

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2656 OF 2025

Priyanka Tarapad Bannerji & Anr. ...Petitioners
Vs.
The State of Maharashtra & Ors. ...Respondents

Mr. Pankaj Jain with Mr. Pradeep Purohit i/b. P. D. Jain & Co. for
Petitioners.
Smt. V. R. Raje, AGP for Respondent Nos.1 and 2.
Mr. Hrishikesh Nabar with Ms. Gargi Warunjikar for Respondent No.3.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATED: 28 FEBRUARY 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed in the light of the letter dated 08 January 2025 as received by the petitioner-Priyanka Tarapad Bannerji from the German Embassy rejecting her visa application. The ground on which such application was rejected, was that Marriage Certificate dated 23 November 2023 issued to the petitioner and her spouse Mr. Rahul Verma was not accepted to be a valid document, for the reason of non-compliance of the period of 30 days of the residence, as provided under Section 5 of the Special Marriage Act, 1954, (for short, “**the Special Marriage Act**”). It was hence opined that such certificate could not have been issued and the marriage of the petitioner as certified in such marriage certificate would be void.

2. In these circumstances, it is the prayer of the petitioner that appropriate directions be issued, that now as the petitioner is in India since October 2024, a corrected Marriage Certificate be issued.

3. We cannot accept the plea of the petitioner that the Marriage Certificate dated 23 November 2023 issued to the petitioner and her spouse-Mr. Rahul Verma is illegal and/or the marriage as solemnized between the parties on 23 November 2023 is a void marriage.

4. Having considered the provisions of Section 5 of the Special Marriage Act, in our clear opinion, any irregularity in one of the parties to the marriage not residing for a continuous period of 30 days, cannot in any manner result in the solemnity of the marriage between the parties as reflected in the marriage certificate and the marriage as registered by the Registrar of Marriages under the Special Marriage Act being extinguished. On such irregularity, the marriage cannot be rendered or labelled to be a void marriage, for the reason that the categories of void marriages are set out in Section 24 of the Special Marriage Act, the attention to which has completely been missed by the petitioner, which also ought to have pointed out to the German Embassy.

5. Once a Marriage Certificate was issued to the parties under the Special Marriage Act, it is conclusive evidence of the legality and solemnity of the marriage until it is set aside for any valid reason by an appropriate

authority or by the Court of law. The law would not permit any person or authority to discard or not to give effect to such marriage certificate.

6. We may also observe that Section 13 of the Special Marriage Act, 1954 provides for “Certificate of marriage” which ordains that when the marriage has been solemnized, the Marriage Officer shall enter a certificate thereof in the form specified in the Fourth Schedule in a book, to be kept by him for that purpose and to be called the Marriage Certificate Book and such certificate shall be signed by the parties to the marriage and the three witnesses. Sub-section (2) provides that on a certificate being entered in the Marriage Certificate Book by the Marriage Officer, the Certificate shall be “**deemed to be conclusive evidence**” of the fact that a marriage under the Special Marriage Act has been solemnized and that all formalities respecting the signatures of witnesses have been complied. When such is the provision and the sanctity, the law would accord to a marriage certificate issued by the Registrar, which continuous to be legal and valid, the petitioner cannot have any grievance. The marriage certificate dated 23 November 2023 issued to the petitioner and her spouse Mr. Rahul Verma is legal and valid and fully recognized by the Indian law. There cannot be any other opinion.

7. With the aforesaid observations, the petition stands disposed of. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)