

No.PCH-IIA(1)10/2008-III-Pariwar Register- 28840  
Government of Himachal Pradesh,  
Department of Panchayati Raj.

From

The Director of Panchayati Raj,  
Shimla-9, Himachal Pradesh.

To

The District Panchayat Officer,  
Kullu, Himachal Pradesh

Shimla-171 009, dated 15<sup>th</sup> November, 2014

Subject:- Clarification regarding entry in the Pariwar Register.

Sir,

I am directed to refer to your letter No.1299 dated 9<sup>th</sup> April, 2014 on the subject cited above. The opinion on the clarification regarding entry of Nepali origin in the Pariwar Register of Gram Panchayat has been obtained from the Law Department and the Law Department has opined as under:-

"Examined in the Law Department in the light of the relevant provisions of the Himachal Pradesh Panchayati Raj Act, 1994 and the rules framed thereunder, the Representation of the People Act, 1950 (43 of 1950) and Citizenship Act, 1994 (Act No. 57 of 1995).

In terms of sub-rule (1) of rule 21 of the Himachal Pradesh Panchayati Raj (General) Rules, 1997, it has been provided that after the Government has established a Gram Sabha by notification under sub-section (1) of section (4) a pariwar register shall be prepared for every Gram Sabha in Form-19 appended to these rules. It shall contain the names and particulars of all persons, family-wise who are the bonafide residents of the village which forms the part of the Sabha area. Vide clause (bb) of rule 2 of the said rules the term "bonafide resident" means a person who has a permanent home in Himachal Pradesh and includes a person who has been residing in Himachal Pradesh for a period of not less than 25 years or a person who has permanent home in Himachal Pradesh but on account of his occupation he is living outside Himachal Pradesh. From perusal of the provision of sub-rule (1) of rule 21 (supra) and the term "bonafide resident" it is gathered that only the names of those persons who are bonafide resident of the village are to be registered in the pariwar register forming part of the Sabha area. Further for the purposes of establishment of Gram Sabha in terms of sub-section (3) of the section (4) of the Panchayati Raj Act, 1994, it is provided that every person who is qualified to be registered in the Legislative Assembly roll relating to the Sabha area or whose name is entered therein and is ordinarily resident within the Gram Sabha area shall be entitled to be registered in the list of voters of that Sabha area and the expression "ordinarily resident" shall have the meaning assigned to it in section 20 of the Representation of the People Act, 1950 (43 of 1950).

The sub-section (1) of section 20 of the Representation of the People Act, 1950 inter-ala define the meaning of ordinarily resident as follows:-


*“(1) a person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein.”*

From the perusal of this provision it can be safely concluded that even if a person owns or is in possession of a dwelling house in a constituency, he cannot be deemed to be an ordinarily resident of that part/ area, meaning thereby especially those Nepalis who are not citizen of India cannot be extended the benefit of rule 21 of the Himachal Pradesh Panchayati Raj (General) Rules, 1997.

Thus, the names of people of the Nepali origin residing in particular Panchayats for more than 25 years cannot be entered in the Pariwar Register until they are citizen of India.”

You are, therefore, requested to take further necessary action in accordance with the opinion of the Law Department.

Yours faithfully,


  
Joint Director,  
Panchayati Raj Department,

Endst No. As above -28841-52 Dated Shimla-9

15<sup>th</sup> November, 2014

Copy to:-

All the District Panchayat Officers in Himachal Pradesh except Kullu for information and necessary action.

  
Joint Director,  
Panchayati Raj Department,