



# CONSTITUTION OF INDIA

APJKTU 2019 Scheme

# MODULE 1

- ▶ Definition of constitution, historical background, salient features of the constitution.
- ▶ Preamble of the constitution, union and its territory.
- ▶ Meaning of citizenship, types, termination of citizenship

## MODULE 2

- ▶ Definition of state, fundamental rights, general nature, classification, right to equality, right to freedom, right against exploitation
- ▶ Right to freedom of religion, cultural and educational rights, right to constitutional remedies. Protection in respect of conviction for offences
- ▶ Directive principles of state policy, classification of directives, fundamental duties

## MODULE 3

- ▶ The Union executive, the President, the vice President, the council of ministers, the Prime minister, Attorney-General, functions
- ▶ The parliament, composition, Rajya sabha, Lok sabha, qualification and disqualification of membership, functions of parliament
- ▶ Union judiciary, the supreme court, jurisdiction, appeal by special leave

# MODULE 4

- ▶ The State executive, the Governor, the council of ministers, the Chief minister, advocate general, union Territories
- ▶ The State Legislature, composition, qualification and disqualification of membership, functions
- ▶ The state judiciary, the high court, jurisdiction, writs jurisdiction

# MODULE 5

- ▶ Relations between the Union and the States, legislative relation, administrative relation, financial Relations, Inter State council, finance commission
- ▶ Emergency provision, freedom of trade commerce and inter course, comptroller and auditor general of India, public Services, public service commission, administrative Tribunals
- ▶ Official language, elections, special provisions relating to certain classes, amendment of the Constitution

# COURSE OUTCOME

## ▶ **AT THE END OF THIS CLASS**

Students will be able to understand Definition of constitution

Students will be able to understand historical background of constitution

# What is Constitution ?

- ▶ It is a set of rules, written and unwritten, that seeks to establish the duties, power and functions of the various institutions of government, regulate the relationships between them and define the relationships between the state and the individual.



# Indian Constitution

## M.N Roy

M.N.Roy was the First Indian to put forward the idea of constitution for india.

He expressed it through his newspaper indian patriot in 1934



**Indian Constitution**

M.N.Roy

# Indian Constitution

## Swaraj Party

Swaraj Party was the **first political party** which raised the demand for a **constituent assembly** to frame a constitution for India.

Swaraj Party was formed by **Motilal Nehru** and **C R Das** in 1923.



**Indian Constitution**

Swaraj Party

# Indian Constitution

1934 : Idea put forwarded by MN ROY

1935 : INC demanded a Constitutional Assembly to frame the  
Constitution of india

1935 : Jawaharlal Nehru declared that 'The constitution of free  
india must be framed

# Indian Constitution

1940 : Demand was finally accepted in principle by the British Government in what is known as the 'August Offer'

1946 : Cabinet Mission

1950 : Constitution came into full effect from Jan 26

# Historical background of constitution

- ▶ The British came to India in 1600 as traders, in the form of East India Company, which had the exclusive right of trading in India under a charter granted by Queen Elizabeth.



## THE COMPANY RULE (1773–1858)

**3) East India Company (1765AD-1858AD)**- During this period, the company established a **unified control over the whole of India** from a single center in Calcutta. Different Acts and Laws were forced by company during this period just so company could remain in power and authority. But the company came under increasing control by parliament of Britain and its rule ended with the Revolt of 1857.



Different battles all over the India.

# Regulating Act of 1773

The first step was taken by the British Parliament to control and regulate the affairs of the East India Company in India

## **The features of this Act were as follows:**

- It designated the Governor of Bengal as the 'General of Bengal' and created an Executive Council of four members to assist him. The first such Governor General was Lord Warren Hastings
- It made the governors of Bombay and Madras presidencies subordinate to the governor-general of Bengal, unlike earlier, when the three presidencies were independent of one another

# Regulating Act of 1773

- It provided for the establishment of a Supreme Court at Calcutta (1774) comprising one chief justice and three other judges
- It prohibited the servants of the Company from engaging in any private trade or accepting presents or bribes from the 'natives'
- It strengthened the control of the British Government over the Company by requiring the Court of Directors (governing body of the Company) to report on its revenue, civil, and military affairs in India.



# Pitt's India Act of 1784

## **The features of this Act were as follows:**

- ❑ Distinguished between commercial and political functions of the company.
- ❑ Court of Directors for Commercial functions and Board of Control for political affairs.
- ❑ Reduced the strength of the Governor General's council to three members.
- ❑ Placed the Indian affairs under the direct control of the British Government.
- ❑ The companies territories in India were called “the British possession in India”.
- ❑ Governor's councils were established in Madras and Bombay

# Charter Act of 1793

## **The features of this Act were as follows:**

- It extended the overriding power given to Lord Cornwallis over his council, to all future Governor-Generals and Governors of Presidencies
- It gave the Governor-General more powers and control over the governments of the subordinate Presidencies of Bombay and Madras
- It extended the trade monopoly of the Company in India for another period of twenty years

# Charter Act of 1813

## **The features of this Act were as follows:**

- It abolished the trade monopoly of the company in India i.e., the Indian trade was thrown open to all British merchants. However, it continued the monopoly of the company over trade in tea and trade with China
- It authorised the Local Governments in India to impose taxes on persons. They could also punish the persons for not paying taxes.

# Charter Act of 1833

This Act was the final step towards centralisation in British India

**The features of this Act were as follows:**

- It made the Governor-General of Bengal as the Governor-General of India and vested in him all civil and military powers. Thus, the act created, for the first time, Government of India having authority over the entire territorial area possessed by the British in India. Lord William Bentinck was the first Governor-General of India.
- The Act ended the activities of the East India Company as a commercial body and it became a purely administrative body

# Charter Act of 1853

This was the last of the series of Charter Acts passed by the British Parliament between 1793 and 1853. It was a significant constitutional landmark.

## **The features of this Act were as follows:**

- The legislative and executive functions of the Governor-General's Council were separated
- 6 members in Central legislative council. Four out of six members were appointed by the provisional governments of Madras, Bombay, Bengal and Agra.

# Charter Act of 1853

- It introduced a system of open competition as the basis for the recruitment of civil servants of the Company (Indian Civil Service opened for all).



## THE CROWN RULE (1858–1947)

**4) British Raj(1858AD-1947AD)**- This period of the British Raj was the time when the Constitution of India took shape. The main stages of its evolution were:

- I. **The Act for the Better Government of India (1858)**- This put India directly under the control of the British government. It set up the office of the Secretary of State, member of the British parliament, who would be in charge of Indian government. In India, the Governor-General, working under the Secretary of State, led the administration.



Flag of British India (Known as star of India)



Left Hunting of Indian Tigers, Right Famines and epidemics in the British Raj

# Government of India Act of 1858

This significant Act was enacted in the wake of the Revolt of 1857—also known as the First War of Independence or the ‘sepoy mutiny’. The act known as the Act for the Good Government of India, abolished the East India Company, and transferred the powers of Government, territories and revenues to the British Crown.



# Government of India Act of 1858

## **The features of this Act were as follows:**

- It provided that India, henceforth, was to be governed by, and in the name of, Her Majesty. It changed the designation of the Governor-General of India to that of Viceroy of India. He (Viceroy) was the direct representative of the British Crown in India. Lord Canning, thus, became the first Viceroy of India
- It ended the system of double Government by abolishing the Board of Control and Court of Directors

# Government of India Act of 1858

- It created a new office, Secretary of State for India, vested with complete authority and control over Indian administration. The secretary of state was a member of the British Cabinet and was responsible ultimately to the British Parliament
- It established a 15-member council of India to assist the Secretary of State for India. The council was an advisory body. The secretary of state was made the Chairman of the council.

# Indian Councils Act of 1861

After the great revolt of 1857, the British Government felt the necessity of seeking the cooperation of the Indians in the administration of their country. In pursuance of this policy of association, three acts were enacted by the British Parliament in 1861, 1892 and 1909. The Indian Councils Act of 1861 is an important landmark in the constitutional and political history of India

## **The features of this Act were as follows:**

- It introduced for the first time Indian representation in the institutions like Viceroy's executive+legislative council (non-official). 3 Indians entered the Legislative council.
- Legislative councils were established in Center and provinces
- It provided that the Viceroy's Executive Council should have some Indians as the non-official members while transacting the legislative businesses.
- Initiated the process of decentralisation by restoring the legislative powers to the Bombay and the Madras Provinces.

# India Council Act of 1892

- Introduced indirect elections (nomination).
- Enlarged the size of the legislative councils
- Enlarged the functions of the Legislative Councils and gave them the power of discussing the Budget and addressing questions to the Executive

# India Council Act of 1909

- This Act is also known as the Morley- Minto Reforms.
- Direct elections to legislative councils; first attempt at introducing a representative and popular element.
- It changed the name of the Central Legislative Council to the Imperial Legislative Council.
- The member of the Central Legislative Council was increased to 60 from 16.
- Introduced a system of communal representation for Muslims by accepting the concept of 'separate electorate'.

# India Council Act of 1909

- Indians for the first time in Viceroy's executive council. (Satyendra Prasanna Sinha, as the law member)

# India Council Act of 1919

- This Act is also known as the Montague-Chelmsford Reforms.
- The Act introduced, for the first time, bicameralism at the center.
- Legislative Assembly with 140 members and Legislative council with 60 members.
- Direct elections.
- The Act also required that the three of the six members of the Viceroy's Executive Council (other than Commander-in-Chief) were to be Indians.
- Provided for the establishment of the Public Service Commission.



# Simon Commission

In November 1927 itself (i.e., 2 years before the schedule), the British Government announced the appointment a seven-member statutory commission under the chairmanship of Sir John Simon to report on the condition of India under its new Constitution. All the members of the commission were British and hence, all the parties boycotted the commission. The commission submitted its report in 1930

# Government of India Act of 1935

The Act marked a second milestone towards a completely responsible government in India. It was a lengthy and detailed document having 321 Sections and 10 Schedules

# Government of India Act of 1935

**The features of this Act were as follows:**

- This introduced 'provincial autonomy': responsible government at the provinces with elected Indians in charge of the administration, and responsible to the elected legislatures. A federal government was proposed, though it did not come into effect. At the centre, 'diarchy' was introduced
- It provided for the establishment of a Reserve Bank of India

# Government of India Act of 1935

**The features of this Act were as follows:**

- It provided for the establishment of not only a Federal Public Service Commission, but also a Provincial Public Service Commission and Joint Public Service Commission for two or more provinces

# Indian Independence Act of 1947

- It declared India as an Independent and Sovereign State.
- Established responsible Governments at both the Centre and the Provinces.
- Designated the Viceroy India and the provincial Governors as the Constitutional (normal heads).
- It assigned dual functions (Constituent and Legislative) to the Constituent Assembly and declared this dominion legislature as a sovereign body.





# The Constitution of India

## PREAMBLE

**WE, THE PEOPLE OF INDIA,**  
having solemnly resolved to constitute India into a  
**SOVEREIGN SOCIALIST**  
**SECULAR DEMOCRATIC REPUBLIC**  
and to secure to all its citizens:

**JUSTICE**, social, economic and political;  
**LIBERTY** of thought,  
expression, belief, faith and worship;

**EQUALITY** of status and of opportunity;  
and to promote among them all  
**FRATERNITY** assuring the dignity of the  
individual and the unity and  
integrity of the Nation;

**IN OUR CONSTITUENT ASSEMBLY**  
this twenty-sixth day of November, 1949, do  
**HEREBY ADOPT, ENACT AND GIVE TO**  
**OURSELVES THIS CONSTITUTION.**



# Preamble of the Constitution

- ▶ The constitution of India begins with a preamble which specifies the nature of the Indian state.
- ▶ Preamble is an introduction or preface to the constitution
- ▶ Acc to N.A. Palkhivala – “Preamble is an identity card of the constitution”
- ▶ Every constitution begins with a preamble
- ▶ It is the soul and key of every constitution
- ▶ Preamble defines the basic structure of constitution
- ▶ Preamble was adopted by constituent assembly on 26<sup>th</sup> Nov 1949. (Later amendments made)



# Preamble of the Constitution

“We, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, Social, Economic and Political;

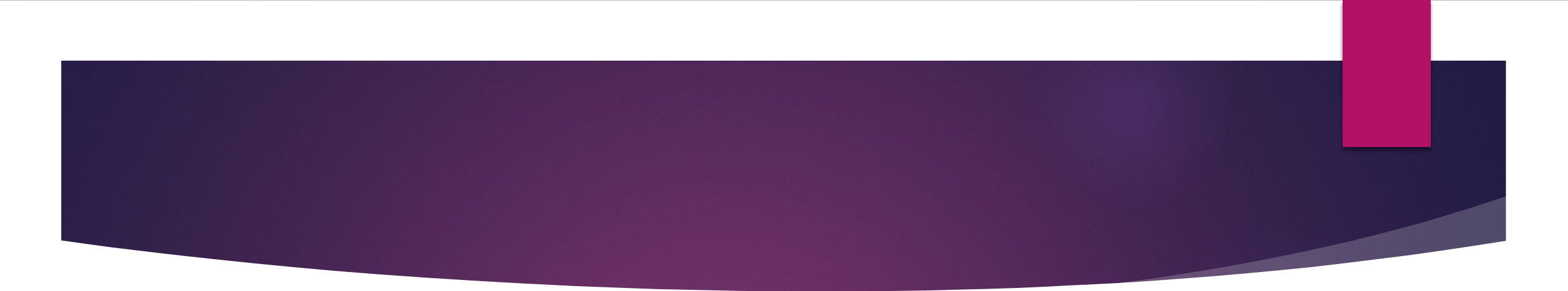
LIBERTY of thought, expression, belief, faith and worship;

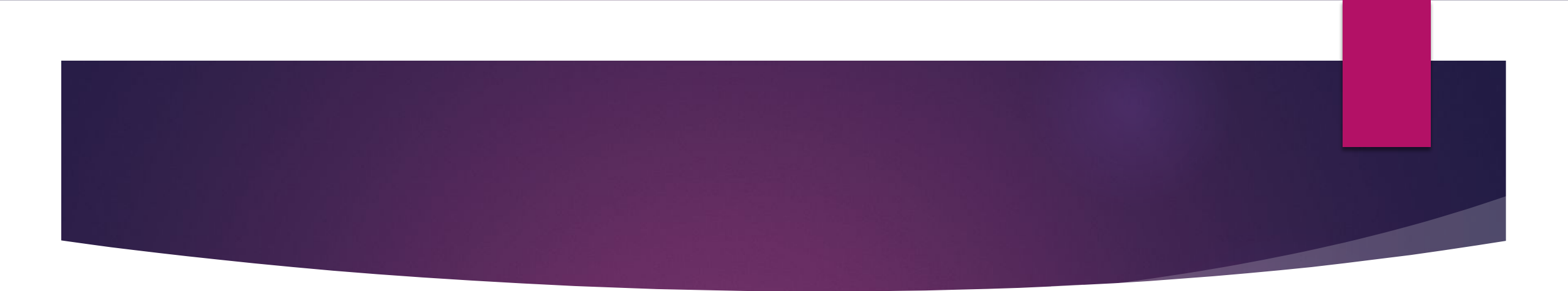
EQUALITY of status and of opportunity; and to promote among them all; FRATERNITY assuring the dignity of the individual and the unity *and integrity* of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION”.



- ▶ **Sovereign:** The word 'sovereign' implies that India is neither a dependency nor a dominion of any other nation, but an independent state
- ▶ **Socialist:** The Indian brand of socialism is a 'democratic socialism' and not a 'communistic socialism' ( Mixed Economy)
- ▶ **Democratic:** The term 'democratic' is used in the Preamble in the broader sense embracing not only political democracy but also social and economic democracy.
- ▶ **Republic:** Therefore, the term 'republic' in our Preamble indicates that India has an elected head called the president. He is elected indirectly for a fixed period of five years.

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- ▶ **Justice:** The term ‘justice’ in the Preamble embraces three distinct forms social, economic and political
  - ▶ **Liberty:** The term ‘liberty’ means the absence of restraints on the activities of individuals, and at the same time, providing opportunities for the development of individual personalities.
  - ▶ **Equality:** The term ‘equality’ means the absence of special privileges to any section of the society, and the provision of adequate opportunities for all individuals without any discrimination.

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- ▶ **Fraternity:** Fraternity means a sense of brotherhood. The Constitution promotes this feeling of fraternity by the system of single citizenship.

# Union and its territory

Although India is a federation, the constitution defines India as 'Union of States'. The Union of India comprises 28 States and 8 Union Territories

# INDIA

## States and Union Territories



INDIA FLAG



# Articles 1 to 4 under Part-I of the Constitution deal with the Union and its territory.

- **Article 1**

describes India, that is, Bharat as a ‘Union of States’

- The Constituent Assembly had to adopt a mix of both (‘India, that is, Bharat’)
- The country is an integral whole and divided into different states only for the convenience of administration
- According to Article 1, the territory of India can be classified into three categories:



**1. Territories of the states**

**2. Union territories**

**3. Territories that may be acquired by the Government of India at any time.**

- ▶ At present, there are 28 states and 8 union territories. The states are the members of the federal system and share a distribution of powers with the Centre.



## ► Article 2

Parliament may by law admit into the union, or establish, new states on such terms and conditions as it thinks fit.

It grants two powers to the Parliament: (a) the power to admit into the Union of India new states; and (b) the power to establish new states.





## ► Article 3

It deals with the internal re-adjustment of the territories of the constituent states of the Union of India

It authorizes the Parliament to

- (a) form a new state by separation of territory from any state or by uniting two or more states or parts of states or by uniting any territory to a part of any state
- (b) increase the area of any state;
- (c) diminish the area of any state;
- (d) alter the boundaries of any state;
- (e) alter the name of any state.



## ► Article 4

Article 4 itself declares that laws made for admission or establishment of new states and formation of new states and alteration of areas, boundaries or names of existing states are not to be considered as amendments of the Constitution under Article 368

This means that such laws can be passed by a simple majority and by the ordinary legislative process.

# Citizenship

## **Part II of the constitution, between Articles 5 and 11 deals with citizenship**

- Citizens are full members of the Indian State who enjoys all civil and political rights
- Single citizenship: The citizens in India owe allegiance only to the Union. There is no separate state citizenship
- According to the Constitution, the following four categories of persons became the citizens of India at its commencement i.e., on January 26, 1950:
  - (a) Persons domiciled in India- **Article 5**
  - (b) Persons migrated from Pakistan-**Article 6**
  - (c) Persons migrated to Pakistan but later returned-**Article 7**
  - (d) Persons of Indian origin residing outside India.-**Article 8**

# CITIZENSHIP ACT, 1955

- ▶ **The Citizenship Act (1955) provides for acquisition and loss of citizenship after the commencement of the Constitution.**

## **Acquisition of Citizenship ( Types )**

### **1. Birth**

- ✓ Citizenship by birth

### **2. Descent : A person born outside India**

- ✓ A person born outside India shall not be a citizen of India by descent, unless his birth is registered at an Indian consulate within one year of the date of birth or with the permission of the Central Government, after the expiry of the said period

### 3. Registration

- ✓ The Central Government may, on an application, register as a citizen of India any person

### 4. Naturalisation

- ✓ The Central Government may, on an application, grant a certificate of naturalisation to any person

### 5. Incorporation of territory

- ✓ If any foreign territory becomes a part of India, the Government of India specifies the persons who among the people of the territory shall be the citizens of India.

# Loss of Citizenship

## 1. By Renunciation

Any citizen of India of full age and capacity can make a declaration renouncing his Indian citizenship

## 2. By Termination

When an Indian citizen voluntarily acquires the citizenship of another country, his Indian citizenship automatically terminates.

### 3. By Deprivation

It is a compulsory termination of Indian citizenship by the Central government, if:

- (a) The citizen has obtained the citizenship by fraud:
- (b) The citizen has shown disloyalty to the Constitution of India:
- (c) The citizen has unlawfully traded or communicated with the enemy during a war;
- (d) The citizen has, within five years after registration or naturalisation, been imprisoned in any country for two years
- (e) The citizen has been ordinarily resident out of India for seven years continuously