

CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi
110 066)

Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)
Information Commissioner

CIC/SA/A/2015/001792

CIC/SA/A/2015/001770/1772

Asif Iqbal v. PIO, Sub Divisional Magistrate-III (HQ)

Important Dates and time taken:

RTI: 11.06.2015	Reply: 03.07.2015	Time: 22 days
FAA: 20.07.2015	FAO: 18.09.2015	Time: 59 days
SA: 13.11.2015	Hearing: 28.03.2016	Decision : 01-04-2016
Result: disposed of with direction.		

Parties Present:

1. Appellant is present. Mr. Pankaj Kumar, UDC, Revenue Deptt, 5, Sham Nath Marg, Delhi represents Public authority.

FACTS:

2. The appellant filed the RTI application seeking information about action taken on order dated 21.4.2014 about appointment of additional marriage officers. The CPIO gave information that the matter is being processed and is lying with concerned higher officers. The appellant filed appeal before the first appellate authority (FAA). FAA directed CPIO to provide the information on point 2 & 3. Dissatisfied, the appellant filed a second appeal before this Commission under section 19(3) of the RTI Act.

Proceedings Before the Commission:

3. The appellant filed the RTI application seeking information about action taken on Delhi (Compulsory Registration of Marriage) Executive Order No. F. 1(12)/DC/MC/2014 dated 21.4.2014 regarding appointment of additional marriage officers in compliance with directions given by Hon'ble Supreme Court of India in case of Smt. Seema vs. Ashwani Kumar. The CPIO gave information that the matter is being processed and is pending with concerned higher officers. The appellant filed appeal before the first appellate authority (FAA). FAA directed CPIO to provide the information on point 2 & 3. Dissatisfied, the appellant filed a second appeal before this Commission under section 19(3) of the RTI Act.

4. The appellant stated that as per proviso to clause 3 of Delhi (Compulsory Registration of Marriage) Executive Order No. F. 1(12)/DC/MC/2014 dated 21.4.2014; the government of NCT of Delhi may appoint additional marriage officers for the purpose of registration of marriage and may also delegate the power of marriage officers to any retired gazette officers appointed for this purpose. He wanted to know if this executive order has been complied with or not.

5. The appellant also emphasized that requisition of Aadhar Card as a compulsory document was causing hardships to couples in getting their marriage registered. He reiterated the ruling in Writ Petition No. 494/2012: in the case of *Justice K. S. Puttaswamy v. Union of India*. In the said writ petition, a bench comprising Justice J. Chelameswar and J. Bobde had held in the ad-interim order of September 23, 2013 that no person should suffer for the lack of an Aadhar card despite the fact that a government authority had issued a circular making it mandatory to submit the Aadhar card to avail of certain facilities. He also placed on record letter dated 24.3.2015 addressed by SDM-HQ-II to all Deputy Commissioners of Revenue Department of government of NCT of Delhi specifying that strict compliance of orders of Supreme Court in this regard was to be observed and any administrative instruction in violation of the order of

Supreme Court will have no validity. Thus, appellant submitted that the requirement of Aadhar card should not be made compulsory for marriage registration if there is an alternate id proof. The appellant stated that in the procedures for registering solemnization of marriage under Special Marriage Act makes Aadhar card a mandatory document for generating receipt for 30 days notice as options for other identity card is not available while applying online.

6. The officer representing public authority stated that the Marriage Registration Certificate is issued to both Husband and Wife whose marriage has already been solemnized. The Registration is done under Hindu Marriage Act, 1955 or under the Special Marriage Act, 1954. He said that they are complying with the order of Hon'ble Supreme Court and that Aadhar card bearing unique identification no. is no more a compulsory document required for registration of marriage. He added that if Aadhar No. is not available, any one identity proof i.e., Voter ID card/driving license/passport/pan card is sufficient. He further said that necessary changes have also been updated on their official website. However, applicant's for registration online are finding no option of alternate ID, except Aadhar card. Because of this they are failing to complete the process to generate a receipt and 30 days notice. This problem is caused when registration is sought under Special Marriage Act. Thus, Aadhar card has practically become mandatory and dissuading special marriages, curbing freedom to marry.

7. The Commission observes that women who are, victims of bigamous relationships and inheritance related property disputes face enormous hardship in establishing their marriage as it will be difficult to prove ceremonies of marriage. The wives are losing their cases by reason of their failure to prove the first or second marriage of husband. Thus, registration of marriages is a critical issue in many legal disputes. Also, compulsory registration of marriages would help tackle various women's rights infringements such as child marriage, ensuring a minimum age, marriage without the consent, bigamous unions, besides a woman's right to live in her marital home and receive maintenance.

8. As per existing law, couple will have to apply jointly in the prescribed Form - A to the marriage officer in their areas for registration of their marriage. The applications will have to be accompanied by "documentary proof of age, citizenship, identification of the bride and groom, solemnization of marriage and

place of their residence." As there is compulsion for registration of marriage; it is necessary that the government should make a convenient and well manned infrastructure to facilitate the registration of all the marriages by appointing additional marriage officers. It should also be duty of government that all facilities are extended to make marriage registration a less cumbersome procedure.

9. A similar issue came up for consideration in case no. CIC/SA/A/2015/001770 in matter of Asif Iqbal Vs. Revenue Department, GNCTD and heard on 21-3-2016. The appellant in this case also was asking information whether respondent authority was complying with the Supreme Court order which made Aadhar card an optional id proof for registering the marriages.

10. The Commission recommends that in pursuance to the landmark judgment, of the Constitution Bench of the Supreme Court which ruled that Aadhar card is not necessary for availing government scheme; the public authority and government should give widespread publicity through various media that Aadhar is not mandatory for the purpose of marriage registration scheme and also make necessary changes for online application for solemnisation of marriage under Special Marriage Act. The Commission directs CPIO to provide information about action taken on Executive Order No. F. 1(12)/DC/MC/2014 dated 21.4.2014 regarding appointment of additional marriage officers to the appellant within 21 days of this order under intimation to this Commission.

11. The Commission disposes of case nos. CIC/SA/A/2015/001792 and CIC/SA/A/2015/001770 with above directions.

(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Deputy Registrar

Addresses of the parties:

1. The CPIO under RTI,
Sub Divisional Magistrate-III(HQ),
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Delhi-110054.
2. Mr. Asif Iqbal,
Q-1, First Floor, Hauz Khas Enclave,
New Delhi-110016.