

THE HIGH COURT OF MADHYA PRADESH 1
WP No. 762/2020
Shalu Sharma and Anr. Vs. State of MP and Ors.

Through Video Conferencing

Gwalior, Dated :09/12/2020

Shri Hemant Singh Rana, counsel for the petitioners.

Shri Abhishek Singh Bhadoriya, Panel Lawyer for the respondents
No. 1 to 3/ State.

Shri BD Mishra, counsel for the respondent No.4.

None for the respondent No.5 though served.

Shri Pawan Dwivedi, counsel for the respondent No.6.

This petition under Article 226 of the Constitution of India has been filed, seeking police protection on the ground that the petitioners have got married on 28/12/2019 but the respondent No.4 is trying to interfere with the peaceful marriage of the petitioners.

By orders of the Court, Mool Shankar Arya Samaj Vaidik Sanstha, Pawansut Colony, Hurawali, Gwalior as well as Madhya Bharat Arya Pratinidhi Sabha were impleaded as respondents No.5 and 6.

The respondents No.1 to 3 have filed their return and have submitted that the statement of the petitioner No.1 was recorded, who has stated against the marriage, by alleging that her signatures were forcibly obtained on blank papers. In view of the statement of the petitioner No.1, FIR No. 07/2020 has been registered against the petitioner No.2 and he has been arrested and the charge sheet has been filed. The petitioner No.1 has been handed over to the custody of her parents. The mother of the petitioner

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No2 had also filed a Habeas Corpus Writ Petition No.2102/2020 for production of the petitioner No.1 and the same has been dismissed as withdrawn by order dated 31/01/2020.

Although the respondent No.5 has been served and represented, but has not chosen to file any return.

The respondent No.6 has filed its detailed return and has specifically claimed that the respondent No.5 is not affiliated with the respondent No.6. It is further submitted that the respondent No.6 has only six Arya Samaj Mandirs in Gwalior District, which are situated at Loha Mandi, Naya Bazar, Chitraguptganj, Gauspura, Morar and Ganga Vihar and two Arya Samaj Mandirs are situated in Dabra and Bilaua of Gwalior District. It is submitted that the respondent No.6 is itself aggrieved by the persons who are misusing the name of Arya Samaj and are performing marriages without proper verification for monetary purposes and bringing bad name to the organization. It is further pleaded that some of them have got themselves registered as societies and have started the business of solemnizing marriages in the name of Arya Samaj without understanding the noble principles of Arya Samaj. It is further pleaded that the respondent No.6 Sabha should welcome any direction of this Court with respect to putting check on self-styled Arya Samaj Mandirs, which are not authorized or affiliated with the respondent No.6 Sabha. It is further submitted that the respondent No.6 Sabha has also issued instructions dated 26/08/2016

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with regard to procedure of conducting marriages. It is further submitted that the respondent No.6 Sabha is ready and willing to amend its procedure dated 26/08/2016 which has been formulated for performing marriages.

Heard learned counsel for the parties.

Earlier, in the case of **Ashish Agrawal vs. State of MP** by order dated 13/05/2013 passed in **Writ Petition No.3110/2013**, the Single Judge of this Court had issued certain guidelines for performance of marriages by Arya Samaj Mandir which was challenged by **Madhya Bharat Arya Pratinidhi Sabha** by filing **WA No.268/2013** which was decided by the Division Bench of this Court by order dated 30/10/2013 and the direction given by the Single Judge was set aside. Thereafter, another order dated 13/10/2016 was passed by the Single Judge in the case of **Naresh Soni vs. State of MP and Others in Writ Petition No.4424/2016** and certain directions were given to Arya Samaj Sabha which was challenged by filing a WA No.385/2016 and by order dated 27/06/2017, the Division Bench of this Court allowed the writ appeal and set aside the directions given by the Single Judge. However, it is submitted by the counsel for the respondent No.6 that in order to avoid any further controversy, the respondent no.6 is ready to think of incorporating the procedure for performance of marriages as provided under the Special Marriage Act, 1954.

If the facts and circumstances of this case are considered, then it is clear that a girl has disowned the marriage, which was claimed in the writ

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petition. Further, the respondent No.5 is not affiliated with the respondent No.6. On the contrary, it is the claim of the respondent No.6 that certain societies are misusing the name of Arya Samaj by claiming that they are the authorized Societies under the Arya Marriage Validation Act, 1937. The Arya Marriage Validation Act, 1937 contains only two Sections. Section 1 deals with title and extent of the Act and Section 2 provides that no marriage contracted whether before or after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid or shall be deemed ever to have been invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that either or both of the parties at any time belonged to a religion other than Hinduism. The Arya Marriage Validation Act, 1937 does not provide for any specific Society and therefore, the claim of the respondent No.5 that it is a Society recognized under the Arya Marriage Validation Act, 1937 appears to be false and misleading. The respondent No.5 was given opportunity to put forward its defence, however, it has decided not to do so.

In view of the specific stand taken by the respondent No.6 that the respondent No.5 is not affiliated to it, this Court is of the considered opinion that a detailed investigation is required into the working and functioning of the respondent No.5.

The Special Marriage Act, 1954 provides for solemnization of

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special marriages.

Section 5 of the Special Marriage Act, 1954 provides that when a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the Form specified in the Second Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.

Section 6 of the Special Marriage Act, 1954 deals with mode of publication of notice, Section 7 deals with the objection to the marriage and Section 8 provides for deciding the objection.

Since the respondent No.6 has already issued guidelines for performing marriages and looking to the controversy with regard to the marriages which are performed without information to the parents, this Court think it appropriate to direct the respondent No.6 to amend its guidelines dated 26/08/2016 by incorporating the provisions of Sections 5, 6, 7 and 8 of the Special Marriage Act, 1954.

Let the guidelines be amended within a period of **one month from today.**

So far as the marriages which are being performed by the respondent No.5 are concerned, this Court is of the considered opinion that since the respondent No.6 has specifically stated that the respondent No.5 is not affiliated to Madhya Bharat Arya Pratinidhi Sabha and the respondent no.5

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has not filed any reply justifying its authority to perform marriages, accordingly, the respondent No.5 is hereby restrained from performing any marriage. Any marriage performed by the respondent No.5 from today onwards would be an invalid marriage.

Since petitioner No.1 has already disowned her claim of marriage with petitioner No.2, accordingly, the interim order dated 16/01/2020 is hereby vacated.

With the aforesaid observations, this petition is finally **disposed of**.

(G.S. Ahluwalia)
Judge

MKB