

Fundamental Rights of OCI Cardholders

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What is Overseas Citizenship of India?

The Constitution of India does not allow holding Indian citizenship and citizenship of a foreign country simultaneously. Based on the recommendation of the High Level committee on Indian Diaspora, the Government of India decided to register Persons of Indian Origin (PIOs) of certain category as has been specified in the Section 7A of the Citizenship Act, 1955 as Overseas Citizenship of India (OCI) Cardholder. Legal Position on Fundamental Rights of OCI Cardholders

Delhi HC in 2018 declared that

- OCI card holders have the right to enjoy the fundamental rights of equality (Art 14) and freedom of speech and expression (Art 19) in the same way as any other Indian citizen.
- Overseas citizens can exercise fundamental rights guaranteed to natural persons under the constitution.

According to Citizenship Act, 1955

- An overseas citizen of India shall be entitled to such rights as the Central Government may, by notification in the Official Gazette, specify.
- However, they're not entitled to the following rights mentioned in Sec 7B(2)
 - Art 16: Equality of opportunity in matters of public employment
 - Art 58: Election as President
 - Art 66: Election as Vice President
 - Art 124: Appointment as Judge of Supreme Court

- Art 217: Appointment as Judge of High Court
- Sec 16 of RPA, 1950: Registration as voter
- Sec 3 & 4 of RPA, 1951: Eligibility for being member of House of People or Council of States
- Sec 5, 5A & 6 of RPA, 1951: Eligibility for being member of Legislative Assembly or Legislative Council for appointment to public services and posts in connection with the affairs of the Union or of any State

Position of the Government

- Overseas Citizen of India (OCI) card holders do not enjoy fundamental rights guaranteed by the Constitution, including the right to freedom of speech and expression.
- OCI card holders have merely been granted statutory rights under the Citizenship Act, 1955. It is not a fundamental or a constitutional right. What right is granted depends on the policy of the Central government.