Annexure - II

Resolution of 1881

Government of India prepared reforms in 1881 to de-provincialise some functions to give more power to the local boards. But such reforms of the local boards were opposed by the government of Assam arguing that Assam as a backward province do not possess requisite education, resource, intelligence or influential gentlemen who can undertake the works of the local boards. Government of Assam had to de-provincialise certain services and had to increase the powers and functions of the district committee as the Government of India was not convinced by the argument given by the former.

Ripon’s Reforms of 1882

There was a severe crisis in post famine period in India. Famine commission report in the year 1880 showed the need of local bodies in taking care of the people during the time of crisis. Lord Ripon resolution 18th May 1882 brought significant changes in the local level governance. Because of his initiatives, he is considered as the father of local self-government. ’Ripon suggested reforms for installing life into the local bodies. He advocated the establishment of a network of local self-governing institutions, financial decentralization, the adoption of elections as a means of constituting local bodies’ (Arora and Goyal 2005, 260). Thus, Ripon’s reforms formed the foremost base for modern local self-government institutions in India. His reforms showed a shift from the idea of mere local taxes for local purposes to the idea of local self-government.

Resolution of the Government of Assam 1882

A resolution was issued by the Government of Assam on 17th November 1882 delimit the administrative areas of the local boards to subdivisions. This resolution fixed the strength of the local boards between 8 and 24. There was also the provision for the inclusion of the tea planters in the local boards as non official members in some specific districts i.e. Cacher, Lakhimpur, Sivasagar, Darrag, Nagong. Besides, the resolution had some interesting provisions such as non-official Chairman, non-inclusion of the D.C. in the board and the provision for the local funds. The local boards were also entrusted with the function of the execution of the public works and the management of the public bodies. It is interesting to note that there was no legal basis for the local boards as they were constituted with the executive orders and it worked as impediment for its working.
Assam Local Self Government Act 1915

Assam Local Self-Government Act of 1915 was formulated to give legal basis to the local boards on the basis of the guidance of the Royal Decentralisation Commission. The Act led to the formation of village authority in the villages with the involvement of the village people under the guidance of the local boards. It also had some government nominated members. Village authority had work on the works given by the local boards with the help of the funds allocated to them.

The criticism rose against the Assam Local self-Government Act of 1915 is that it could not materialize the aim of decentralisation of the administrative powers to the village levels as the government had control over both the local boards and the village authority. Another criticism raised against the Act is that the Act could resolve small offences in the village itself as there was no such provision in the Act to resolve the offences in the village.

Local Self Government Act, 1926

The Assam Legislative Council appointed a council in 1924 to suggest amendment to Assam local self government Act, 1915. The council pave the way for the introduction of the Local Self Government Act, 1926 as most amendments suggested by the council were embodied in the Act. Some of its main provisions were village authorities in all villages of all district of the plains of Assam should be according to the wishes of the people. 3 years of term for the village authority. Except some works of the government such as the making of the roads, all the public works of the village such as the public health, maintenance off the public institutions, provide drinking water etc.

Assam Rural Panchayat Act, 1948

The government of Assam under the leadership of Lokpriya Gopinath Bordoloi passed Assam Rural Panchayat Act 1948 to bring overall development in the villages. The basic aim of the Act was to create ‘Primary Panchayat’ at the village level as a unit of rural Self-Government. The Act led to the creation of two tier Panchayati Raj Institutions. Primary Panchayat at the village level and rural Panchayat covering the whole area of the Mauza.

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1 A Mouza refers to a locality in an administrative district or a region. In Assam, generally several villages form a single Mouza. In colonial period, the head of the Mouza used to be known as a Mouzadar.
On the recommendation of the Panchayati Enquiry Committee in July, 1953 and Balvantrai Mehta committee report, Assam Panchayat Act was passed in 1959. Significant features of this Act were the establishment of three tier organization of the Panchayati Raj System, i.e. Gaon Panchayat at the village level, Anchalik Panchayat at the block level and the Mahkuma Parishad at the sub-divisional level. Due to non-satisfactory working of the Panchayat Act, 1959, the Assam Panchayati Raj Act, 1972, was brought out. This was also a failure to bring out any radical change in the structure of the Panchayat at the practical level. All powers were vested in the Mahkuma Parishad and Gaon Panchayat were not involved in the rural development activities directly. Absence of the middle tier i.e. the Anchalik Panchayat in this act was considered to be another drawback.

To bring about the decentralization of the power for the development in the rural areas, the Panchayati Raj Act of 1986 was introduced. It again brings three tier organization of the Panchayati Raj System consisting of the Mahkuma Parishad, Anchalik Panchayat and the Gaon Panchayat. Although these acts after independence provided the scope for the people’s participation in the local affairs but poverty and the illiteracy of the rural people greatly restricted them from the participation in the local administration and the traditional elites were still influential (Das 2003, 61-68).
29 Subjects as per Eleventh Schedule (Article 243G)

1. Agriculture including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation
3. Minor irrigation, water management and watershed development
4. Animal Husbandry, dairying and poultry
5. Fisheries
6. Social forestry and farm forestry
7. Minor Forest Produce
8. Small Scale industries including food-processing industries
9. Khadi, village and cottage industries
10. Rural Housing
11. Drinking Water
12. Fuel and Fodder
13. Roads, culverts, bridges, ferries, waterways and other means of communication
14. Rural electrification including distribution of electricity
15. Non-conventional energy sources
16. Poverty alleviation programmes
17. Education including primary and secondary schools
18. Technical training and vocational education
19. Audit and non-formal education
20. Libraries
21. Cultural activities
22. Markets and fairs
23. Health and Sanitation including hospitals, primary health centres and dispensaries
24. Family Welfare
25. Women and Child Development
26. Social Welfare including welfare of the handicapped and mentally retarded
27. Welfare of the weaker sections and in particular of the SCs and STs
28. Public Distribution System
29. Maintenance of community assets.
Annexure-IV

Source: http://online.assam.gov.in/web/homepol/white-paper

2.6 ‘D’ VOTERS

2.6.1. In pursuance of instructions of Election Commission of India dated January 5, 1998 during intensive revision of electoral roll in Assam in 1997, the letter ‘D’ was marked against the names of those electors who could not prove their Indian citizenship status at the time of verification through officers, especially appointed for the purpose. ‘D’ meant that the citizenship status of the elector was doubtful / disputed. Verification was done through local verification officers (LVOs). Based upon the report of the Local Verification Officers (LVOs), the Electoral Registration Officers took a decision on whether a reference to the concerned Tribunal was necessary to ascertain the Indian citizenship status of such elector. Once the Electoral Registration Officers confirmed in the affirmative, such cases were forwarded to the competent authority (SP of the concerned district) for reference to the concerned Tribunal. Such electors marked with ‘D’ were neither permitted to cast their votes nor contest in Elections. In issuing such instructions, the Commission took into consideration various orders of the Gauhati High Court, Supreme Court and provisions of Article 326 of the constitution read conjointly with section 16 of the Representation of People’s Act, 1950 and section 62 of the Representation of the People’s Act, 1951. The cases of such ‘D’ voters were forwarded by the Electoral Registration Officers concerned to the competent authority (Police Department) for further reference to the relevant Tribunals for determination of their citizenship. Based on the judgment /orders of the Tribunals, the letter ‘D’ was either removed from against the names of those electors whose Indian citizenship status was confirmed or the name of the elector deleted from the Electoral Rolls in the case of those whose citizenship status as Indian could not be established in Court. A total of 2,31,657 ‘D’ references were made to the competent authorities.
2.6.2. Following table summarizes the disposal of D voter’s cases by the Tribunals since 1998.


<table>
<thead>
<tr>
<th>Cases referred</th>
<th>Cases disposed</th>
<th>Cases pending</th>
<th>Persons declared as foreigners</th>
<th>Persons declared as Indian</th>
<th>Cases where no opinion could be expressed</th>
</tr>
</thead>
<tbody>
<tr>
<td>231657</td>
<td>88192</td>
<td>143465</td>
<td>6590</td>
<td>44220</td>
<td>37382</td>
</tr>
</tbody>
</table>

2.7. Intensive Revision of Electoral Rolls

2.7.1. A detailed note on the intensive revision of electoral rolls undertaken in Assam from 1985 to 1997 is presented below:

2.7.2. In Assam, because of the agitation over the Foreigners issue, no intensive revision of rolls was undertaken between 1979 and 1985.

2.7.3. **1985**: E/Rolls in Assam were intensively revised in 1985 with 1/1/85 as the qualifying date with the date of final publication being 7/11/85. The Election Commission of India (ECI) decided to undertake this intensive revision in fulfillment of an assurance given before the Supreme Court in September 1984 in the context of the hearing of the Writ Petition challenging the validity of the 1983 General Elections in Assam. Polling Station wise lists of persons enumerated during house-to-house enumeration were subjected to thorough scrutiny with reference to the **1971 Electoral Rolls**. Those whose linkages could not be established with the 1971 E/Rolls or could not prove their Indian Citizenship were deleted from the E/Rolls during the revision process. General Elections in 1985 were held on the basis of these rolls.

2.7.4. **1989**: In 1987, the state government objected to the Election Commission’s proposal for a summary revision of E/Rolls with the 1985 E/Rolls as the reference roll and demanded that an intensive revision of rolls be undertaken with 1/1/87 as the
qualifying date, where, instead of the 1971 E/Rolls, the 1966 E/Rolls should be considered as the basic document for linkage reference. At the end of wide ranging consultation, intensive revision of E/Rolls was taken up in Assam with reference to 1/1/89 as the qualifying date and the 1966 Rolls as the basic reference document. Two lists were directed by the Commission to be prepared after enumeration- List I containing the names of persons enumerated about whom the Electoral Registration Officer (ERO) does not consider it necessary to make an enquiry and List II containing names of persons in respect of whom, ERO has doubts about eligibility, including, but not restricted to citizenship.

In preparing List II, EROs consulted the following smaller lists:

1. Electors in 1985 E/Roll but without linkage to 1966 Roll.
2. Persons whose claims were rejected during revision of rolls in 1985.
3. List of persons served with Quit India notices on the basis of orders of FTs.
4. Refugee registration list prepared in 1971 of persons migrating to Assam in the wake of the Bangladesh war

Draft Rolls were published containing names of those in List I, names of those from List II in respect of whom ERO, after enquiry, concludes that they are eligible for entry in the draft rolls and, also, those in whose cases the ERO could not complete the enquiry before draft publication. Deletions of those found ineligible, whether on account of their citizenship or any other account, were made during the process of revision following due process. Final Rolls were accordingly published.

2.7.5. 1993 (de novo revision) : The state government was initially asked by the Commission to identify all polling station areas where there was an increase of more than 4% in the 1992 enumerated figures over the 1990 rolls. The state government duly identified certain such areas in all LACs. But representations to the Commission from various quarters alleging that the 1990 rolls suffered from major defects and some discrepancies in the figures projected by the state government and those available with the Election Commission resulted in the Commission ordering special instructions for revision of rolls with 1/1/93 as the qualifying date in all LACs of Assam. These instructions, which were issued after consultation with the Ministry of
Home Affairs on 21/8/92, prescribed a new procedure for verification of names enumerated so as to exclude all foreign nationals from the E/Rolls.

In pursuance of these instructions, names of all persons enumerated after house-to-house visits, after consolidation polling station wise, were referred to the District Administration for verification of status as Indian citizens (through established laws, linkage to 1966 E/Rolls/ NRCs etc). From the consolidated list, List I - containing names of those verified and found to be Indians, and List II – containing names of those not considered Indian were prepared. Those in List I automatically found their names in the Draft Rolls. Observers from other states were appointed by the Commission to oversee revision work. Deletions were made during revision process by EROs from List I where the ERO was satisfied, even after verification by District Magistrate, that the person was ineligible for entry in the E/Rolls on ground of citizenship.

The Commission however allowed final publication of E/Rolls only in respect of 86 LACs after this revision exercise and withheld the publication of E/Rolls in 40 LACs, being dissatisfied with the revision exercise in those LACs. The Commission then ordered special revision in these 40 LACs in 1994 and ordered summary revision with 1/1/94 as the qualifying date in respect of the other 86.

In view of Special Leave Petitions no 2484-85/94 in the Supreme Court, these twin processes were suspended by the Commission in April 1994. Following affirmation by the Supreme Court on 5.5.94 of the Gauhati High Court order dated 28.1.94 (and modified on 1.2.94) in Civil Rules 1566, 1616, 1836 and 2814, all of 1993 that challenged some of the provisions made under this de novo revision process, the Commission directed that the names of persons in List II prepared in 1993, except the names of persons declared or detected by Tribunals under IM(D)T and FT and those whose claims/ objections have been disposed off by the EROs) be published as supplementary draft rolls. But the names of those who were not entitled to be registered in the rolls for disqualification or lack of qualification on ground of citizenship or any other ground were to be deleted after following due procedure, including providing opportunity to the person concerned to be heard. All the above
were duly followed. The rolls were finally published on 31/8/94 in consonance with the instructions of the Commission.

2.7.6. 1997: The Election Commission ordered intensive revision with 1.1.97 as the qualifying date and issued special guidelines for this purpose. The guidelines were framed keeping in view the judgment and order dated 28.1.94 and 1.2.94 of the Gauhati High Court in the case of HRA Chaudhury vs Election Commission of India and others (Civil Rules 1566,1616,1836 and 2814 of 1993) which was upheld by the Supreme Court by its judgment and order dated 5.5.94 and Civil Appeals no 4171-4180 of 1994 arising out of SLPs(Civil) 2484-85 of 1994) and the judgment and order dated 6.2.95 of the Supreme Court in the case of Lal Babu Hussain and others vs Electoral Registration Officer and others.

The Gauhati High Court had held in HRA Chaudhury vs Election Commission and others (upheld by the Supreme Court)

“the draft rolls are to be prepared on the basis of the statements submitted by the heads of the households in a constituency in Form 4 under Rule 8………..the statement made by the head of the household has its own value and cannot be lightly brushed aside. Rules do not contemplate any inquiry into the question of citizenship at the stage of preparation of draft roll, although there is provision for objection after a draft roll is published on the ground that a person who is not a citizen of India has been erroneously included.”

The Supreme Court had held in Lal Babu Hussain vs Electoral Registration Officer and others:

“Thus the question whether a person is a foreigner is a question of fact which would require careful scrutiny of evidence since the enquiry is quasi-judicial in character....”

(This implied that the question of citizenship is to be determined by the authorities vested with such powers under the Citizenship Act 1955 and other laws relating to citizenship)
The 1997 draft rolls that were published after enumeration comprised two categories of persons:

1. Persons whose names appeared in the roll prepared in 1993-94 and further revised with reference to 1.1.96 as the qualifying date.

2. Persons who did not find their names in the roll prepared in 1993-94 and further revised with reference to 1.1.96 as the qualifying date.

2.7.7. After publication of rolls in draft, the EROs caused verification through Local Verification Officers (LVOs) in respect of those in the draft rolls where linkages could not be established with the earlier rolls but were provisionally included. After due verification, the LVO submitted his report in a specified format to the ERO, who in turn forwarded the cases, where he had reasonable doubt about the citizenship of any person, to the Competent Authority under the IM(D)T Act or the FT Act for further reference to the concerned Tribunal. Where decisions of the Tribunals on referred cases were not received before the date of final publication of rolls, the letter ‘D’ was marked against the name of such electors to indicate that the citizenship status of those persons is Doubtful/Disputed. The names of such persons were either retained or deleted based on the decisions of the Tribunals on the references made. Persons marked as ‘D’ in the E/Rolls are neither allowed to cast their votes at elections nor allowed to contest any elections.