
(2014) 05 P&H CK 0653
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 10867 of 2014 (O&M)

Makhan Pal Singh Brar

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 28-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2014) 05 P&H CK 0653

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Rakesh Kumar, Advocate for the Appellant

Final Decision : Allowed

Judgement

Ritu Bahri, J.—Issue notice of motion.

2. On asking of the Court, Mr. Rupam Aggarwal, DAG, Punjab accepts notice on behalf of the State.

3. This petition under Article 226/227 of the Constitution of India is for issuance of writ in the nature of mandamus for directing respondents no. 3 to register marriage of the petitioners.

4. The petitioners got married according to Sikh rites on 27.04.2004, as per marriage certificate (P-2). They had solemnized marriage against the wishes of parents. Thereafter, the petitioners approached respondent No. 3 for registration of their marriage along with complete documents and moved an application for registration of their marriage before the Marriage Registrar-cum-Tehsildar along with photographs, ration card and birth certificates of children. The marriage is not being registered on account of parents of Palwinderjeet Kaur should be present along with the parents of petitioner and also along with local M.C.

5. As per Rule 5 and 6 of the Hindu Marriage (Punjab) Registration Rules, 1960, after registration of the marriage there is no requirement that the parents should

be present at the time of registration of the marriage as they are major.

6. In Seema's case (supra), Hon'ble the Supreme Court has issued comprehensive directions to all the States and Central Government to take necessary steps for making registration of marriages of persons belonging to all religions as a compulsory step. For the purposes, relevant portion of the judgment is extracted below:-

i) The procedure for registration should be notified by respective States within three months from today. This can be done by amending the existing rules, if any, or by framing new rules. However, objections from members of the public shall be invited before bringing the said rules into force. In this connection, due publicity shall be given by the States and the matter shall be kept open for objections for a period of one month from the date of advertisement inviting objections. On the expiry of the said period, the State shall issue appropriate notification bringing the rules into force.

ii) The officer appointed under the said rules of the States shall be duly authorised to register the marriages. The age, marital status (unmarried, divorce) shall be clearly stated. The consequence of non-registration of marriages or for filing false declaration shall also be provided for in the said rules. Needless to add that the object of the said rules shall be to carry out the directions of this Court.

iii) As and when the Central Government enacts a comprehensive statute, the same shall be placed before this Court for scrutiny.

iv) Learned counsel for various States and Union Territories shall ensure that the directions given herein are carried out immediately.

7. The object of directions issued by Hon'ble the Supreme Court is for the benefiting the society at large which is riled with serious litigation on account of marriages being performed by desirous persons without parental consent. It also erases serious friction in the society on account of inter-religious and inter case marriages. The reasons adopted by the respondent No. 3 that the presence of parents of petitioner No. 1 is a must for registration of marriage, if accepted would just defeat the very intent of the intended benefit of the directions given by Hon'ble the Supreme Court.

8. In Aarti Singh's case (supra), it was observed as under:-

Adults, who marry on their own accord with or without the consent of parents, cannot be made to run from pillar to post and it is the duty of the State to make the registration machinery move fast with sufficient unction to secure registrations without any stumbling block. I cannot take an averment in the petition that the Registering Officer requires a concurrence of the parents as a statement made only for the purpose of the petition. There is hardly a reason for the petitioners to make such a statement, unless it was true. It would mean serious dereliction of duty if Registering Officers draw their feet when young

couples arrive with bated breath to seal their marriages to safety but obstructed by corrupt or inept officials at the registration department.

9. In view of the above position, the instant writ petition is allowed with a direction to respondent No. 3 to register the marriage of the petitioners forthwith.