

No. WLF-A(3)-1/97-III
Government of Himachal Pradesh,
Department of Social Justice & Empowerment.

From

The Pr. Secretary (SJ&E) to the
Government of Himachal Pradesh.

To

The Director
Women & Child Development Department,
Cedar Home, Brent Wood Estate,
Shimla-01.

Dated : Shimla-02, 31st October, 2014

Subject : Marriage Registration of Marriages.

Sir/Madam,

I am directed to refer to your Letter No. 3-3/97-ICDS loose dated 2-8-2014 on the subject cited and to say that the matter was taken up with Law Department for their expert opinion, who has opined as under :—

"Examined. The Department has sought clarification on two issues viz (i) whether already married person can get his second marriage registered and (ii) whether a marriage can be registered if the age of the bridegroom is less than 21 years and of the bride less than 18 years.

The Department has also mentioned the provisions of Section 6 of the H.P. Registration of Marriages Act, 1996 which is as under:—

Section 6. Every marriage to be registered. "After the date on which the provisions of this Act have been brought into force in any area under Sub-Section (3) of Section 1, every marriage contracted in Himachal Pradesh shall be registered in the manner provided in Section 7 of this Act.

The words "Every marriage" used in Section 6 of the H.P. Registration of Marriages Act, 1996 is significant to decide the issue in hand. In plain reading, without seeing the legality or illegality, every marriage is needed to be registered under the provisions of H.P. Registration of Marriages Act, 1996 but the Hindu Marriage Act, 1955 lays down rules relating to the solemnization and requirements of a valid Hindu Marriage. It also lays down rules relating to restitution of conjugal rights, judicial separation, nullity of marriage, divorce, legitimacy of children and other allied matters.

The word "Marriage" is not defined in Section 3 of the H.M.A., 1955 but Section 3 (d) of the Himachal Pradesh Registration of Marriages Act, 1996 indicates the meaning "Marriage" as including "re-marriage". The said definition that "Marriage" includes re-marriage is not enough to cut the ice. Section 3 (b) of the H.P.R.M. Act, 1996 gives, definition of words, "to contract a marriage" means to solemnize or enter into a marriage in any former manner. On the other hand, Section 15(b) of the Special Marriage Act, 1954 envisages that any marriage celebrated, whether before or after the commencement of this Act, other than a marriage solemnized under the Special Marriage Act, 1872 (III of 1872) or under this Act, may be registered under this chapter by a

Marriage Officer in the territories to which this Act extends if the following conditions are fulfilled, namely:—

- (a)
- (b) neither party has at the time of registration more than one spouse living.
- (c)
- (d) the parties have completed the age of twenty one years at the time of registration.
- (e)
- (f)

Interestingly, the HMA lays down the condition that at the time of marriage the bridegroom must have completed the age of twenty one and the bride the age of eighteen years. In case, the bride is under eighteen the consent of her guardian is necessary. Absence of consent of the parties or of the guardian of the bride does not, however, render the marriage void or even voidable, if otherwise, it is solemnized and the prime conditions are fulfilled. However, a marriage may be annulled by a decree of nullity on the ground that consent was obtained by force or fraud. A marriage solemnized in violation of the requirement as to age laid down in the law is not void or even voidable, but the contravention of the condition is punishable as an offence under.