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ALL DISTRICT COURTS BAR ASSOCIATIONS OF DELHI
OFFICE AT: PATIALA HOUSE COURTS, NEW DELHI-110001**

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RESOLUTION

The Coordination Committee of All District Court Bar Associations of Delhi has passed a resolution expressing its displeasure on the day-to-day proceedings going on before the Constitutional Bench of the Hon'ble Supreme Court in the matter titled as *Supriyo @ Supriya Chakraborty versus Union of India* [Writ Petition (Civil) No. 1011/2022] and other connected matters. The matters before the Hon'ble Supreme Court pertain to granting legal status and recognition to Homosexual marriages i.e. marriage of the same sex couples.

Although the highest court of the land plays a pivotal and crucial role in upholding the rule of law and thus maintaining harmony in the society, there are certain issues that are too complex and have far-reaching consequences that they cannot be left to the discretion of the Hon'ble Courts.

The social ramifications of the ongoing proceedings before the Hon'ble Court are colossal and have the potential to have an unintended impact on the fabric of the society. There are certain issues that are deeply entrenched in societal norms, values, and beliefs. These issues require careful consideration and public debate, as any decision or action taken without societal acceptance may have far-reaching consequences. Such issues require a broad-based consensus that can only be achieved through public debate and discussion. Therefore, it is important that issues that have the potential to affect society at large are discussed and debated in Parliament, where elected representatives can take into account the views and concerns of their constituents.

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Decisions made in isolation, without the benefit of the view of the society, are likely to be ineffective and may even be counterproductive. Such drastic change in law or policy must be made while keeping in mind the interest of the society as a whole, and this can only be achieved when there is broad-based societal acceptance. Therefore, it is important that such issues are debated in a democratic way in the Parliament, where elected representatives can take into account the views and concerns of their constituents.

Thus, the regulation and legalization of marriage can only be determined by the legislature through due legislative process, which involves consultation with all relevant stakeholders as the legislative body reflect the collective wisdom and conscience of the nation and take into account cultural values, social standards, and other factors that define acceptable human behavior when making decisions about regulating, permitting, or prohibiting human relationships. It is reiterated that only a competent legislative body possesses the legislative wisdom to enact laws that govern human relationships in a manner that aligns with societal values and national acceptability.

The issue at hand cannot be adjudged by means of Judicial interpretations because it requires a more extensive consultation process. The issues before the Hon'ble Court require extensive consultation with various stakeholders and affected parties. This process cannot be condensed into a single court case, as it requires ongoing dialogue and collaboration. Therefore, this issue should be referred to parliament, where a more extensive consultation process can take place.

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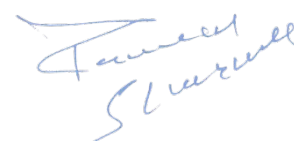
Marriage and its incidental issues are blended with the social structure in a manner that it touches each and every individual on many levels including cultural, religious, emotional etc. The issue at hand requires wide consultative process and hence cannot be encompassed within the limited judicial adjudicatory precincts, therefore judicial intervention in the said matter is not advisable on the basis of equity and fairness as well.

There is no gainsaying that the Legislature, while drafting the various laws pertaining to marriage, never envisaged the issue of marriage between same sexes. Hence, any judicial endeavour to interpret the "legislative intent", when none existed, would be rendered nugatory. It would thus be advisable that any expansion in the contours of provision related to marriage should come through legislative law-making.

In a democratic setup, the duty of law-making is typically delegated by the electorate to its elected representatives. Thus, the legislature would be best suited to foray into the new arenas of law-making, as per the evolving needs of the society. The issue of same sex marriage and its societal, psychological and medical impacts are at its nascent and experimentative stage and thus should be treated with utmost caution and wide consultation and discussions.



Dr. N.C. Sharma
Advocate
Chairman
Co-ordination Committee



Raman Sharma
Advocate
Secretary General
Coordination Committee