

No. 1575  
Dated 3-11-2014

No. WLF-A(3)-1/97-III  
Government of Himachal Pradesh.  
Department of Social Justice & Empowerment.

(64)

From

The Pr. Secretary (SJ&E) to the  
Government of Himachal Pradesh.

ky To  
X-2/14  
D/CRW

The Director  
Women & Child Development Department,  
Cedar Home, Brent Wood Estate,  
Shimla-01.

Dated: Shimla-02

31st October, 2014

Subject:-  
Sir/Madam,

Marriage Registration of Marriages.

I am directed to refer to your Letter No. 3-3/97-ICDS, loose dated 02-08-2014 on the subject cited and to say that the matter was taken up with Law Department for their expert opinion, who has opined as under:-

\* Examined. The Department has sought clarification on two issues viz (i) whether already married person can get his second marriage registered and (ii) whether a marriage can be registered if the age of the bridegroom is less than 21 years and of the bride less than 18 years

The Department has also mentioned the provisions of Section 6 of the H.P. Registration of Marriages Act, 1996 which is as under:-

Section 6. Every marriage to be registered. "After the date on which the provisions of this Act have been brought into force in any area under Sub Section (3) of Section 1, every marriage contracted in Himachal Pradesh shall be registered in the manner provided in Section 7 of this Act.

The words "Every marriage" used in Section 6 of the H.P. Registration of Marriages Act, 1996 is significant to decide the issue in hand. In plain reading, without seeing the legality or illegality, every marriage is needed to be registered under the provisions of H.P. Registration of Marriages Act, 1996 but the Hindu Marriage Act, 1955 lays down rules relating to the solemnization and requirements of a valid Hindu Marriage. It also lays down rules relating to restitution of conjugal rights, judicial separation, nullity of marriage, divorce, legitimacy of children and other allied matters.

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Section 18 of the Act (AIR 1976 MP 83, AIR 1972 P & H 184, AIR 1963 HP 15 titled as 'Naumi Vs Narotam').

A marriage solemnized in violation of age requirement may not be strictly void or voidable. If one of the parties seeks a declaration that the marriage was a nullity on the ground of minority of the other spouse, the court has to consider the nature of the dispute and then endeavour to adjudicate the matter (please see AIR 1992 Ori 178).

Further Section 3 of the Prohibition of Child Marriage Act, 2006 provides that every child marriage whether solemnized before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage provided that a petition for annulling a child marriage is filed by the contracting party.

After taking into consideration all the facts and law, even if the marriage in question is not solemnized as per the requirement of the valid law (qua marriage) or there is a repugnancy to an earlier law of the union, if the President assents to a state law, in that event, such state law become valid by virtue of the President's assent. In the instant case, the H.P. Registration of Marriages Act, 1996 is assented by the President on 22<sup>nd</sup> September, 1997. Meaning there by, second marriage can also be registered under the provisions of the H.P. Registration of Marriages Act, 1996 without touching the merit or the validity of the First Marriage.

In reply to second query of the Department, this Déptt. opines that a marriage solemnized in violation of age requirement may be registered but the contravention of the conditions of the existing marriage law is punishable in due course

In view of above, you are, therefore, requested to proceed further in the matter accordingly.

Yours faithfully,

*Urmil Krar*

(URMIL KRAR)

Joint Secretary (SJ&E) to the  
Govt. of Himachal Pradesh.  
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