

Bill No. III of 2011

THE ILLEGAL IMMIGRANTS AND MISSING FOREIGN
NATIONALS IDENTIFICATION AND DEPORTATION
AUTHORITY OF INDIA BILL, 2011

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BILL

to provide for the establishment of an Authority at the national level for identification and deportation of illegal immigrants who have come generally from the neighbouring countries in India and have settled in various parts of the country thereby increasing the burden on national resources and also to identify and deport the foreign nationals who go missing after coming to India after the expiry of their visa period and many of such immigrants and foreign nationals are threat to the national security and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-second year of the Republic of India as follows:—

1. (1) This Act may be called the Illegal Immigrants and Missing Foreign Nationals Identification and Deportation Authority of India Act, 2011.

5 (2) It extends to the whole of India.

(3) It shall come into force at once.

Short title,
extent and
commence-
ment.

Definition.

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

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "authority" means the Illegal Immigrants and Missing Foreign Nationals Identification and Deportation Authority of India established under section 3; 5

(c) "illegal immigrant" means a foreign national who comes to India without any visa or proper and valid documents issued by the designated authority of the Government of India in any foreign country and settles or attempt to settle in India in the garb of Indian citizen by obtaining ration card and other document by fraudulent means;

(d) "prescribed" means prescribed by rules made under this Act. 10

(e) terms and expressions used and not defined in this Act but defined in the Foreigners Act, 1946 shall have the meanings respectively assigned to them in that Act. 31 of 1946

Establishment of the Illegal Immigrants and Missing Foreign Nationals Identification and Deportation Authority of India.

3. (1) **The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an authority to be called the Illegal Immigrants and Missing Foreign Nationals Identification and Deportation Authority of India for carrying out the purposes of this Act.** 15

(2) **The Head Office of the Authority shall be at Mumbai in the State of Maharashtra and the Authority may establish its regional or Branch offices at other places of the Country as it may deem necessary for the purposes of this Act.**

(3) **The Authority shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.** 20

(4) **The Authority shall consist of,—**

(a) **a Chairperson who shall be a retired Judge of the Supreme Court or of a High Court to be appointed by the President of India;** 25

(b) **a Deputy Chairperson to be appointed by the Central Government with such qualifications and experience as may be prescribed;**

(c) **five Members of Parliament of whom three shall be from Lok Sabha and two from Rajya Sabha to be nominated by the respective Presiding Officers of the two Houses;** 30

(d) **five members to represent the Union Ministries of Home Affairs, External Affairs, Law and Justice, Planning and Defence respectively;**

(e) **four members of organisations which were spearheading agitations against illegal immigrants in the north-east and other parts of the Country to be nominated by the Central Government;** 35

(f) **four members to be nominated by the Governments of the States to be rotated amongst the States in alphabetical order every three years;**

(5) **The term of office of the Chairperson, Deputy Chairperson and members of the Authority and the procedure to be followed in the discharge of the functions of the Authority shall be such as may be prescribed.** 40

(6) **The Authority shall have a Secretariat and subordinate offices with such officers and members of the staff to assist the Authority in discharging its functions on such terms and conditions of services as may be prescribed from time to time by the Central Government.**

Functions of the Authority.

4. (1) Subject to the guidelines issued by the Central Government under the provisions of this Act from time to time, the Authority shall perform and undertake such special steps in close coordination with the Governments of the States, Union Territory Administrations various Central and State level investigating agencies, intelligence agencies, local police, Border Security Force and such other forces and Union Ministries of Home Affairs and External Affairs for the identification of illegal immigrants and their nationality and the 45

foreign nationals who have gone missing after their arrival in India on expiry of their visa period and to ensure their deportation from India to the Countries to which they belong.

(2) Without prejudice to the generality of the provisions contained in sub-section (1) of section 4, the Authority shall,—

- 5 (a) formulate guidelines for identifying illegal immigrants and their respective nationality and those foreign nationals who have gone missing after their arrival in the country;
- (b) direct the appropriate Government for the deportation of identified illegal immigrants and missing foreign nationals to their countries;
- 10 (c) facilitate speedy hearing of cases against illegal immigrants and missing foreign nationals;
- (d) direct the appropriate Government to,—
- (i) stop every assistance provided by such Government to the illegal immigrants and missing foreign nationals;
- 15 (ii) impound the ration card, voters identity card and such other documents procured fraudulently by the illegal immigrants and missing foreign nationals;
- (iii) delete the names of illegal immigrants and missing foreign nationals from the electoral rolls, if, included inadvertently or fraudulently;
- (iv) terminate the services of illegal immigrants and missing foreign nationals in case they are employed either in Government service or in private sector;
- 20 (v) recover the loans borrowed by illegal immigrants or missing foreign nationals;
- (vi) take action on priority basis for the deportation of illegal immigrants and missing foreign national to their countries;
- 25 (vii) take such other actions as the Authority may deem necessary for carrying out the purposes of this Act.

(2) It shall be the duty of the appropriate Government to take, as soon as may be, necessary action as directed by the Authority.

30 **5.** It shall be the duty of the Authority as well as of the appropriate Government to ensure that no inconvenience is caused to any bona fide Indian citizen while implementing the provisions of this Act.

Authority to ensure that inconvenience is not caused to bonafide citizens.

35 **6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Authority in each financial year such sums as may be considered necessary and adequate for the performance of the functions of the Authority under this Act.**

Central Government to provide funds.

40 **7.** The Authority shall prepare once in every calender year in such form and at such time as may be prescribed, as annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the President of India who shall cause the same to be laid before both the Houses of Parliament.

Annual Report.

45 **8.** The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to illegal immigrants and missing foreign nationals in the country.

Act to have over-riding effect.

Power to
remove
difficulty.

9. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of three years 5
from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall, as soon as may be, after it is made, be laid before both the Houses of Parliament.

Power to make
rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Our Country is very vast and quite a good length of its borders are open along with the neighbouring Countries which are poor as per the international standards. Since our border are quite porous a large number of poor people from such Countries infiltrate into our Country as illegal immigrants and have settled in various parts of the Country. Since they are from the neighbouring Countries many of which were once parts of India, they easily mix up with the local population and it is very difficult to identify them. Special efforts are required to detect them. As a result, there are millions of illegal immigrants and their infiltration is continuing unabated. Their number has swelled in the north-east region national capital and several other parts of our Country. Our Country is overpopulated and struggling hard to provide the necessities of life to its own citizens and can hardly afford to feed and sustain these illegal immigrants. These illegal immigrants are not only increasing the numbers of our overpopulated nation but have been found indulging in criminal and anti-India activities. They are helping the terrorist activities against our Country and creating law and order problem in the Country particularly in the urban areas by indulging in thefts, snatchings, looting and other crimes. Similarly, quite a large number of foreign nationals come to our Country on a short term visa and before the expiry of such visa, they disappear and go missing in the Country. Many of such foreign nationals later on have been nabbed found spying and indulging in disruptive activities in the Country.

But it is unfortunate that such illegal immigrants and missing foreign nationals acquire ration cards, electors cards etc. in connivance with some greedy elements in the administration to show them as Indian citizens. Thereafter, these unwanted illegal immigrants and missing foreign nationals are cleverly creating difficulties for the genuine Indian citizens and usurping their rights. As such to get rid of them, it has become necessary to identify them on priority and deport them to their Countries.

Till recently the Illegal Migrants (Determination by Tribunals) Act, 1983 (Act No. 39 of 1983) was there to deal with the illegal immigrants but the same has since been declared *ultra vires* of the Constitution by the Supreme Court. The Union Government has done nothing either for the validation of the struck down law or have another law in its place. As such at present there is no law in place to deal with the illegal immigrants. Now for both the illegal immigrants and the missing foreign nationals the provisions of the Foreigners Act, 1946 (Act No. 31 of 1946) can only be invoked which are not adequate to deal with this gigantic problem. As such a new law has to be enacted to deal with these twin issues.

Hence this Bill.

RAJKUMAR DHOOT

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the Establishment of the Illegal Immigrants and Missing Foreign Nationals Identification and Deportation Authority along with its Secretariat. Clause 6 makes it obligatory for the Central Government to provide requisite funds to the Authority for performing its functions. The Bill, if enacted will involve expenditure from the Consolidated Fund of India. Though it is not possible to quantify the amount at this stage it is estimated that a sum of rupee three hundred Crore may involve as recurring expenditure per annum.

A sum of rupee one hundred Crore may also involve as non-recurring expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

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(Shri Rajkumar Dhoot, M.P.)