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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9348/2023 & CM APPL. 15035/2024 (Early Hearing)

SH. REHAN ELAHI & ANR.

.....Petitioners

Through: Mr. Sumant Narang, Mr. Aditya Singh and Ms. Bhavya Nakra, Advocates.

versus

GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Vishal Chanda, Advocate for Mr. Udit Malik, ASC for GNCTD.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**04.07.2024**

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1. Petitioners No. 1 and No. 2, who are Muslim, were united in matrimony on 28<sup>th</sup> October 1995, in accordance with Islamic traditions and customs, under the auspices of Muslim Personal Laws. They now intend to apply for a Parental visa to Canada, where two of their children currently reside. The visa application process requires the Petitioners to submit a marriage registration certificate to the consulate of the foreign country. Consequently, the Petitioners seek to register their marriage under the Delhi (Compulsory Registration of Marriage) Order, 2014, as issued by the Revenue Department, Government of NCT of Delhi.
2. In the pursuit of meeting the visa application requirements, the Petitioners initially attempted to submit their application for registration of



marriage through the Delhi Government Marriage Registration e-portal. However, their efforts were thwarted as the portal did not provide an option for registration under the Delhi (Compulsory Registration of Marriage) Order, 2014. The available options were limited to registration under the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954. Consequently, the Petitioners opted to file a physical application using Form-A as prescribed by the Compulsory Registration of Marriage Order, 2014. Unfortunately, this application too was not processed. Left with no other recourse, the Petitioners have been compelled to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India, seeking a mandamus directing the Government of NCT of Delhi to register their marriage.

3. The Respondents, in this case, do not have any cogent response to the petition. Respondent No. 2, the SDM/Marriage Officer, South East District, has filed a short reply which reads as under:

*“1) That this office has received a Notice from the office of Administrative Officer (J), Registrar General, Delhi High Court, in the above said matter.*

*2) In compliance of above notice dated 08.08.2023, the humble submissions are as under:-*

*a. The Petitioners want to get their marriage registered under the Compulsory Marriage Registration Order, 2014 which was solemnized through Nikahnama on 28.10.1995, both petitioners being Muslims.*

*b. The Compulsory Marriage Order dated 21.04.2014 was published in the Delhi Gazette at the time when the Marriage Registration/Marriage Solemnization was being done through offline mode only i.e. Applications were accepted through offline mode & then Marriage Registration Certificates were also issued through offline mode.*

*c. Subsequently, in 2015 the entire process of Marriage Registration/Solemnization was made through Online mode. On e-district portal/website one has to get registered & then has to apply*



- for various certificates including Marriage Certificate through On-line mode.*
- d. This e-district portal/website has been created by the IT Branch/Marriage Branch of Revenue Headquarters i.e. Office of the Divisional Commissioner/ Principal Secretary Revenue, 5, Sham Nath Marg, Delhi and the Marriage Registration process available on this portal is being followed by all the SDMs in Delhi*
- e. On this portal there is no option of applying for the Marriage Registration under Compulsory Marriage Order, 2014. However, when one applies either in Hindu Marriage Act, 1955 or Special Marriage Act, 1954 and thereafter following the due procedure when final Marriage Registration Certificate is approved & is ready to be issued then an option is shown on Computer (screen shot enclosed) whether Marriage Certificate is to be issued under Special Marriage Act/Hindu Marriage Act OR Compulsory Marriage Order, 2014,*
- f. So, if the petitioners apply under the Special Marriage Act (being Muslims), then after following the due procedure the final Marriage Registration Certificate can be issued under the Compulsory Marriage Order, 2014.*
- g. Regarding as to why there is no option for applying for Marriage Registration under Compulsory Marriage Order, 2014 on the e-district portal/software, it is informed that the Authority who is competent to take decision & who could make changes on the e-district portal/website in this regard is the IT Department /Marriage Branch of Revenue Headquarters i.e. Office of the Divisional Commissioner/ Principal Secretary Revenue, 5, Sham Nath Marg, Delhi.*
- 3. Submitted before the Hon'ble High Court for kind consideration please."*

4. The averments made in the Respondent's reply suggest that the Petitioners, being Muslim, could apply for the registration of their marriage under the Special Marriage Act. However, this overlooks a critical aspect: the Petitioners' marriage is not an inter-faith union but was solemnized under Muslim Personal Laws. As such, it constitutes a Muslim marriage. The Petitioners intend to avail themselves of the provisions of the Compulsory Registration of Marriage Order, 2014, specifically designed to facilitate the registration of such marriages. Their preference to register



under this Order, rather than the Special Marriage Act, aligns with the nature of their marriage.

5. Respondent No. 2, the designated Marriage Officer, has indicated an inability to resolve the issue, citing administrative constraints. According to Respondent No. 2, the e-portal currently lacks the option to apply for the registration of marriages like that of the Petitioners. The responsibility for updating the portal rests with the IT Department/Marriage Branch of the Revenue Department and the Office of the Divisional Commissioner/Principal Secretary Revenue, Government of NCT of Delhi. As such, any necessary modifications to facilitate the registration of marriage under the Compulsory Registration of Marriage Order, 2014, on the e-portal are beyond the purview of the Marriage Officer's administrative capabilities.

6. The Petitioners have also impleaded the relevant department as a party to the present petition. Despite this action, there has been no progress in resolving the issue.

7. The counsel for the Respondents has requested additional time to obtain further instructions, however considering the previous directions of the Court noticed in the subsequent paragraph, deferring the hearing would not serve any purpose. Moreover, he has not provided a satisfactory explanation as to why, despite the issuance of the Compulsory Registration of Marriage Order, 2014, no adequate measures have been implemented to facilitate marriage registration under the same. Furthermore, the counsel attempted to reference an order dated 7<sup>th</sup> March 2017, bearing Order No. F.(41)/COMP/DCO/2011/3313, claiming that it supersedes the 2014 Order. Nevertheless, upon review, the Court found that the cited order pertains only



to the Hindu Marriage Act and the Special Marriage Act, and thus does not apply to the current case involving a marriage under Muslim Personal Law.

8. This Court has adjudicated a similar writ petition [W.P.(C) 7341/2021] through order dated 4<sup>th</sup> October, 2021, based on the assurance given by the counsel for State of NCT of Delhi, that appropriate administrative instructions would be issued to address the registration issues faced by parties whose marriages are solemnized under Muslim Personal Laws or Christian Personal Laws, as per the Compulsory Registration of Marriage Order, 2014. The relevant portion of this Court's order dated 4<sup>th</sup> October, 2021 is as follows:

*“3. Today, Mr. Farasat submits that the respondents are ready to redress the grievance of the petitioners. He submits on instructions that in case the petitioners submit copies of documents, a list whereof will be shared with the learned counsel for the petitioner during the course of the day, the respondent nos.2 & 3 will ensure that the marriage of the petitioners is expeditiously registered, subject to his documents being in order. He further assures the Court that appropriate administrative instructions to redress the problems being faced by similarly placed parties, whose marriages are solemnized under the Muslim Personal Law/ Christian Personal Law will be issued within two months.*

*4. In the light of the aforesaid stand taken by the respondents, no further orders are called for in the petition, which is accordingly disposed of. The respondents will remain bound by the statement made on their behalf.”*

9. In spite of the assurances given, it is disconcerting to observe that appropriate administrative instructions have yet to be issued, nearly three years following the order dated 4<sup>th</sup> October 2021. The persistence of the issue, as evident in the present case, underscores a systemic failure. There appears to be no established procedure — neither online nor offline — for the registration of marriages under the Compulsory Registration of Marriage Order, 2014, particularly for those solemnized under Muslim Personal Laws



or Christian Personal Laws. This lack of infrastructure perpetuates the difficulties faced by parties seeking to fulfil legal requirements, such as obtaining visas or asserting rights dependent on official marriage recognition.

10. In light of the above, the Court finds it to be a fit case to invoke powers under Article 226 of the Constitution of India since the State has failed to carry out its duty as mandated under law, despite their recorded assurance in a previous writ petition.

11. The present petition is disposed of with the following directions to the Respondents:

(a) Consider the Petitioners' application for registration of marriage under the Delhi (Compulsory Registration of Marriage) Order, 2014 and issue a marriage certificate, subject to the application being in order and the Petitioners fulfilling the eligibility criteria stipulated in the said Order.

(b) Respondent No. 3, the IT Department/Marriage Branch of the Revenue Department, Government of NCT of Delhi, is instructed to immediately take necessary steps to enable the registration of marriages under the Compulsory Registration of Marriage Order, 2014 on the Delhi government marriage registration online portal. This action is imperative to ensure that similar issues are resolved promptly and do not recur, facilitating smoother administrative processes for the public.

**SANJEEV NARULA, J**

**JULY 4, 2024/ab**