

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 217 of 2018**

Smt. Rajni Masih W/o John Masih Aged About 35 Years R/o Mission Compound , Takhatapur Tahsil Takhatpur District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh --- **Petitioner**

Versus

Dr. Gangaram Bareth S/o Shri Lalaram Bareth Aged About 29 Years R/o Takhatpur Tahsil Takhatpur District Bilaspur Chhattisgarh ., District : Bilaspur, Chhattisgarh --- **Respondent**

For the applicant	:	Mr. Rajeev Jumar Dubey, Advocate.
For the Respondent	:	Mr. Govind Dewangan, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****18.07.2018**

1. The present petition is against the order dated 08.02.2018 whereby the Marriage Officer has refused to record the notice of intended marriage on the ground that earlier, the marriage of petitioner which took place with John Masih was dissolved by decree of divorce dated 01.08.2017. The marriage officer has recorded that one year has not passed therefore the notice of intended marriage cannot be gone into.
2. Chapter 1 of the Special Marriage Act, 1954 contemplates the procedure laid down wherein section 5 provides for notice of intended marriage and therefore the right is given to the intended parties that they will give notice thereof in writing in specified form to the Marriage Officer of the District in which at least one of the parties to the marriage has resided. It further lays down the residing period of not less than 30 days immediately preceding the date on which

such notice is given. Thereafter the Marriage Officer shall enter such notice into the marriage notice book and publish the name by affixing the copy thereof in conspicuous space in his office. Subsequently the objections are invited and on objection having been received, the procedure has been laid down to deal with it and thereafter it follows registration of marriage etc. In the instant case, a perusal of the the order dated 08.02.2013 shows that at the threshold the application has been refused by the Marriage Officer.

3. Section 5 of the Special Marriage Act, 1954 do not give such power to refuse such application at the outset. The record would further show that the dissolution of earlier marriage was dated 01.08.2017 whereas the subsequent application for the intended marriage was filed on 08.02.2018. In view of the above, the order dated 08.02.2018 is set aside. The parties shall be at liberty to file their application before the Marriage Officer and the Marriage Officer shall be obliged to follow the same as per the Chapter 2 of the Special Marriage Act, 1954 and will proceed accordingly.
4. With such observation, the petition stands disposed of.

Sd/-

GOUTAM BHADURI
JUDGE