

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 3159 of 2015 (T)

PETITIONER(S):

**KIRAN C.M., AGED 28 YEARS
S/O.C.V.MOHANAN, NIKUNJAM, PULLEPADY ROAD
KALOOR, KOCHI - 682 017.**

**BY ADVS.SRI.K.S.BABU
SMT.N.SUDHA
SRI.BABU SHANKAR**

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY
THIRUVANANTHAPURAM - 695 001.**
- 2. DEPARTMENT OF REGISTRATION,
REPRESENTED BY INSPECTOR GENERAL OF REGISTRATION
THIRUVANANTHAPURAM - 695 001.**
- 3. DISTRICT REGISTRAR,
ERNAKULAM SUB REGISTRY OFFICE, ERNAKULAM
KOCHI - 682 011.**

BY SENIOR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 3159 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. THE APPLICATION SUBMITTED BY THE PETITIONER AND THE
INTENDED BRIDE TO THE 3RD RESPONDENT FOR REGISTERING
THEIR MARRIAGE WITH ALL SUPPORTING DOCUMENTS.**

**EXHIBIT P2. THE LETTER DATED 19.01.2015 ISSUED BY THE RESPONDENT TO THE
PETITIONER REJECTING EXHIBIT P1 APPLICATION.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S.TO JUDGE

PJ

C.K. ABDUL REHIM, J.

W.P.(C)No.3159 OF 2015

Dated this the 2nd day of February, 2015

JUDGMENT

The petitioner is approaching this court aggrieved by Ext.P2 letter issued by the 3rd respondent refusing to entertain an application jointly submitted by the petitioner and Miss.Shantie Lucie Esmieu, a French Citizen to register their marriage under the Special Marriage Act, 1954. The reason for the refusal mentioned in Ext.P2 is that, as per instructions issued by the Inspector General of Registration, registration of marriages of foreign nationals is restrained.

2. Contention of the petitioner is that, provisions of the Special Marriage Act does not prohibit registration of marriages when one of the parties to the marriage is not an Indian citizen. Learned counsel had placed reliance on a decision of this court in **Rajeev. v. State of Kerala [2001 (1) KLT 578]**. It is held therein that the Special Marriage Act 1954 does not contain any prohibition for solemnization of the marriage, if one of the parties is a foreigner. In the

case at hand the application was refused to be accepted based on the circular issued by the Inspector General of Registration. In a recent judgment of this court in WP(c) No. 22261/2014, dated 29/08/2014, it was held that refusal to receive application for registration of marriage relying on any such circular, is not sustainable. It is held that any prohibition imposed with respect to solemnization of marriage under the Special Marriage Act, for the reason that one of the parties is a foreign national cannot be accepted. But it is observed that various aspects relating to mandatory procedure as enumerated under Sections 5 and 6 of the Act are to be complied with. It was further observed that if the mandate of Section 5 is satisfied through any acceptable document, such marriage has to be solemnized in accordance with provisions of the Act.

3. Under the above mentioned circumstances, this court is of the considered opinion that the reason mentioned in Ext.P2 letter issued by the 3rd respondent for refusing to accept the application, cannot be

sustained. The 3rd respondent is directed to restore the application, if submitted by the petitioner, and to deal with the same in accordance with the observations contained herein above. The petitioner or his partner will be at liberty to produce satisfactory documents in compliance with the mandatory requirements under Section 5 of the Act. If the 3rd respondent is satisfied about proper compliance of the mandatory requirements, registration of the marriage shall not be refused based on any circular as mentioned in Ext.P2.

Appropriate necessary steps and a decision in the matter shall be taken without any further delay on re-submission of the application. Needless to observe that period of publication of notice, if already made, shall be reckoned from its initial date onwards.

Sd/-C.K. ABDUL REHIM
JUDGE