

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(116)

CWP-27323-2016

Decided on: January 17, 2017.

Gurcharan Singh and another

.... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Sukhvinder Singh Nara, Advocate, for the petitioners.

M.M.S. BEDI, J (ORAL)

The petitioners have been declined marriage certificate vide order dated 20.03.2014, Annexure P-1, refusing to register the marriage of the petitioners mainly on the ground that petitioner No.1 groom was under age at the time of marriage.

Learned counsel for the petitioners submits that there is no bar for registering the marriage in the event of one of the spouse being minor. He has referred to Rule 5 of Hindu Marriage (Punjab) Registration Rules, 1960 framed under Section 8 of the Hindu Marriage Act, 1955 which provides that in case of a minor also, the application for registration can be filed but only requirement is that application shall be made by the guardian. In view of the proviso to Rule 5, an application for registration can be filed by a minor.

Learned counsel for the petitioners places reliance on judgment in **Baljit Kaur Boparai and another Vs. State of Punjab and another, 2008 (3) R.C.R. (Civil) 109**, in which it has been held that if any application for registration under Special Marriage Act is filed on attaining majority by a party, such application can be considered.

Before exercising the extraordinary powers under Article 226 or 227 of Constitution of India, a reference to Rule 7 of the above said Rules of 1960 can be referred to which provides that if any person is aggrieved by the order refusing to register a marriage, he may within 30 days from the date of order, appeal to the Deputy Commissioner concerned who after making such inquiry as he may think fit to make, be satisfied about the identity of the parties to the marriage and the factum of marriage, would order that marriage be registered and would communicate the order to the Registrar concerned. An alternative remedy is thus available to the petitioners against the order of refusal of registration of marriage under Rule 7 of the above said Rules.

This petition is disposed of with a direction that if the petitioners move an appeal within a period of 10 days after receipt of the certified copy of this order under Rule 7 before the Appellate Authority i.e. Deputy Commissioner concerned, the same will be entertained and would be decided within a period of one month in the light of provisions of Rule 7 of the Hindu Marriage (Punjab) Registration Rules, 1960.

(M.M.S. BEDI)
JUDGE

January 17, 2017
harsha

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No