
(2020) 02 GAU CK 0015

In the Gauhati High Court

Case No : Public Interest Litigation No. 25 Of 2019

Debabrata Banerjee And Anr

APPELLANT

Vs

State Of Assam 4 Ors

RESPONDENT

Date of Decision : 11-02-2020

Acts Referred:

Citation : (2020) 02 GAU CK 0015

Hon'ble Judges : Ajai Lamba, Cj;Soumitra Saikia, J

Bench : Division Bench

Advocate : Debabrata Banerjee, N. Bordoloi

Final Decision : Disposed Off

Judgement

Ajai Lamba, CJ

1. Gist of the issue raised at the instance of Mr. Debabrata Banerjee and another is reflected in the order dated 19th June, 2019.

For brevity sake, the order is extracted below :-

â??This petition is filed by two learned Advocates of this court on the issue of registration of marriages in the State of Assam. The petitioner

No. 1 had addressed a letter dated 23.11.2017 to the Chief Secretary to the Government of Assam on the subject of appointment of Special

Marriage Officers in the State of Assam. It is pointed out by them that by an order dated 14.02.2006, passed by the Honâ??ble Supreme

Court in Transfer Petition (C) No. 291 of 2005, [Seema (Smt) vs. Ashwani Kumar) reported in (2006) 2 SCC 578] ,the Central Government

and the State Governments were directed to take steps for, amongst others, notifying the procedure(s) for registration of marriage by

framing new rules or by amending the existing rules. By another order dated

25.10.2007, passed in the said Transfer Petition [reported in (2008) 1 SCC 180], directions were issued to the States, who had not complied with the order dated 14.02.2006, to comply within a period of three months.

It is contended that while some States had already complied with the directions, the State of Assam was in the category of States which had not complied with the directions.

It is submitted by the petitioners that, even till date, no steps have been taken by the State of Assam to frame rules under the Special

Marriage Act, 1954.

It is submitted by the learned counsel for the respondents that no instruction is available. The Chief Secretary to the Government of Assam

will file an affidavit indicating the steps taken in compliance of the orders dated 14.02.2006 and 25.10.2007, passed by the Honâ??ble

Supreme Court in the aforesaid Transfer Petition.

List on 15.07.2019.

The affidavit be filed on or before 15.07.2019.

If no affidavit is filed by 15.07.2019, the Chief Secretary to the Government of Assam will appear in person before this court on

15.07.2019, at 10:30 A.M.

Mr. T. C. Chutia, learned State counsel as well as Ms. N. Bordoloi, learned counsel appearing for respondent Nos. 2 to 4 takes notice of this order.â??

2. Learned counsel for the State Ms. M. Bordoloi states that the needful has been done. 81 Deputy Registrars, Senior Sub-Registrars and Sub-

Registrars all over the State of Assam have been appointed as Marriage Registrars for registering marriages under the Special Marriage Act of 1954.

In this regard reference has been made to affidavit of Smti Gitanjali Bhattacharyya, posted as Joint Secretary, Revenue and D.M. (Registration)

Department sworn on 5th February, 2020.

3. We have gone through the affidavit filed on behalf of the Respondents dated 5th February, 2020. We need to take specific notice of paragraph-3 of

the affidavit, which is extracted herein below :

3. The answering deponent begs to state the following before this Hon'ble Court for just and proper adjudication of the case.

(a) That the matter relating to the issue of appointment of Marriage Officers under Special Marriage Act, 1954 the Government of Assam

has already notified 81 Nos. Deputy Registrar, Sr. Sub Registrar and Sub-Registrar all over the State of Assam as Marriage Registrar for

registering marriages under Special Marriage Act, 1954.

Copy of the Notification dated 23.12.2019 is annexed herewith and marked as ANNEXURE-I.

(b) That in the matter of apprehension raised by the petitioner, if a Marriage Officer goes on leave, the District Registrar cum Deputy

Commissioner being the head of administration of the district may take necessary temporary arrangement for registration of marriages

under Special Marriage Act, 1954.

4. We have also gone through notification dated 23.12.2019 issued for the purpose of registration of marriage under Special Marriage Act, 1954. We

are satisfied that needful has been done by the Respondents and no cause remains for keeping this public interest litigation pending.

5. Disposed of.