

# Marriage Under Special Marriage Act Can Be Registered Through Video-Conferencing: Supreme Court Upholds High Court Judgment

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The Supreme Court on Monday dismissed an appeal filed by the State of Haryana challenging the [Punjab and Haryana High Court's order](#) of granting marriage certificate under the Special Marriage Act 1954 through video conferencing due to the wife's inability to travel from the USA to India on account of travel restrictions.

*"Special Marriage Act, 1954 was enacted in 1954 whereas the technology of Computer and Internet was introduced in later years. Therefore, the law has to march along with technology. Where there is difficulty, the letter of law cannot be so rigid that it makes it impossible for the parties to follow. Moreover, the registration department is there to facilitate the parties and not to create obstruction or hurdles for the parties",* the bench orally said.

The Top Court also directed the Deputy Commissioner- cum-marriage officer to comply with the High Court's directions within 45 days.

In the present matter, the State of Haryana had approached the Apex Court challenging the [judgment dated March 9, 2021](#), delivered by the Division Bench of **Justice Ritu Bahri** and **Justice Archana Puri** of the Punjab and Haryana High Court at Chandigarh.

## Facts

The respondents solemnized their marriage on December 17, 2019, and thereafter returned back to their respective workplaces in the United Kingdom and United States. They filed an application for registration of their marriage before the Deputy Commissioner-cum-Marriage Officer, Gurugram and also made a request to the Marriage Officer to permit the wife to appear through video conference for the purpose of moving the application for registration of marriage. Although the Marriage Officer called them to appear before him on April 3, 2020 but due to the spread of CoVID 19 pandemic, they could not return to India.

Due to this, the husband made an application with a request for second motion to conduct through video conference pleading that since the wife was a medical professional she had been put on CoVID 19 emergency duty in the United States. The appellant could only go to meet his wife after attaching a marriage certificate along with an application for obtaining VISA, however the request was rejected by the Marriage Officer.

On account of lack of marriage certificate, parties were facing hardships and therefore they approached the Punjab and Haryana High Court seeking quashing of letter dated August 11, 2020

issued by the Deputy Collector-cum-Marriage Officer, Gurugram. The Single Judge observed that there was no provision for registration of the marriage under the Special Marriage Act, 1954 ("Act, 1954") without parties appearing in person before the marriage officer.

The parties thereafter approached the Division Bench of the High Court. The High Court while allowing the appeals and observing that the wife's presence could be secured through video conferencing noted that,

*"The husband was not seeking complete exemption of appearance of his wife-appellant No.2 who was working in the USA before the Registrar of Marriage. He was seeking that his wife should be allowed to appear through video conferencing, so that the marriage could be registered. Appellant's wife was employed in Virginia University School of Medicine as Resident Doctor. Now, she was working in J.W. Ruby Memorial Hospital at 1 Medical Center Drive, Morgantown, West Virginia 26505, United States. The appellants solemnized marriage on 07.12.2019 according to Hindu rites and ceremonies in the presence of their respective families at Gurugram (Haryana)."*

The court also went on to note as follows:

*"In this case, the presence of Misha Verma can be secured through video conferencing and the presence of husband Ami Ranjan and three witnesses can be marked by their appearance in the office of Registrar of Marriages. Then, the certificate of marriage can be issued on verification of facts as contemplated under Sections 15 and 16 of the Special Marriage Act. Once the marriage certificate is issued, it can be made part of the public record under Section 47 of the Act by entering it into the Marriage Certificate Book. There shall be no violation of Section 47 of the Act. The entire process can be done after seeking the presence of Misha Verma, wife of appellant No.1-Ami Ranjan through video conferencing. For all intents and purposes, this would be a valid marriage certificate."*

#### **Averments in The Plea**

The order was assailed on the ground that the High Court had totally failed to consider and appreciate the material facts that as per the marriage certificate the factum of conditions prescribed by Section 15 of the Special Marriage Act, 1954 ("Act, 1954") having been fulfilled, the Act required the parties to make an application under their own signatures and to join the proceedings of the inquiry.

*"After the inquiry is completed, the Act prescribes the entry of the certificate of Registration in the Marriage Certificate Book by the Marriage Officer. Such certificate as entered in the book is required to be signed by both the parties and witnesses,"* the plea stated.

It was argued that the High Court had **not given any proper reason as to why the decision relied upon by the State was not applicable in the facts and circumstances of the case and no ground and material was disclosed by the High Court in discarding the judicial precedents relied upon by the State.**

The State in its plea had also averred that the High Court had further **failed to consider and appreciate the material facts that the certificate book was kept in the office of the Marriage Officer and it was the Marriage Officer who had to authenticate all these process and then to issue the certificate to the parties, therefore to bring such registration at par with those of the marriages performed under the Special Marriage Act, 1954 it was necessary that the parties come before the Marriage Officer.**

Relying on mandate under section 16 and section 15 of the Act, 1954 the State contended that the High Court had totally failed to appreciate and consider the relied judicial precedent as per which the act prescribed a procedure whereby both the parties were required to make an application signed by both of them and thereafter provide a public notice given by the marriage officer for inviting objections.

*"The High Court has failed to consider and appreciate that it was clear that for the marriages performed as per the procedure prescribed under the Act everything was prescribed to be done in the presence of the Marriage Officer so as to make it an authentic Act,"* plea further contended.

While relying on the Top Court's judgment in ***The State Of Maharashtra vs Dr. Praful B. Desai (Appeal (Crl.) 476 of 2003) Senior Advocate Mr Navaniti Pd. Singh*** appearing for the respondents submitted that the Court had approved the principle of updating construction as enunciated by leading jurist Francis Bennion in his commentaries titled "Statutory Interpretation".

It was also his contention that the law should not be interpreted in such a manner making it inconvenient for the parties.

The State had thereafter sought an ad interim ex parte stay of the order dated March 9, 2021 which the Top Court refused to grant and dismissed the plea.

***Case Title:*** *The State of Haryana v. Ami Ranjan and Others*

***Coram:*** *Justice Indira Banerjee and Justice V. Ramasubramanian*

***Counsel for Respondents:*** *Rakesh Kumar Mudgal, AAG for State of Haryana ; Senior Advocate Mr. Navaniti Prasad Singh along with Advocate(s) Mr. Abhishek Baid and Mr. Mohit Kumar Bafna*