

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

WP(C).No. 20401 of 2015 (A)

PETITIONER :

**ANGEL MARY IDICULLA,
PUTHENPURACKAL HOUSE, PAZHAVANGADI P.O,
RANNI.**

BY ADV. SRI.A.K.HARIDAS

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF REGISTRATION, SECRETARIATE,
TRIVANANTHAPURAM -695 001**
- 2. THE MARRIAGE OFFICER,
SUB REGISTRAR'S OFFICE, RANNI -689 672**

BY GOVERNMENT PLEADER SMT. C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

EXHIBIT P6 TRUE COPY OF THE CIRCULAR DATED 8-8-2014

NIL

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J.

W.P(C). No.20401 of 2015

Dated this the 07th day of July, 2015.

JUDGMENT

The petitioner, an Indian citizen, desires to enter into a marriage with one Jeffy James Kalavelil, who is an American Citizen of Indian origin. The petitioner made an application for contracting the said marriage under Section 5 of the Special Marriage Act, 1954. An objection was raised by the 2nd respondent, allegedly on the ground that the marriage is intended to be entered into with a foreign citizen and, hence, the provisions of the Special Marriage Act cannot be invoked.

2. In fact, the said issue was already considered by this Court in ***Rajeev v. State of Kerala* [2001 (1) KLT 578]**, which relied on a decision of the High Court of Himachal Pradesh in ***Marian Eva v. State of Himachal Pradesh* [AIR 1993 Himachal Pradesh 7]**. The Court categorically found that the

Special Marriage Act does not contain any prohibition for solemnisation of the marriage, if one of the parties is a foreigner. Another learned Single Judge of this Court also found to the same effect in Ext.P10 judgment.

3. A reading of the provisions of the Special Marriage Act would also indicate that, Section 4 contemplates a marriage between "any two persons" could be solemnized under the Act; if the conditions specified therein are fulfilled. To satisfy the officer of the conditions stated therein, the intending bride-to-be has also given Ext.P4 Certificate dated 22.05.2015 issued by the State of New Jersey, wherein it is stated that after an extensive and diligent search of all records available, and based on the information provided, no record of such person can be found, with respect to 'marriage'.

4. It is also relevant that, by Circular No.R.R.3-25537/00 dated 8.8.2014, the Government had answered a clarification made by the Inspector General of Registration and specifically indicated after citing the aforesaid decisions that the word "person" used in Section 4 of the Special Marriage Act does not

indicate either one of the parties or both the parties should be citizens of India.

5. In the present case, the petitioner is a citizen of India. The American citizen, who he intends to marry, is not having permanent residence in India and even if a Marriage Officer is appointed by the Government of India in its Embassy at New Jersey, there would be no requirement of informing such Marriage Officer, since the intending bride-to-be is a American citizen. In such circumstance, the application of the petitioner shall be accepted and the petitioner is permitted to contract the marriage as intended by him, which shall be solemnised under the Act.

The writ petition is allowed.

Sd/-

**K.VINOD CHANDRAN,
JUDGE**

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