

# The High Court Of Madhya Pradesh

WA No. 95 of 2021

(AARY MOOL SHANKAR SAMAJ SAMITI THR. Vs THE STATE OF MADHYA PRADESH AND OTHERS)

**Gwalior, Dated : 17-12-2021**

Shri Prashant Sharma, learned counsel for the appellant.

Shri MPS Raghuvanshi, learned Additional Advocate General for respondent/State.

Appellant, styling itself as Arya Mool Shankar Samaj Samiti, a society engaged amongst others aims and objects, to solemnize marriages by Arya Samaj traditions. It appears that one Shalu Sharma and another had filed a Writ Petition under Article 226 of the Constitution of India seeking police protection on the ground that petitioners have married on 28.12.2019 but respondent No.4 therein was trying to interfere in their peaceful marriage. Under the orders of the Court, Arya Mool Shankar Samaj Samiti-the present appellant and Madhya Bharat Arya Pratinidhi Sabha were impleaded as respondents No.5 and 6. Respondents No.1 to 3 therein had filed their return and that the statement of petitioner No.1 was recorded who had stated against the marriage alleging that her signatures were forcibly obtained on blank papers. Under such circumstances, an FIR bearing No.07/2020 was registered against petitioner No.2, he was arrested and charge-sheet was filed. The custody of petitioner No.1 therein was handed over to her parents. A *Habeas Corpus* petition i.e. WP.2102/2020 was also filed for production of petitioner No.1 and the same was withdrawn on 31.01.2020 in view of the handing over her custody to parents. The newly added respondent No.6 had filed return and contended that respondent No.5 was not affiliated to respondent No.6. It was further submitted that respondent No.6 had only six Arya Samaj Mandir in Gwalior District and details were provided, however, appellant is not one of them.

The learned Single Judge after taking note of previous litigations decided before this Court in connection with Arya Samaj Marriages has concluded that the Arya Marriage Validation Act, 1937 does not provide for

any specific society and therefore the claim of the appellant that it is recognized under the Arya Marriage Validation Act, 1937 was held to be false and misleading. Despite opportunity, no plausible material was placed on record to bolster such submissions. In view of the aforesaid facts and circumstances, the Court restrained respondent No.5 from performing any such marriage.

Shri Prashant Sharma, learned counsel for appellant, while taking exception to the impugned order, tried to submit that against the order passed in Writ Petition, review was filed at the instance of respondent No.6 therein. Besides there is no requirement of affiliation of respondent No.5 and 6. Respondent No.5 itself is sufficient to perform Arya Samaj Marriages and therefore the order of restraining appellant is violative of Article 14 of the Constitution of India.

*Per contra*, Shri Raghuvanshi, learned Additional Advocate General appearing for the respondent/State on advance notice, submits that these so-called Arya Samaj Societies are marriage shops being run on commercial lines. In fact, it is a fraud of large scale. The number of so-called marriages are alleged to have been performed at such places without verification of records, either that of their age or caste or religion or relationship and thereafter marriage certificates are issued. Although there is no provision for issuance of marriage certificate except under the Special Marriage Act, 1954, be it a Hindu, Sikh or Jain religion. Self-styled propagation of marriage by Arya Samaj Marriage Samiti, in fact, is wholly illegal with no legal recognition. Indiscriminate number of marriages without verification by such unauthorized Samiti not only have polluted the social fabric of the society but has also caused serious threat to the ecosystem thereof. It is an enigma and serious threat to the sanctity attached to the marriages recognized under the religious laws particularly Hindu Marriage Act where rituals and ceremonies have legal sanction and necessary to be performed for validation of such marriages. Hence, the learned Single Judge did not commit any wrong while restraining

respondent No.5 from solemnizing marriages. It is, as a matter of fact, a total illegal activity therefore contention advanced by learned counsel for appellant cannot be countenanced either under Article 226 of the Constitution of India or under intra-court appellate jurisdiction under Section 2(1) Madhya Pradesh Uchha Nayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005.

Upon hearing learned counsel for the parties, this Court finds substantial force in the submissions advanced by Shri Raghuvanshi, learned Additional Advocate General. No society much less instant marriage society in law is permitted to issue a certificate of marriage for want of any enactment holding the field except Special Marriage Act, 1954 for which the Competent Authority may issue certificate but after compliance of the provisions contained under the said Act. Therefore, respondent No.5 has rightly been held to be not a body with legal authority to issue marriage certificates for alleged marriages.

Consequently, present Writ Appeal being *sans* merits is hereby **dismissed.**

(ROHIT ARYA)  
JUDGE

(DEEPAK KUMAR AGARWAL)  
JUDGE