



2026:AHC-LKO:71109-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

A.F.R.

WRIT - C No. - 9850 of 2026

'X' And Another

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Shailendra Misra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 3

**HON'BLE SHEKHAR B. SARAF, J.
HON'BLE AMITABH KUMAR RAI, J.**

1. Heard learned counsel for the parties.
2. This writ petition has been filed by the petitioners for the following main relief (s) :

(i) To issue a writ order or direction in the nature of Mandamus commanding to the opposite parties no.2 to 4 to accept and process the petitioners application for marriage under the Special Marriage Act on the basis of their permanent address mentioned in their Aadhar Card.

(ii) To issue a writ order or direction in the nature of Mandamus commanding to the opposite party no.4 to permit the solemnization and registration of marriage of the petitioners without publication of notice under Section 5 to 10 of the Special Marriage Act, 1954, in the interest of justice."

3. The factual matrix indicates that the petitioners are major and have been in a live-in relationship for a period of two years and have a child, who is approximately nine months old.
4. Owing to the different religions professed by the petitioners, they intend to solemnize their marriage under the Special Marriage Act, 1954.
5. It has been submitted on behalf of the petitioners that although the

petitioners are majors and intend to solemnize their marriage, they apprehend danger to their life and liberty from their parents and relatives as they are opposed to their relationship. An F.I.R. was lodged registered as Case Crime No.306 of 2025 on 26.06.2025 under Section 140(1) of the B.N.S., 2023 at Police Station P.G.I., District Lucknow by mother of petitioner no.1.

6. It has further been submitted that in furtherance of the aforesaid F.I.R., Investigating Officer has also submitted a report recording the fact that the petitioners are majors and are living together. However, apprehending danger to their life and liberty from their parents, the petitioners seek protection of this Court in solemnizing marriage under the provisions contained in the Special Marriage Act, 1954 (hereinafter referred to as "the Act, 1954"), which provides for inviting objections to a proposed marriage in accordance with the scheme of the Act, 1954 contained in Chapter II therein.

7. It has been submitted that under Section 5 of the Act, 1954, notice of the intention to solemnize the marriage has to be given to the Marriage Officer of the district and such notice is required to be published by affixing a copy thereof at a conspicuous place in the office of the Marriage Officer as provided under Section 6(2) of the Act, 1954, thereby inviting objections to such marriage within a period of thirty days as contemplated under Section 7(1) of the Act, 1954.

8. It has been submitted that in view of the aforesaid provisions, there is a serious apprehension of danger to the life and liberty of the petitioners as their parents and relatives are nursing a grudge against them on account of their live-in relationship and their intention to solemnize marriage particularly as they belong to different faiths and as such the publication of notice of marriage and inviting objections will expose them to imminent danger.

9. We have heard learned counsel for the parties and have gone through the provisions contained in Chapter II of the Act, 1954.

10. Sections 5 to 9 of the Act, 1954 are reproduced hereinbelow for the sake of clarity:

"5. Notice of intended marriage-When a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the form specified in the Second Schedule to the Marriage

Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.

6. Marriage Notice Book and publication.-(1) *The Marriage Officer shall keep all notices given under Section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same.*

(2) The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office.

(3) Where either of the parties to an intended marriage is not permanently residing within the local limits of the district of the Marriage Officer to whom the notice has been given under Section 5, the Marriage Officer shall also cause a copy of such notice to be transmitted to the Marriage Officer of the district within whose limits such party is permanently residing, and that Marriage Officer shall thereupon cause a copy thereof to be affixed to some conspicuous place in his office.

7. Objection to marriage- (1) *Any person may, before the expiration of thirty days from the date on which any such notice has been published under sub-section (2) of Section 6, object to the marriage on the ground that it would contravene one or more of the conditions specified in Section 4.*

(2) After the expiration of thirty days from the date on which notice of an intended marriage has been published under sub-section (2) of Section 6, the marriage may be solemnized, unless it has been previously objected to under sub-section (1).

(3) The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage

Notice Book, be read over and explained if necessary, to the person making the objection and shall be signed by him or on his behalf.

8. Procedure on receipt of objection- (1) *If an objection is made under Section 7 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied that it ought not to prevent the solemnization of the marriage or the objection is withdrawn by the person making it; but the Marriage Officer shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.*
(2) *If the Marriage Officer upholds the objection and refuses to solemnize the marriage, either party to the intended marriage may, within a period of thirty days from the date of such refusal, prefer an appeal to the district court within the local limits of whose jurisdiction the Marriage Officer has his office, and the decision of the district court on such appeal shall be final, and the Marriage Officer shall act in conformity with the decision of the court.*

9. Powers of Marriage Officers in respect of inquiries- (1) *For the purpose of any inquiry under Section 8, the Marriage Officer shall have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely-*
(a) *summoning and enforcing the attendance of witnesses and examining them on oath;*
(b) *discovery and inspection;*
(c) *compelling the production of documents;*
(d) *reception of evidence of affidavits; and*
(e) *issuing commissions for the examination of witnesses;*

and any proceeding before the Marriage Officer shall be deemed to be a judicial proceeding within the meaning of Section 193 of the Indian Penal Code (45

of 1860).

Explanation. For the purpose of enforcing the attendance of any person to give evidence, the local limits of the jurisdiction of the Marriage Officer shall be the local limits of his district.

(2) If it appears to the Marriage Officer that the objection made to an intended marriage is not reasonable and has not been made in good faith he may impose on the person objecting costs by way of compensation not exceeding one thousand rupees and award the whole or any part thereof to the parties to the intended marriage, and any order for costs so made may be executed in the same manner as a decree passed by the district court within the local limits of whose jurisdiction the Marriage Officer has his office."

11. A bare perusal of the aforesaid provisions indicates that under Section 5 of the Act, 1954, notice of the intended marriage has to be given in writing in the form specified in the Second Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given. Thus, the notice of the intended marriage can be given by the parties to the Marriage Officer of the district in which either of the parties has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.

12. In the present case, we find that the child was born out of the relationship between the petitioners on 05.12.2025 at Safdarjung Hospital, New Delhi and they are frequently shifting their place of residence due to fear of their relatives and have expressed their desire to solemnize their marriage at Lucknow.

13. In the peculiar facts and circumstances of the present case, we hereby provide that the petitioners, who intend to solemnize their marriage under the Act, 1954, shall give notice of their intended marriage to the Marriage Officer of District Lucknow in the form specified in the Second Schedule as required under Section 5 of the Act, 1954 within ten days from the date of this order. Thereupon, the Marriage Officer shall proceed in accordance with the scheme of the Act 1954, for solemnization of the marriage of the

petitioners and shall issue their marriage certificate upon solemnization of the marriage in accordance with law. It is to be noted that this Court in the case of Habeas Corpus No.16907 of 2020, while interpreting Sections 6 and 7 read with Section 46 of the Act, 1954 has held that the requirement of publication of notice under Section 6 and inviting/entertaining objections under Section 7 of the Act, 1954 is directory in nature and has to be given effect only on the request of the parties to the intended marriage and not otherwise. Taking into consideration the peculiar facts of the case as there is an apprehension of danger to the life and liberty of the petitioners, we hereby provide that the provisions contained in Sections 6 and 7 of the Act, 1954 regarding publication of notice of the intended marriage and inviting objections to such marriage shall stand dispensed off in the present case. The Marriage Officer shall not publish any such notice or entertain objections to the intended marriage and shall proceed with the solemnization of the marriage of the petitioners. However, it shall be open to the Marriage Officer while solemnizing the marriage to verify the identity, age and valid consent of the petitioners to the marriage.

14. Since there is an apparent threat to the life and liberty of the petitioners, we direct the Commissioner of Police, Lucknow to provide protection and necessary assistance to the petitioners during the aforesaid period and even after the marriage has been solemnized after assessing the threat perception to the petitioners in accordance with law. It will also be open for the petitioners to approach the police authorities for redressal of their grievances in case any harm is caused by any aggrieved family members and relatives of the petitioners or by anyone else. Upon receipt of such application, the police shall examine the matter and if they find any substance in the allegations of the petitioners, they will act in accordance with law for protection of life, limb and liberty of the petitioners.

15. Needless to say the Courts and the Constitutional Courts in particular are enjoined to uphold the life and liberty of an individual guaranteed under Article 21 of the Constitution of India. Right to live with a person of his/her choice, irrespective of religion professed by individuals is intrinsic to right to life and personal liberty. Decision of individuals who are of majority age to live together and solemnize marriage is right to freedom of choice, to choose a partner and live with dignity which is a fundamental right enshrined in Article 21 of Constitution of India. Hon'ble Supreme Court in the case of **Shafin Jahan vs. Asokan K. M. and Others** reported in (2018) 16 SCC 368 emphasized due importance to the right of choice of an adult person. Hon'ble Supreme Court has held that right to marry a person of own choice

is integral part of Article 21 of the Constitution of India. There is a complete freedom to choose life partner of any faith, belief, religion, caste etc. Neither State nor law nor society can dictate the choice of partner. The right cannot be taken away except through law which is substantially and procedurally fair, just and reasonable.

16. Accordingly, the writ petition stands **disposed of** in terms of directions contained in paragraph nos.13 and 14 of the judgment passed today.

October 6, 2026

Mahesh

(Amitabh Kumar Rai,J.) (Shekhar B. Saraf,J.)