

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 21168 of 2015 (U)

PETITIONER(S) :

**AMAR SAROJ,
T.C.4/716(53), 12-DSFS-WATERSCAPES, AKKULAM ROAD,
KUZHIVILA JUNCTION, THIRUVANANTHAPURAM
HAVING PERMANENT ADDRESS AT 102,
SIMRAN PARK, PLOT NO.619, NITIN MORE ROAD,
ULHAS NAGAR, THANE, MAHARASHTRA.**

**BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH
SMT.MEERA GOPINATH**

RESPONDENT(S) :

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF TAXES AND REGISTRATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE INSPECTOR GENERAL OF REGISTRATION,
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION,
VANCHIYOOR, THIRUVANANTHAPURAM-695 035.**
- 3. THE MARRIAGE OFFICER AND SUB REGISTRAR,
OFFICE OF THE SUB REGISTRAR, PATTOM, PATTOM P.O.,
THIRUVANANTHAPURAM-695 004.**

BY SR.GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE PASSPORT OF THE PETITIONER BEARING NO.K 3720048.

EXHIBIT P2: TRUE COPY OF THE RESIDENTIAL CERTIFICATE ISSUED BY THE REVENUE OFFICER, CORPORATION OF THIRUVANANTHAPURAM.

EXHIBIT P3: TRUE COPY OF THE RELEVANT PAGES OF THE PASSPORT OF KATARZYNA EWA PATOLA.

EXHIBIT P4: TRUE COPY OF THE CERTIFICATE DATED 12.06.2015.

EXHIBIT P4(A): THE ENGLISH TRANSLATION OF EXHIBIT P4.

EXHIBIT P5: TRUE COPY OF THE ACKNOWLEDGEMENT FOR SOLEMNIZATION OF MARRIAGE ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P6: TRUE COPY OF THE REJECTION LETTER DATED 03.07.2015 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J

W.P(C) No. 21168 of 2015

Dated this the 14th day of July, 2015

J U D G M E N T

The petitioner, an Indian citizen, desires to enter into a marriage with one Katarzyna Ewa Patola, who is a Poland national. The petitioner, residing under the jurisdiction of the 3rd respondent, made an application for contracting the said marriage under the Special Marriage Act, 1954. An objection was raised by the 3rd 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.

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 has also given Ext.P4 dated 12.06.2015 granted by the Local Register Office of Poland, which shows the status of the bride as single.

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, a citizen of India, is a resident within the jurisdiction of the 3rd respondent. The Polish 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 Poland, there would be no requirement of informing such Marriage Officer, since the intending bride is a Polish citizen. In such circumstance, the application of the petitioner shall be accepted and notice shall be given by the 3rd respondent as required under the Act and the petitioner permitted to contract the marriage as intended by her, which shall be solemnised under the Act.

The writ petition is allowed.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge