



2026:DHC:4935



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 7103/2026**Date of Decision: **21.05.2026****IN THE MATTER OF:**

SYED FAYAZUDDIN AND ANR .....Petitioners

Through: Appearance not given.

versus

GOVERNMENT OF NCT OF DELHI AND ANR .....Respondents

Through: Mr. Mohit Aggarwal and Mr. Prerak  
Khurana Advocates.**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)****CM APPL. 34802/2026 (for exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

**W.P.(C) 7103/2026**

1. The instant petition is for the following reliefs:-

*“a) Issue a writ of Mandamus or any appropriate writ directing Respondent no.2 to exempt/ relax the 30-day notice period;*

*b) Direct Respondent No.2 to solemnize/ register the marriage of the Petitioners prior to 10<sup>th</sup> June, preferably in the first week of June;*

*c) Pass any other order(s) as this Hon'ble Court may deem fit in the interest of justice.”*



2. The facts of the present case would indicate that the petitioners, intending to solemnize their marriage under the provisions of the Special Marriage Act, 1954 [*“the Act of 1954”*], submitted a notice of intended marriage before the Marriage Officer, Kalkaji on 11.05.2026 in terms of Section 5 of the Act of 1954. In terms of the statutory scheme contemplated under Sections 6 and 7 of the Act of 1954, the statutory waiting period of thirty days is yet to expire and the date fixed for solemnization of marriage has consequently been scheduled as 19.06.2026.

3. The case of the petitioners is that petitioner no.1 has secured employment abroad and is required to join before 10.06.2026. It is submitted that in view of the impending joining date and the consequent relocation abroad, the petitioners would suffer grave hardship if compelled to await expiry of the statutory waiting period prescribed under the Act of 1954, particularly when there exists no legal impediment to solemnization of the marriage.

4. In support of the submissions, petitioners have placed reliance on the decision rendered by this Court in the case of *Pranav Kumar Mishra & Anr. vs. Govt. of NCT of Delhi & Anr.*<sup>1</sup> Reliance is also placed on the decision passed by the Allahabad High Court in the case of *Safiya Sultana v. State of U.P.*,<sup>2</sup> with specific reliance being placed on paragraph nos. 51 to 53, which are extracted as under:-

*“51. However, in case, such individuals applying to solemnize their marriage under the Act of 1954 themselves by their free choice desire that they would like to have more information about their counterparts, they can definitely opt for publication of notice under Section 6 and*

<sup>1</sup> W.P.(C) 748/2009; Dated 08.04.2009

<sup>2</sup> 2021 SCC OnLine All 19



*further procedure with regard to objections to be followed. Such publication of notice and further procedure would not be violative of their fundamental rights as they adopt the same of their free will. Therefore, the requirement of publication of notice under Section 6 and inviting/entertaining objections under Section 7 can only be read as directory in nature, to be given effect only on request of parties to the intended marriage and not otherwise.*

*52. Thus, this Court mandates that while giving notice under Section 5 of the Act of 1954 it shall be optional for the parties to the intended marriage to make a request in writing to the Marriage Officer to publish or not to publish a notice under Section 6 and follow the procedure of objections as prescribed under the Act of 1954. In case they do not make such a request for publication of notice in writing, while giving notice under Section 5 of the Act, the Marriage Officer shall not publish any such notice or entertain objections to the intended marriage and proceed with the solemnization of the marriage. It goes without saying that it shall be open for the Marriage Officer, while solemnizing any marriage under the Act of 1954, to verify the identification, age and valid consent of the parties or otherwise their competence to marry under the said Act. In case he has any doubt, it shall be open for him to ask for appropriate details/proof as per the facts of the case.*

*53. Since the matter relates to protection of fundamental rights of large number of persons, the Senior Registrar of this Court shall ensure that a copy of this order is communicated to the Chief Secretary of the State of U.P. who shall forthwith communicate the same to all the Marriage Officers of the State and other concerned authorities as expeditiously as possible.”*

5. At the outset, it deserves to be noted that none of the aforesaid decisions deal with the controversy which arises for consideration in the present writ petition. The decision in **Pranav Kumar Mishra** (supra) was rendered in the backdrop of a challenge to the alleged administrative practice of dispatching the notice of intended marriage under the Act of 1954 to the residential addresses of the parties as also through the concerned Station House Officer (“SHO”) for the purpose of verification of addresses. The present case, however, neither involves any challenge to the procedure



of publication of notice nor any allegation of invasion of privacy or unlawful interference by the authorities, but pertains solely to a prayer for curtailment of the statutory waiting period prescribed under the Act of 1954 on account of personal exigency projected by the petitioners.

6. The decision in *Safiya Sultana* (supra) arose out of a habeas corpus petition involving issues relating to personal liberty, right to choose a partner, societal interference and the constitutional dimensions of privacy and autonomy in matters of marriage. The said decision was rendered in an entirely different factual and legal backdrop and does not deal with the issue of curtailment or waiver of the statutory waiting period contemplated under the Act of 1954, which alone arises for consideration in the present writ petition.

7. The statutory scheme, as it presently stands, contemplates solemnization of marriage only upon expiry of thirty days from the date of submission and publication of notice under the provisions of the Act of 1954. Reference in this regard can be made to Section 16 of the Act of 1954, which expressly postulates that a marriage under the said enactment may be solemnized only after the lapse of thirty days from the publication of notice contemplated under Section 6 thereof. For the sake of clarity, Section 16 of the Act of 1954 is extracted as under:-

*“16. Procedure for registration.—Upon receipt of an application signed by both the parties to the marriage for the registration of their marriage under this Chapter the Marriage Officer shall give public notice thereof in such manner as may be prescribed and after allowing a period of thirty days for objections and after hearing any objection received within that period, shall, if satisfied that all the conditions mentioned in section 15 are fulfilled, enter a certificate of the marriage in the Marriage Certificate Book in the form specified in the Fifth Schedule, and such certificate shall be signed by the parties to the marriage and by three witnesses.”*



8. At this juncture, it also becomes apposite to observe that the writ Courts, in exercise of jurisdiction under Article 226 of the Constitution of India, ordinarily do not compel statutory authorities to act in derogation of the procedure expressly contemplated under a Statute. It is a settled principle of law, consistently followed since the decision of the *Privy Council in Nazir Ahmad v. King-Emperor*,<sup>3</sup> that where a Statute requires a particular thing to be done in a particular manner, the same has to be done in that manner alone or not at all. The said principle continues to hold the field and has recently been reiterated by the Supreme Court in *Union Bank of India v. Rajat Infrastructure (P) Ltd.*,<sup>4</sup> and *Shri Khereshwar Mahadev VA Dauji Maharaj Samiti v. State of U.P.*<sup>5</sup>

9. The statutory mechanism contemplated under the Act of 1954, including the waiting period prescribed therein, is not merely procedural in nature but forms part of the legislative framework consciously engrafted by the Parliament. Once the Statute itself contemplates solemnization of marriage only after expiry of the prescribed period, this Court, in exercise of writ jurisdiction, cannot direct the authorities to act contrary thereto, particularly when deviation from the statutory mandate itself entails penal consequences under the Act of 1954. In *State of W.B. v. Subhas Kumar Chatterjee*,<sup>6</sup> the Supreme Court in Para 30 has categorically held that:-

“30. ....Neither the Government can act contrary to the rules nor the court can direct the Government to act contrary to rules. No mandamus lies for issuing directions to a Government to refrain from enforcing a provision of law. No court can issue mandamus directing the authorities to act in contravention of the rules as it would amount to

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<sup>3</sup>1936 SCC OnLine PC 41

<sup>4</sup>(2023) 10 SCC 232

<sup>5</sup>2025 SCC OnLine SC 774

<sup>6</sup>(2010) 11 SCC 694



*compelling the authorities to violate law. Such directions may result in destruction of rule of law.”*

10. Mere personal hardship or individual inconvenience, howsoever genuine, cannot furnish a ground to dilute or bypass mandatory statutory compliance. The legal maxim *dura lex sed lex*, “the law is hard, but it is the law”, stands attracted in such circumstances. In ***Popat Bahiru Govardhane v. Land Acquisition Officer.***<sup>7</sup> the Supreme Court observed that a result flowing from a statutory provision can never be treated as an evil and the Court has no power to ignore a statutory mandate merely to relieve hardship arising from its operation. Similar observations were made in ***Martin Burn Ltd. v. Corpn. of Calcutta.***<sup>8</sup> wherein it was held that a Statute has to be given effect to irrespective of the consequences flowing therefrom and the Court cannot set a statutory provision at nought merely because hardship may result from its operation.

11. It also cannot be lost sight of that while enacting a statutory framework, the legislature is presumed to be conscious of the practical implications and possible hardships that may arise in individual cases. Courts, therefore, must remain circumspect in rewriting or diluting statutory requirements on considerations of individual exigencies. In ***Noel Harper v. Union of India.***<sup>9</sup> and ***R.K. Garg v. Union of India.***<sup>10</sup> the Supreme Court reiterated that the legislature is presumed to understand and appreciate the needs of the people and that mere inconvenience or hardship in individual cases cannot constitute a ground to undermine legislative intent or statutory compliance.

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<sup>7</sup> (2013) 10 SCC 765

<sup>8</sup> 1965 SCC OnLine SC 20

<sup>9</sup> (2023) 3 SCC 544



12. In, *Rohitash Kumar v. Om Prakash Sharma*,<sup>11</sup> the Supreme Court held that while interpreting a statutory provision, the Court can neither add nor subtract words from the Statute and cannot, under the guise of interpretation, rewrite the legislative framework enacted by the Parliament. The relevant Para of the said judgment is extracted as under:-

*27. The court has to keep in mind the fact that, while interpreting the provisions of a Statute, it can neither add, nor subtract even a single word. The legal maxim "A verbis legis non est recedendum" means, "from the words of law, there must be no departure". A section is to be interpreted by reading all of its parts together, and it is not permissible to omit any part thereof. The court cannot proceed with the assumption that the legislature, while enacting the Statute has committed a mistake; it must proceed on the footing that the legislature intended what it has said; even if there is some defect in the phraseology used by it in framing the Statute, and it is not open to the court to add and amend, or by construction, make up for the deficiencies, which have been left in the Act. The Court can only iron out the creases but while doing so, it must not alter the fabric, of which an Act is woven. The Court, while interpreting statutory provisions, cannot add words to a Statute, or read words into it which are not part of it, especially when a literal reading of the same produces an intelligible result. (Vide *Nalinakhya Bysack v. Shyam Sunder Haldar* [(1953) 1 SCC 167 : AIR 1953 SC 148] , *Sri Ram Ram Narain Medhi v. State of Bombay* [AIR 1959 SC 459] , *M. Pentiah v. Muddala Veeramallappa* [AIR 1961 SC 1107] , *Balasinor Nagrik Coop. Bank Ltd. v. Babubhai Shankerlal Pandya* [(1987) 1 SCC 606 : AIR 1987 SC 849] and *Dadi Jagannadham v. Jammulu Ramulu* [(2001) 7 SCC 71] , SCC pp. 78-79, para 13.)*

*28. The Statute is not to be construed in light of certain notions that the legislature might have had in mind, or what the legislature is expected to have said, or what the legislature might have done, or what the duty of the legislature to have said or done was. The courts have to administer the law as they find it, and it is not permissible for the court to twist the clear language of the enactment in order to avoid any real or imaginary hardship which such literal interpretation may cause.*

*29. In view of the above it becomes crystal clear that under the garb of interpreting the provision, the court does not have the power to add or subtract even a single word, as it would not amount to interpretation, but legislation.*

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<sup>10</sup> (1981) 4 SCC 675



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13. The Court, thus, finds no justifiable ground to permit waiver or curtailment of the statutory period of thirty days prescribed under the Act of 1954. The relief sought by the petitioners, if granted, would amount to directing the statutory authorities to act contrary to the express legislative mandate contemplated under the said enactment.

14. The writ petition, being devoid of merit, is accordingly dismissed. Pending application(s), if any, shall also stand disposed of.

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

**MAY 21, 2026**  
**Nc/SA**

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<sup>11</sup> (2013) 11 SCC 451