

**STATE DISASTER MANAGEMENT AUTHORITY
HARYANA**

Order

Whereas, Sh. H.C. Arora Advocate had filed CWP (PIL) No. 64 of 2020(O&M) V/s Union of India & others in Hon'ble High Court of Punjab & Haryana praying therein for lowering the upper limit of 50 guests in marriage related gatherings as prescribed by the Ministry of Home Affairs, Union of India, in its guidelines dated 17-05-2020 and others issued from time to time regarding the preventive measures relating to the pandemic of COVID-19.

Whereas, the said writ petition was disposed off by the Hon'ble High Court vide order dated 24-06-2020 directing the petitioners to represent the authorities concerned and in the event any such representation is made, a decision thereon shall be taken in accordance with law.

Whereas, a perusal of the representation reveals that the petitioner has contended that under the National Directive for COVID-19 Management as included in the guidelines dated 17.05.2020 of Govt. of India as well as subsequent such guidelines, there is provision to the effect that the maximum gathering in marriage related functions shall not be more than 50. It has been stated by the petitioner that the aforesaid provision permitting upto 50 guests in such marriage related gathering is totally arbitrary, and excessive. According to the petitioner such a limit defeats/frustrates the very purpose of the guidelines and also frustrates our war against COVID-19. It is the contention of the petitioner that the aforesaid limit of 50 persons is violative of the laws i.e. Dowry Prohibition Act, 1961 prevailing in the States of Punjab, Haryana and UT Chandigarh Administration (Which follows the laws made by the State of Punjab).

The petitioner has further stated that keeping in view the prohibition of the Dowry Prohibition Act, it is clear that MHA Guidelines have been issued without taking cognizance of the aforesaid two amendments made by the State of Punjab and Haryana to the Dowry Prohibition Act, 1961, which are binding on the States of Haryana. According to him the guidelines issued by the Ministry of Home Affairs cannot be in violation of these statutes. Thus, the upper limit of 50 persons to comprise a marriage related gathering is liable to review and revised downwards so as to mandate that the marriage related gathering shall not comprises more than 25 guests. Finally it has been prayed that immediate decision on the issue may be taken.

Whereas, Sec 3 of the Dowry Prohibition Act, 1961 (Haryana Amendment Act, 1961) provides as under:-

"3. Bar of certain acts. - No person shall-

- a) Give or take or abet the giving or taking of dowry;
- b) Demand, directly or indirectly, from the parents or guardians of a bride or bridegroom, as the case may be, any dowry;
- c) Incur marriage expenses the aggregate value whereof exceeds five thousand rupees;
- d) Display any gifts made at or before the marriage in the form of cash, ornaments, clothes or other articles;
- e) **take or carry in excess of-**
 - (i) Twenty-five members of the marriage Party; and

G. S.

- (i) Twenty-five members of the marriage Party; and
(ii) Eleven members of the band;
- f) Deny conjugal rights of his wife on the ground that dowry has not been given or the dowry is insufficient.”- Haryana Act 38 of 1976, S.2 (11-8-76).”

A perusal of guidelines issued by MHA, Govt. of India on 17-05-2020 as well as subsequent guidelines of the State Disaster Management Authority, Haryana, would reveal that as per these Guidelines/National Directives for COVID-19 management in a marriage related gathering the maximum number of guests allowed shall not be more than 50. In this gathering the norm of social distancing shall be followed.

It is further submitted that there is a distinction between ‘marriage party’ and marriage related gathering and it needs no explanation or elaboration. The Dowry Prohibition Act talks about ‘marriage parties’ i.e. Barat whereas marriage gathering include ‘Barat’, the ‘hosts’ and other guests.

Thus, the National Directives of 17-05-2020 issued by the Govt. of India do not violate the Dowry Prohibition Act of Haryana, 1961 as has been alleged by the petitioner. It is neither in violation nor in contradiction of Section 3(e)(i)(ii) of the Dowry Prohibition (Haryana Amendment) Act, 1976. As a matter of fact, it strengthens the purpose of “ Section 3(e)(i)(ii) of the Dowry Prohibition (Haryana Amendment) Act, 1976” because under this Act, restriction was only on the marriage party which is not to be equated with a marriage related gathering. Thus, the direction dated 17-05-2020 imposing restrictions only on “marriage related gathering”.

Both these provisions i.e. Section 3(e)(i)(ii) of the Dowry Prohibition (Haryana Amendment) Act, 1976 and Clause IV of Annexure –II of order dated 17-05-2020 have their own meaning, purpose and object and therefore both have to be construed, interpreted and applied harmoniously.

In conclusion, because of the above mentioned facts this representation is misconceived and based upon misinterpretation of laws/directives/guidelines of the Govt. of India. Both these provisions do not violate or contradict the other, instead as stated above, directions of 17-05-2020 further strengthens and supplements the purpose and the object, of “Dowry Prohibition (Haryana Amendment) Act, 1976. Hence, after having duly considered the representation of the petitioner, as directed by the Hon’ble High Court, the same is rejected being devoid of merit.



Vijai Vardhan, IAS


Dated:

Financial Commissioner Revenue and Additional Chief Secretary to
Government of Haryana, Revenue and Disaster Management
Department, Chandigarh.

Endst No. ER-DMC-PO-IV-2020/ 4946

Dated, the Chandigarh 8-8-2020

A copy is forwarded Sh. HC Arora, Advocate, Punjab & Haryana High Court, H.No 2299, Sector 44-C, Chandigarh – 160045 for information and necessary action.


Under Secretary (ER)
for Financial Commissioner Revenue and Additional Chief Secretary to
Government of Haryana, Revenue and Disaster Management
Department, Chandigarh.