person,—

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(i) who is born outside the territory of India, or

(ii) either of whose parents are not naturally born Indians:

Provided that a person, whose mother at the time of delivery is temporarily travelling to a place outside India or who is legally adopted by a couple of naturally born Indians, shall not be considered as a person of foreign origin; and

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(e) "person of Indian origin" means a person who is not a person of foreign origin.

CHAPTER II

DISQUALIFICATIONS AND EFFECT

Disqualification of person of foreign origin from holding offices of public importance.

3. A person of foreign origin shall be disqualified to be elected, nominated or designated for holding an office of public importance:

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Provided that a person of foreign origin, who is qualified to be elected, nominated or designated in any office except offices mentioned in the Schedule, shall not be disqualified from holding such office.

Burden of Proof.

4. The burden of proof shall be on the person being elected, nominated or designated to declare that he is not a person of foreign origin.

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Procedure.

5. (1) Every person who is elected, nominated or designated to hold an office of public importance shall at the earliest opportunity, or before contesting for such office, declare by way of an affidavit submitted to the concerned authority that such person is not a person of foreign origin.

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(2) For the purpose of proving the place of birth, the following identity proofs shall be acceptable—

(a) passport, or

(b) Birth Certificate, or

(c) Date of birth certificate/School leaving certificate from the school last attended by the person or any other recognized educational institution, or

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(d) any other authorized and valid identity card mentioning the place of birth.

Effect of citizenship.

6. Notwithstanding anything in the aforementioned provisions, no provision of this Act shall affect the citizenship of a person of foreign origin.

CHAPTER III

OFFENCES AND PUNISHMENT

<p>7. A person who provides, or aids, or abets in providing, false information about a person of foreign origin shall be guilty of misrepresentation.</p>	<p>Misrepresentation.</p>
<p>5 8. A person guilty of misrepresentation shall be punished with imprisonment of either description for a term which may extend to seven years and with fine which may extend to one crore rupee.</p>	<p>Punishment for Misrepresentation.</p>
<p>9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect of law by virtue of any law other than this Act.</p>	<p>Act to have overriding effect.</p>
<p>10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.</p>	<p>Power to make rules.</p>
<p>(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>	

SCHEDULE

[*see Section 2 (C)*]

'Office of public importance' shall include the following offices—

1. President of India;
2. Prime Minister of India;
3. Council of Ministers;
4. Chief Justice of the Supreme Court;
5. Judge of the Supreme Court;
6. Chief Justice of High Courts;
7. Judge of High Court;
8. Comptroller and Auditor General of India;
9. Election Commissioner of India;
10. Governor of Reserve Bank of India;
11. Chief of Defence Staff (COAS, CNS, CAS, CIDS);
12. Chief Ministers of States in India; and
13. Governor of States in India.

STATEMENT OF OBJECTS AND REASONS

The Union of India traces its democratic roots from its glorious freedom struggle against the shackles of colonial regime. One key principle of India's independence movement was the idea of *Swaraj*. Despite the varying conception of *Swaraj* among our freedom fighters, the idea of self governance remained the nucleus of the principle. Historically, India has been marred by foreign conquests which did not only rule it politically and economically but also altered it culturally. It is for this reason that the idea of *Swaraj* is one of the most cherished fruits of India's freedom struggle.

Post-Independence, despite its bitter history of imperialism, India never showed signs of resentment against its western colonizers. This stems out of its civilizational ethos of *Vasudhaiva Kutumbakam i.e.* whole world is a family. India has not only developed strong cultural relations with different nations and societies but has also given them a healthy space in its democratic society. Its Constitution also provides equal rights to every person irrespective of creed, race or nationality.

Courts have interpreted the Indian Constitution in a way by which an Indian citizen despite being of a foreign origin can hold powers of the State. This interpretation goes against the revered idea of *Swaraj*. The conventional approach throughout the world has always been to entrust State power only in the hands of natural born persons, as such, persons born with the genes of the country of birth. A prime example is the United States which reserves the office of President for 'a natural born citizen'. Political system in a democratic State is a crucial mean for realization of the civilizational ideals and goals. This can be better served when persons in control of State power are people who have their roots in the society. The democratic values of a nation as well as goals and aspirations of its people are best looked after by a person having roots in the society.

This Bill provides for disqualification of persons of foreign origin, who do not have root in the society, from holding any post of public importance. Persons who are not natural born Indian and either of whose parent is not a natural born citizen of India are persons who cannot be entrusted with positions that determine the future of India. Further, this Bill seeks to legally realize the ideals of *Swaraj* that has been cherished since the time of freedom struggle.

Hence this Bill.

NEW DELHI;
November 6, 2019.

PARVESH SAHIB SINGH

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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(*Shri Parvesh Sahib Singh, M.P.*)