SYNOPSIS AND LIST OF DATES

The Petitioners are 47 and 36 years old. They have been a couple for 8 years. They live together. They share finances. They look after Petitioner no. 1's father, who is over 88 years old. They go on vacations with their parents. When they are ill, they care for each other. Petitioner no. 1 is a psychiatrist, Petitioner no. 2 a therapist, and they are part of the team that built North India's leading clinic specializing in mental health and learning disabilities for children and young adults. They share the highs, the lows, the joys and sorrows of life; they go through the wear and tear of living together; they have the deep, unbreakable bond of two people who have come together in love.

The Petitioners are like any other couple you might meet, except they are both women.

The Petitioners' journey was not easy. They struggled to come to terms with their sexuality, and till the Supreme Court decriminalized Section 377 IPC in 2018, they lived under the shadow of a criminal law. When they met Petitioner no. 2 was married, but her love for Petitioner no. 1 finally compelled her to seek a divorce by mutual consent and build a life with Petitioner no. 1 instead. They took time to explain their love and commitment for each other to their parents and slowly and gradually brought the two families together. Yet simple things that a married couple takes for granted are a struggle for the Petitioners: opening a joint bank account, buying family health insurance, or securing address proof.

Like any other couple, the Petitioners want their relationship to be blessed and sanctified by society and by law. Marriage offers both

legal protections and social recognition of the commitment, support and security a couple offer each other, which are even more important in these times of the Covid-19 pandemic. Marriage is not just a relationship between two individuals – it brings two families together. But it is also a bundle of rights. Without marriage, the Petitioners are strangers in law. Articles 21 of the Constitution of India protects the right to marry a person of one's choice: this right applies with full force to same-sex couples, just as it does to opposite-sex couples.

With the Constitution in their hearts, on 30.09.2020, the Petitioners approached the Marriage Officer (the SDM, South East Delhi, Kalkaji) seeking solemnization of their marriage under the Special Marriage Act, 1954. The Marriage Officer would have solemnized the marriage of any similarly placed opposite-sex couple. Sexual orientation discrimination is constitutionally prohibited under Article 15, but the Petitioners were refused the right to marry a person of their choice on grounds of their sexual orientation alone.

The right to marry a person of one's choice, constitutionally guaranteed under Article 21, reflects the basic ethos of India's transformative Constitution: the constitutional vision of a diverse and vibrant society that protects its minorities and makes reparations for historical discrimination. Marriage and family are not a static institutions – the rights and duties of the parties, the age at which they may marry, and who may marry whom have all undergone radical changes. For instance, the Hon'ble Supreme Court has declared triple talaq to be unconstitutional and elucidated that Hindu daughters are part of the Hindu Undivided Family from the moment of their birth. This

Hon'ble Court has always protected inter-faith and inter-caste couples who have approached it seeking protection, even though they marry in contravention of social and familial norms, because constitutional morality trumps social morality. After *Johar*, this Court has extended such protection to same-sex couples as well. The Petitioners now ask to be embraced by the Constitution and the law in the fold of marriage.

Hence this Petition. .

List of Dates

Date	Particulars
1954	The Special Marriage Act 1954 was enacted by the Indian Parliament with the object of providing a special civil form of marriage available to any person in India, and Indian nationals living in other countries, irrespective of faith or citizenship
2012	The Petitioners, both women, are a same-sex couple who have been in a committed relationship, and have been living together since they fell in love in 2012.
06.09.2018	A Constitution Bench of the Hon'ble Supreme Court of India passed its historic decision in *Navtej Singh Johar & Ors. V. Union of India & Ors*. [(2018) 10 SCC 1], decriminalizing consensual sexual conduct between adults of the same sex by reading down S. 377 of the Indian Penal Code, 1860. The Supreme Court held that LGBT citizens have a right to not be discriminated against on the basis of their sexual

	orientation, full and equal protection of the Constitution and placed a positive obligation on the State to "recognise rights which bring true fulfilment to same sex relationships."
23.09.2020	Desirous of obtaining legal recognition of their relationship, the Petitioners applied to the 2nd Respondent for solemnization of marriage under the Special Marriage Act, 1954.
30.09.2020	The request for solemization of marriage was denied on the ground that they are same-sex couple.
30.09.2020	Petitioner No.1 addressed an email to the Respondent No.2 setting out the relevant facts of 30.09.2020 stating therein that denial of solemnization of their marriage was purely discriminatory and an affront to the principles of equality and dignity enshrined under Articles 14, 15, 19 and 21 of the Constitution of India.
10.2020	Aggrieved, the Petitioners prefer the instant petition under Article 226 of the Constitution of India.

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF:

Dr. Kavita Arora and Another …Petitioners

Versus

Union of India & Another …Respondents

TO,
THE HON'BLE CHIEF JUSTICE AND HIS COMPANION JUSTICES OF THIS HON'BLE COURT

THE HUMBLE PETITION OF THE PETITIONERS ABOVE NAMED

PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA SEEKING ENFORCEMENT OF THE FUNDAMENTAL RIGHT OF CHOICE OF PARTNER AND DECLARING THAT THE SPECIAL MARRIAGE ACT, 1954 INCLUDES SOLEMNIZATION OF SAME SEX MARRIAGE; AND CONSEQUENTLY, SEEKING A WRIT OF MANDAMUS DIRECTING THE

DISTRICT MARRIAGE OFFICER, SOUTH EAST DELHI TO SOLEMNIZE THE MARRIAGE OF THE PETITIONERS

MOST RESPECTFULLY SHOWETH THAT:

1. That the Petitioners are citizens of India who are approaching this Hon'ble Court as they wish to get married. The extant legal regime around solemnization of marriages excludes a marriage between a same-sex couple. The Petitioners, Dr. Kavita Arora and Ankita Khanna are both mental health professionals and are 47 and 36 years old, respectively, and have been living together in a committed relationship for eight years. The Petitioners are constrained to approach this Hon'ble Court to enforce their fundamental right to choice of a marital partner and to seek a direction to the Marriage Officer, South East Delhi appointed under the Special Marriage Act, 1954 ("**SMA**") to solemnize their marriage.

2. The Hon'ble Supreme Court has recognized the choice of a marital partner as a fundamental component of the right to life. This Hon'ble Court has reiterated that the Special Marriage Act, 1954 enacted in Independent India ought to cover marriages as per choice of parties, not covered by any other legislation. The Hon'ble Supreme Court has also recognized that any legislation discriminating between persons only on the basis of sexual orientation violates Article 15 of the Constitution of India, 1950 ("**the Constitution**"). Nevertheless, when the Petitioners

approached the Respondent no.2 seeking solemnization of their marriage under the SMA, they were refused solely because they are a same sex couple. The Petitioners are constrained to approach this Hon'ble Court since despite enjoying the right of choice to a marital partner under Article 21, and the right against discrimination on the basis of their sexual orientation, the SMA, the legislation enacted to solemnize all marriages outside personal laws, excludes same-sex marriage.

3. The institution of marriage is a legal and social recognition of the love, support, security, and emotional bond a couple offer each other. The relationship of marriage is one of society's most precious relationships. Through marriage, couples affirm their commitment to each other before society. In Indian society, marriage is not just a relationship between two individuals. It brings two families together. Through marriage, society nurtures a couple's relationship. The couple finds their place in the social fabric.

4. In addition to the social and cultural sanctity, the Respondents bestow a constellation of rights, privileges and benefits upon a married couple which are not available to third parties. Without marriage, the Petitioners are strangers in law.

5. The Petitioners fell in love eight years ago. They started living together soon after. The Petitioners shared the same values and world view towards their families, friends, work, and home.

6. Both the Petitioners deal with different aspects of mental health and have together built a common workspace as well as a shared

household. Over the years the Petitioners have strengthened their long-term commitment towards each other and, want to ensure that they go through life with each other's presence and support, and grow old together.

7. The Petitioners love and value each other just like all the opposite sex couples they know. During the COVID-19 pandemic and even otherwise, they have been living in a joint family with Petitioner no. 1's 88-year-old father. The institution of marriage is a gateway to crucial legal protections and recognition to form a family. Numerous rights are predicated on being members of a family.

8. The law bestows a myriad legal rights and protections in matters of succession, taxation, insurance, maintenance, pension, health and marital privileges that are unavailable to unmarried couples. The Petitioners are deprived of all the legal rights and social benefits that flow from the institution of marriage as the SMA excludes same-sex couples.

9. All couples value love, commitment, support and security. There is no intelligible difference between the relationship of opposite sex couples and same sex couples. There is no legitimate objective in excluding same sex marriages from the SMA.

10. The idea of marriage and family and the social and legal regime around these institutions are constantly changing. During India's pre-colonial and colonial periods, practices such as child marriage and *sati* were prevalent and sanctioned while widow remarriage and inter-caste marriages were discouraged. These

social customs changed through the efforts of social reformers like Ram Mohan Roy and eventually led to abolition of *sati* and prohibition of child marriage. Post-independence, the Hindu Code Bill permitted inter-caste marriages and widow remarriage apart from laying out grounds for divorce and a framework for equal rights for women in inheritance.

11. Around the same time as the reform and codification of personal law of marriage, the need for a law for solemnizing marriages outside of personal law led to the passing of the SMA in 1954. In the wake of the current century, there were amendments that led to greater rights for women in the Hindu Code. Around the same time, there have also been new enactments to protect women from domestic abuse. A Constitution bench of the Hon'ble Supreme Court in *Joseph Shine* v. *Union of India* [AIR 2018 SC 1676] struck down the criminalization of adultery as being contrary to the constitutional protection of choice. Courts have time and again protected couples who exercise their choice of marital partner, defying religious or social norms.

12. In *Navtej Singh Johar v. Union of India* [(2018) 10 SCC 1], the Hon'ble Supreme Court recognized that procreation is not the only purpose of the marital relationship. Marriage fills the need for emotional companionship. The Hon'ble Supreme Court not only decriminalized same-sex love while declaring the unconstitutionality of Section 377 of the Indian Penal Code, 1860, but also stated that history owed an apology to lesbian gay, bisexual and transgender ["**LGBT**"] persons and their families

for the delay in providing redressal for the ignominy and ostracism they have suffered for the natural, immutable and innate attribute of their identity. The Supreme Court in *Navtej Johar* held that LGBT persons were denied the fundamental right to equality and equal protection under the law guaranteed under Article 14 of the Constitution and the right to non-discrimination under Article 15.

13. Equality before the law and equal protection of the law for LGBT persons is not limited to protecting same-sex couples from punishment or stigmatization. These rights go beyond simply preserving a private space in which gay and lesbian couples may live together without interference from the State. Indeed, what the Petitioners seek is not the right to be left alone, but the right to be acknowledged as equals and to be embraced with dignity by the law. The Supreme Court has unwaveringly held that constitutional ethos of dignity, equality and liberty and freedom can only be fulfilled in its truest sense when each of us realize that the LGBT community possess equal rights as any other citizen. The right to marry a person of their choice is available to opposite sex couples under the SMA, and the same autonomy, dignity and recognition ought to be accorded to all couples in the LGBT community.

14. The Supreme Court in *Navtej Johar* has held that sexual orientation places a positive and negative obligation on the State, which includes non-discrimination under Article 15 of the Constitution. Positive obligations call for the State to "recognise

rights which bring true fulfilment to same sex relationships." The right to choose a marital partner is a positive obligation of the State to be fulfilled through its existing marriage laws. Excluding same-sex marriage from a legislation governing civil marriage outside personal law renders the SMA violative of constitutional guarantees of dignity, liberty, and equality. Instead, the Act should be interpreted so as to allow same sex couples to marry.

Brief facts of the case

15. Petitioner No. 1 grew up in Alaknanda, Delhi in a Punjabi nuclear family with working parents. The Petitioner chose to become a psychiatrist after completing her M.B.B.S from Lady Hardinge Medical College, Delhi in 1996. While pursuing her M.D. in Psychiatry in Maulana Azad Medical College, Petitioner no. 1's parents wanted her to have an arranged marriage and, like many other women her age, she met many prospective grooms as arranged by her family. However, Petitioner No.1 never felt an emotional connection with any of the men she was introduced to. To ease the pressure to have an arranged marriage and to study further, Petitioner No.1 went to enhance her skills through a specialist training in the United Kingdom. The Petitioner No.1 received her Certificate of Completion of Specialist training in Psychiatry from the Royal College of Psychiatry, UK. Around 2006, the Petitioner No.1 chose to move back to India and joined the Sitaram Bhartia Institute of Science & Research New Delhi

as a Consultant in Child and Adolescent Psychiatry and was visiting faculty at National Centre for Autism.

16. Around 2008, Petitioner No.1 realised that the reason she did not want to marry any of the men she met in her twenties was because she could never feel romantically for them. The Petitioner No.1 realised that she was not attracted to men.

17. In 2009, Petitioner No.1 along with two other colleagues established "Children First," which has grown to be amongst the leading child and adolescent mental health services in India. Children First provides out-patient services for children, adolescents, families and young adults till the age of 25 years with a variety of mental health concerns ranging from neurodevelopmental differences and delays, academic and social or behavioural concerns and children in need of emotional work. Today, Children First has offices in Delhi and Gurugram with 2 Psychiatrists, 29 Psychologists, 11 Occupational therapists, an administrative team of 7 persons and 6 support staff.

18. Towards her career objective of setting up high quality, culturally relevant child and adolescent clinical services in India, Petitioner No.1 is also a trainer and co–faculty for certification courses conducted at Children First covering child and adolescent mental well-being. The Petitioner has been visiting faculty at National Institute of Public Cooperation and Child Development, New Delhi and Institute of Child and Adolescent Mental Health and Behavioural Sciences, National Centre for Autism. The Petitioner No.1 also conducts workshops and speaks in National

conferences about various aspects of on mental health and has been an invited speaker and author at many professional fora as well as in colleges and schools of repute. She has also worked with and spoken about the mental health issues faced by for the transgender community as part of her community outreach on gender and sexuality issues. She is on the advisory panel for Association for Transgender Health in India and is part of the expert panel that is helping to develop the Indian standards of Care for Transgender health. A true copy of the medical degrees, and the Curriculum Vitae of the Petitioner No.1 along with the relevant pages of the website of the institution Children First demonstrating the work that the Petitioner No.1 has been doing at Children First is annexed herewith and marked as **Annexure P-1(colly).**

19. Petitioner No. 2 grew up in Mussoorie and Dehradun in a Punjabi family. Her parents migrated to Uttarakhand when she was a year old. Petitioner No. 2 grew up with an acute sense of self awareness that led her to realise, as a teenager, that she was attracted to both men and women.

20. Petitioner No. 2 did her BA (Hons.) in Psychology from Jesus and Mary College, Delhi University and specialised in clinical psychology in her Master of Arts from Delhi University, ,Indraprastha College for Women in 2007. From 2007 to 2011, Petitioner No. 2 worked as a school counsellor at The Shri Ram School, Moulsari, Gurgaon focusing on counselling and psychotherapy with children, adolescents and families. Before

working at Children First, the Petitioner also worked as a Psychologist in the Child and Adolescent Mental Health Service department at Sitaram Bhartia Institute of Science & Research, New Delhi. A true copy of the Psychology degrees, and the Curriculum Vitae of the Petitioner No.2 along with the relevant pages of the website of the institution Children First demonstrating the work that the Petitioner No.2 has been doing at Children First is annexed herewith and marked as **Annexure P-2(colly)**.

21. Petitioner No. 2 currently works as a psychologist and arts-based therapist at Children First. Petitioner No. 2 is currently also the Head of Services at Children First, Gurgaon Branch supervising a team of 20 mental health professionals. She conducts workshops with staff, parents & students on Attention Deficit Hyperactivity Disorder (ADHD), life skills, classroom management. The Petitioner has served as a faculty member for the Diploma in Child Guidance & Counselling at the National Institute of Public Cooperation and Child Development, Delhi and is a faculty member for the Certificate Course in Child & Adolescent Mental Health at Children First. As part of her work, Petitioner No.2 conducts workshops on issues of gender and sexuality issues and their impact on mental health.

22. The Petitioners first met in 2006 in Delhi when they were working together. Petitioners knew each other as friends for six years before their friendship deepened into a relationship. Petitioner no. 2 was married in 2008. There were no children of

the marriage. Petitioner No. 1 had even attended Petitioner No.2's marriage in 2008 along with other colleagues.

23. Around January 2012, the Petitioners had started talking to each other more often and slowly realised that they were extremely compatible and fond of each other. Over the next few months, the Petitioners became closer, met nearly every day outside of work, and realised that they had fallen deeply in love.

24. Petitioner no. 2 came to the extremely painful decision to end her marriage as she was in love with Petitioner no. 1. Her husband at the time understood and supported her decision and they separated in 2012 after four years of marriage. Even the Petitioner No.2's parents came to support her choice as they realised it made the Petitioner No.2 boundlessly happy and fulfilled to be in a relationship with Petitioner No.1. A true copy of the divorce decree and judgment dated of the Petitioner No.2 passed by the Family Court, is annexed herewith as **Annexure P-3**.

25. The Petitioners started living together in October 2012. The Petitioners have spent their lives together for the last eight years and have been emotionally, financially, and socially bonded in each other's life like a married couple. Petitioner No. 1 told her brother and father about her relationship with Petitioner no. 2. Petitioner no. 1 also told her mother, who passed away in 2015. The Petitioners would often stay with Petitioner No.1's parents in their home in Delhi while Petitioner No.1's mother was

alive, and now after Petitioner No.1's mother's death, the Petitioners live between Alaknanda (Delhi) and Gurugram and care for Petitioner No.1's aged father.

26. Petitioner No.2's parents, who are based in Dehradun also stay with the Petitioners whenever they visit Delhi; and take a holiday with the Petitioners every year. The Petitioner No.1's father and the Petitioner No.2's parents also have gone on a family trip to Mussoorie together. A copy of a photograph of the Petitioners' holidaying with their parents is annexed herewith and marked as **Annexure P-4**.

27. The Petitioners have been living together in a committed relationship for the last eight years and even though Section 377 IPC was an offence till 2018, Petitioners were open about their relationship with their families and relatives. Even though Petitioners' families and friends have accepted and supported their relationship, the Petitioners do not have the recognition or respect that a married couple would enjoy. Petitioners are often asked if they are friends or even sisters.

28. Over the years, Petitioners have become part of each other's lives and families. They have celebrated birthdays, anniversaries, festivals together. The Petitioners have attended relatives and colleagues' weddings together and looked after each other's parents. The Petitioners have independent relationships with their partner's aunts and cousins. Photographs of the Petitioners with their friends, family and colleagues over the years are annexed herewith and marked as **Annexure P-5(colly)**.

29. Being a couple, Petitioners also wanted to create economic stability for each other, just like married couples do. After 8 years of marriage, any married couple would likely have joint bank accounts, loans, bought a house together, etc. For the Petitioners even getting proof of residence for Petitioner no. 2 has been a struggle.

30. When trying to bring each other on as nominees in insurance and financial plans, just as a married couples does, the lack of a legal structure around their relationship became increasingly stark to the Petitioners. The Petitioners' relationship is not recognized when they need to apply for address verification of their passport, or apply for a joint bank account, or co-own assets.

31. The Petitioners are unable to do simple things that a married couple takes for granted:

- For the longest time, Petitioner No. 2 did not have any proof of residence, even though Petitioner no. 1 owns the flat they live in. This became particularly difficult when the Petitioner No.2 had to apply for a passport to travel abroad. To avail an address proof that was acceptable to passport authorities, the Petitioner No.1's only option was to change the address with a nationalised bank. The Petitioner No.1 first had to change her address at a private bank, which formed the basis of the change of address in the account she had with a nationalised bank. Passports are only completed on police verification of the given address. Even on receiving the passport, both the Petitioners had to visit the local police station to convince

them that the Petitioner No.2 lived in the home owned by the Petitioner No.1 but, was not her tenant. Despite this, the police officer in charge of the Petitioner No.2's address verification put her down as a tenant of Petitioner No.1 which violated the constitutionally-protected dignity of Petitioner no. 2. A true copy of the private bank change of residence along with the consequential change of residence in the public sector bank's records is annexed herewith as **Annexure P-6 (colly)**.

- The Petitioners cannot take medical decisions for each other if the other partner is unable to consent to a medical procedure or take end-of-life decisions.
- The Petitioners have had to write their will and to inform their families that they have done so, to ensure that they inherit each other's assets when they die. Same-sex couples always fear that their wills may be challenged in probate proceedings if their legal heirs do not respect and acknowledge the relationships.
- Even though the life insurance regime permits anyone to be nominees, any other relationship undergoes greater scrutiny and greater documentation even for health insurance or personal accident insurance. The Petitioner No.1 was denied the option to nominate Petitioner No.2 to her private health insurance. Petitioners cannot avail of family medical insurance nor can they buy insurance for each other as they are not 'blood relatives'.

- Petitioner No.1 and 2 could only open a joint bank account when their bank launched a joint saving scheme for women who wanted to save together or had joint expenses together. A true copy of the details of the joint bank account that the Petitioners managed to open under the ICICI Advantage Woman Savings Scheme is annexed herewith as **Annexure P-7**.
- The Petitioners cannot nominate each other for life insurance, mutual funds, PPF, pension schemes, or any other financial instrument. In some instances with some additional insistence and on multiple visits to their banks the Petitioner No.1 has managed to nominate the Petitioner No. 2 in one of her savings plans. A true copy of the recent nomination of the Petitioner No.2 in the saving plans of the Petitioner No.1 is annexed herewith as **Annexure P-8**.
- The Petitioner No.2 has not been able to change the nominee of her life insurance online, during the COVID-19 pandemic, which any other married couple would have been able to do conveniently.
- As with all the other things listed above, while it is not mandatory for mutual fund nominees to be relatives, the procedure, documentation and scrutiny that the Petitioners as a same sex couple would have had to go through to seek this nomination are distinct from the ease with which a married couple can nominate each other.

32. The Petitioners wish to have the protection of the bundle of rights that a marriage provides, so that they are not trying to get authorities to acknowledge their relationship for every entitlement or right that married couples would get automatically. Inasmuch as it is a social institution that brings two families together, marriage is also a bundle of rights that protects a married couple. The Petitioners want to enjoy this protection, and it is their submission that they are constitutionally entitled to do so. Instead, they have to re-assert and explain what they mean to each other every time they meet a new authority, have to access a new service, have to benefit from a legal right or, just have to introduce each other at a social gathering.

33. The COVID 19 pandemic jolted the Petitioners into the realization that life is unpredictable and transient. They want to protect each other's financial and emotional security. Their partner should be able to take medical and end-of-life decisions, should the need arise. Should anything happen to Petitioner no. 1 Dr. Kavita, she wants Petitioner no. 2 to be able to look after her aged father. The need to nominate one's partner in health and life insurance, to protect the right to inheritance and to ensure access to the shared household, financial and other resources has never been more pressing than during the pandemic.

34. The heightened need to be recognized as a part of each others' family during the COVID 19 pandemic pushed the Petitioners to seek solemnization of their marriage under the SMA. Accordingly the Petitioners approached the Respondent No.2, the

Sub-Divisional Magistrate who is the designated marriage officer in the jurisdiction of South East Delhi (Kalkaji section) under the SMA. The Petitioners applied for an appointment to seek solemnization of marriage on 23.09.2020, and after uploading all relevant information sought in the form and the requisite documents to prove that the criteria in Section 4 of the SMA is satisfied, the Petitioners were given an appointment on 30.09.2020 at 10:04 am at the office of the SDM-Kalkaji.

35. That on 30.09.2020 when the Petitioners reached the office of the SDM-Kalkaji at 9:45 am with all the relevant documents in original as well as three witnesses, they were not permitted to enter for their appointment. At 11:45 am only the counsel of the Petitioners was permitted to enter and on realising that the Petitioners were seeking registration of a same sex marriage the Respondent No.2 Marriage Officer stated that he would not register the marriage of the Petitioners. The Respondent No.2 did not pass any formal order of rejection, and verbally indicated that he would not solemnize the marriage of the Petitioners. A true copy of the confirmation of appointment issued by the e-District website of the Delhi Government after uploading of all relevant information and documents is annexed herewith and marked as **Annexure P-9.** A true copy of the email dated 30.09.2020 sent by Petitioners to the Respondent No.2 in relation to the denial of solemnization of their marriage is annexed herewith and marked as **Annexure P-10**.A true copy of all the documents carried by the Petitioners and their three witnesses to the appointment with

Respndent No.2 Marriage Officer on 30.09.2020 are annexed herewith and marked as **Annexure P-11 (colly).**

36. In view of the refusal to solemnize of the marriage of the Petitioners, the Petitioners are constrained to approach this Hon'ble Court.

37. In every aspect of their lives, the Petitioners are just like a married couple. They live together. They have shared finances. They care for each other's families. But the law fails to recognize their relationship.

38. Married couples enjoy a complete framework of legal rights and recognitions. Even an opposite-sex live-in couple who hold themselves out to be like a married couple are assumed to be in a common law marriage and have certain rights, of being in a live-in relationship, even if unmarried. The Protection of Women from Domestic Violence Act protects even unmarried couples who live in a shared household. Despite being a couple for 8 years, despite their love and commitment to each other and their families, the Petitioners remain strangers in law.

Special Marriage Act, 1954

39. The Special Marriage Act was enacted in 1954 to provide a mode of solemnization of marriage outside the fold of personal law. It was introduced with the object of providing a special form of marriage available to any person in India, and Indian nationals living in other countries, irrespective of faith or citizenship.

40. The SMA assumes that the parties to the marriage are an opposite sex couple. For example, the conditions of solemnization of marriage under Section 4 of the SMA includes the condition that "the male has completed the age of twenty-one years and the female the age of eighteen years." Further, Schedule I of the SMA lays out degrees of prohibited relationship which again assume that the spouses are an opposite sex couple. The Act and Schedules refer to 'widow', 'widower', 'bride' and 'bridegroom'.

41. Therefore, while seeking to legislate on solemnization of all marriages outside of personal law, the SMA violates the principles of equality before the law and anti-discrimination in failing to ensure that the option to solemnize same sex marriages is part of the scheme of the Act.

42. The Petitioners are both much above the ages of 21, are not married to any other person, and are not within the degrees of prohibited relationships mentioned in the Schedule I of the SMA. The Petitioners satisfy all requirements of being eligible to marry under the SMA and are only being prevented from getting married to each other because they are not an opposite sex couple.

43. In light of the above facts and circumstances, the Petitioners are challenging the SMA to the extent that it does not provide for solemnization of same sex marriage, on the following amongst other grounds:

GROUNDS

A. For that Section 4 read with Schedules I, II, III, IV of the SMA violate the fundamental rights of the Petitioner under Articles 14, 15, 16, 19 and 21 of the Constitution.

B. For that the right to move this Hon'ble Court for the rights conferred by Part III of the Constitution is guaranteed under Article 226 thereof.

Choice of Marital Partner is guaranteed under the Constitution and denial of the exercise of the right is a violation of inter alia Article 21 and Article 19

C. For that freedom of personal choice in matters of marriage and family life is protected by the liberty guaranteed by the Constitution under Article 21.

D. For that choice of marital partner is integral to personal autonomy guaranteed under Article 21 of the Constitution.

E. For that the expression of choice is a fundamental right under Articles 19 and 21 of the Constitution.

F. For that the Hon'ble Supreme Court has held that an adult citizen has the right to make their own choice as to whom to marry.

G. For that sexual autonomy and freedom to choose one's sexual partner is an intrinsic part of the sense of selfhood of any human being. It is an intimate and fundamental life decision which can determine a person's self-worth and self-respect.

H. For that the decision to marry or not to marry is one of life's momentous acts of self-definition.

I. For that the liberty to choose one's marital partner is intrinsic to the right to a dignified life, liberty and freedoms guaranteed by the Constitution. The dignity of an individual, the equality between human beings, and the quest for liberty are the foundational pillars of the Indian Constitution.

J. For that the Hon'ble Supreme Court in *Justice K.S. Puttaswamy v. Union of India* [2017 (10) SCC 1] recognised that autonomy of the individual is the ability to make decisions on vital matters of concern to life is an inviolable aspect of the human personality. In the ability to make decisions on matters close to one's life, the Hon'ble Supreme Court has held that "family, marriage, procreation and sexual orientation are all integral to the dignity of the individual."

K. For that the Hon'ble Supreme Court has reiterated *in Shafin Jahan Vs. Asokan K.M. & Ors*. [AIR 2018 SC 1933] that right to marry a person of one's choice is integral to Article 21 of the Constitution.

L. For that the right to choose a marital partner as protected under Articles 21 of the Constitution of India extends with equal force to same-sex couples.

M. For that sexual orientation is an essential component of identity and dignity which are embedded in the right to life.

N. For that each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom.

O. For that the Hon'ble Supreme Court in *NALSA v Union of India* [(2013) 5 SCC 438] has recognised that sex and gender are primarily psychological rather than biological phenomena or attributes; sexual orientation is integral to an individual's personality and is the most basic aspect of self-determination, dignity and freedom.

P. For that the Hon'ble Supreme Court has time and again upheld the right to dignity of an individual as a facet of liberty under Article 21 of the Constitution of India. This facet of liberty encompasses the freedom of choice in matters ranging from family, marriage, procreation and sexual orientation. An exercise of this fundamental right of choice of the Petitioners cannot be extinguished by non-inclusion.

Q. For that a statute which inhibits LGBT persons from entering and nurturing enduring relationships with a partner of their choice violates Article 21.

R. For that the Hon'ble Supreme Court in *Lata Singh* v. *State of U.P. & Anr.*, [(2006) 5 SCC 475] has held that India is "a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes."

S. For that the Hon'ble Supreme Court has reiterated *in Shafin Jahan Vs. Asokan K.M. & Ors*. [AIR 2018 SC 1933] that "intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to take decisions on matters central to the pursuit of happiness." In the same decision it has been held that while law may regulate

(subject to constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled, it has no role to play in determining the choice of a partner.

T. For that matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity which are constitutionally protected under Article 21.

U. For that the law protects and recognises companionship through the institution of marriage. Companionship provides the understanding and assurance of care for the other and is one of the cornerstones of life.

V. For that in *Johar's* case, the Hon'ble Supreme Court held that right to union, to choose a partner to love, not only by marriage, but "by companionship in every sense, sexual, mental, and emotional" even between same sex are protected by Article 21.

W. For that in *Johar's* case, the Hon'ble Supreme Court held that "the LGBT community is seeking realisation of its basic right to companionship, so long as such a companionship is consensual, free from the vice of deceit, force, coercion and does not result in violation of the fundamental rights of others."

X. For that dignity is an acknowledgment of value of all human beings as members of society and the recognition of personhood. At the root of dignity is a person's freedom of choice and action.

Y. For that the Hon'ble Supreme Court in *Shakti Vahini* vs. *Union of India and Ors.* [(2018) 7 SCC 192] has held that choice of an individual is an inextricable part of dignity, for dignity cannot be thought of where there is erosion of choice. The Hon'ble Supreme Court further held that:

> "When two adults marry out of their volition, they choose their path; they consummate their relationship; they feel that it is their goal and they have the right to do so. And it can unequivocally be stated that they have the right and any infringement of the said right is a constitutional violation"

Z. For that the Constitution recognizes the liberty and autonomy which inhere in each individual, including the ability to take decisions on aspects which define one's personhood and identity.

AA. For that the choice of a partner lies within the exclusive domain of each individual. The choice of a partner forms the essence of personal liberty and dignity under the Constitution.

BB. For that there is no difference between persons who defy social conventions to enter into inter-religious and inter-caste marriages and those who choose a same-sex partner in the sense that society may disapprove of inter-caste and inter-religious marriages but the Courts have a constitutional mandate for enforcing constitutional rights.

Exclusion of same sex marriage from the SMA violates Article 14 and 15 of the Constitution.

CC. For that the exclusion of same-sex couples from the ambit of the Special Marriage Act, 1954 violates Articles 14 and 15 of the Constitution of India.

DD. For that Article 14 of the Constitution enjoins the State not only to protect against inequality but also entails a positive obligation to create a just, fair and equal society that ensures equality of status and opportunity to all citizens who can all enjoy fundamental rights guaranteed under Part III of the Constitution.

EE. For that SMA discriminates between persons solely on the basis of sexual orientation and is a prohibited ground of discrimination under Article 15 of the Constitution.

FF. For that the Hon'ble Supreme Court has recognised that sexual orientation and gender identity are protected under Article 15 because they are immutable aspects of personhood. Much like religion, sex, caste and place of birth, discrimination on the basis of aspects intrinsic to a person's identity and existence is constitutionally prohibited.

GG. For that excluding same sex couples from the SMA gives legal sanction to historical and social stigma faced by LGBT and same sex couples.

HH. For that right to family, love, companionship and commitment is available to all persons and excluding same

sex couples from this bundle of rights discriminates against them.

II. For that the exclusion of LGBT couples from being able to marry renders them strangers in law, even when they have been in a committed long term relationships for years that is identical to the long term relationships of opposite sex married couples that the SMA recognizes.

JJ. For that social norms on the choice of conjugal partner have evolved over time and the law is not only expected to follow such societal changes but also ought to be an agent for social change

KK. For that the impermissibility of same sex marriage is as unconstitutional as a law that made inter-caste or inter-faith marriages illegal would be.

LL. For that the Hon'ble Supreme Court in its Constitution Bench decision of *Navtej Singh Johar* held that: "…decriminalisation [of Section 377] is of course necessary to bury the ghosts of morality which flourished in a radically different age and time. But decriminalisation is a first step. The constitutional principles on which it is based have application to a broader range of entitlements."

MM. For that the SMA discriminates against LGBT couples by only permitting opposite sex couples to marry. In *Navtej Singh Johar v. Union of India* [(2018) 10 SCC], the Hon'ble Supreme Court held that:

"428.When the constitutionality of a law is challenged on the ground that it violates the guarantees in Part III of the Constitution, what is determinative is its effect on the infringement of fundamental rights…This affords the guaranteed freedoms their true potential against a claim by the State that the infringement of the right was not the object of the provision. **It is not the object of the law which impairs the rights of the citizens. Nor is the form of the action taken determinative of the protection that can be claimed. It is the effect of the law upon the fundamental right which calls the courts to step in and remedy the violation. The individual is aggrieved because the law hurts. The hurt to the individual is measured by the violation of a protected right. Hence, while assessing whether a law infringes a fundamental right, it is not the intention of the lawmaker that is determinative, but whether the effect or operation of the law infringes fundamental rights**. [Emphasis supplied]

NN. For that the SMA discriminates against same sex couples on the ground of their choice of marital partner, which is discrimination on the basis of sexual orientation which is impermissible under Article 15.

OO. For that the SMA limits the choice of partner by prohibiting otherwise eligible persons from marrying a person

of the same sex, which amounts to discrimination on grounds of sex and sexual orientation.

PP. For that sexual orientation is an essential component of identity. Equal protection demands protection of the identity of every individual without discrimination.

QQ. For that the Supreme Court in *Navtej Johar* has held that sexual orientation places a positive and negative obligation on the State. The negative obligation includes non-discrimination under Article 15 of the Constitution while positive obligations calls for the State to "recognise rights which bring true fulfilment to same sex relationships." The right to choose a marital partner or, simply put the right to recognition of marriage for a same sex relationship is evidently a positive obligation of the State to be fulfilled through its existing marriage laws.

RR. For that same sex couples are subject to disparate treatment under the SMA without any rational basis for the discrimination. The object of the legislation is to provide an avenue for marriage to anyone desiring a civil form of marriage to exercise the choice to enter into a matrimonial alliance with a legalized process of solemnization and recognition. Excluding same sex couples has no rational nexus with the object of the legislation.

SS. For that excluding same-sex couples while including opposite sex couples violates Article 14 as it discriminates on

the basis of sexual orientation without any rational basis to the object of the legislation.

TT. For that a classification that violates Article 14 ipso facto violates Article 15 in as much as Article 14,15 and 16 form the equality Code, wherein Article 14 is the genus and Article 15 the species.

UU. For that the object sought to be achieved by the Act, i.e. to provide a law of marriage to persons who cannot marry under their personal law, fails to have any rational or reasonable nexus with the differentia adopted on the basis of which only opposite-sex couples can marry as they are "bride" and "groom."

VV. For that there is no reasonable, much less an intelligible differentia in the classification of same-sex and opposite-sex marriages in the context of a secular legislation governing solemnization of marriage.

WW. For that LGBT persons are entitled to equal opportunity to advance and develop their human potential and social, economic and legal interests.

XX. For that the exclusion of LGBT persons from the SMA treats them as an unequal class for the purposes of Article 14 of the Constitution of India. The classification of marriages on the sexual orientation and gender identity of the parties amounts to treating equals as unequals and violates Article 14 of the Constitution of India.

YY. For that in *Johar* the Hon'ble Supreme Court has held that "the constitutional principles which have led to decriminalisation must continuously engage in a rights discourse to ensure that same sex relationships find true fulfilment in every facet of life. The law cannot discriminate against same sex relationships. It must also take positive steps to achieve equal protection."

Purpose of marriage in society

ZZ. For that both opposite sex couples and same sex couples enter marry for the same reasons that are not found in any other relationship - love, companionship, belongingness, emotional support, financial security and a common set of values.

AAA. For that the Supreme Court in *Johar* has recognized that with the passage of time and evolution of the society, procreation is not the only reason for which people choose to come together for marriage. Rather, a marriage furnishes emotional satisfaction that may not be found in any other relationships.

BBB. For that other couples who are unable to bear children, such as older couples or infertile couples, are not excluded from the institution of marriage.

CCC. For that the Constitution is a living document and its ongoing interpretation accounts for the social changes in the national polity, and should not be restricted to the state of law

at the time of commencement of the Constitution or a particular statute.

DDD. For that constitutional courts must keep in mind their own experience, international treaties and covenants, and the doctrine of flexibility

EEE. For that the institution of marriage has changed with time and been reformed by law and through constitutional courts' intervention, and equally may be opened to include sexual minorities.

FFF. For that the institution of marriage has been strengthened by legal, social and cultural evolution over time.

GGG. For that the Constitution is not an ephemeral legal document embodying a set of legal rules for the passing hour. It sets out principles for an expanding future and is intended to endure for ages to come and therefore a purposive approach should be adopted in its interpretation.

HHH. For that a constitutional provision must be construed in a wide and liberal manner so as to take account of changing conditions and purposes so that it does not get fossilized but rather endures.

III. For that over time the judicial branch has struck down aspects of family law that violated the Constitution. Reliance is placed on the decisions of the Hon'ble Supreme Court in *Mary Roy* v. *State of Kerala* [(1986) 2 SCC 209], *Githa Hariharan* v. *RBI* [(1999) 2 SCC 228], and more recently, *Shayara Bano* v. *Union of India*, [(2017) 9 SCC 1] (abolishing triple talaq).

Thus, in the progressive march towards securing equality, equal protection of the law, and dignity of women, the Courts have not shied away from even reforming personal and criminal law governing marriage and succession.

JJJ. For that the Hon'ble Supreme Court held in Joseph Shine v. Union of India [(2019) 3 SCC 3] that the constitutional values of liberty, dignity, equality, and non-discrimination extend to the institution of marriage. The Supreme Court held that when a law falls foul of constitutional guarantees, it is Supreme Court's solemn duty not to wait for legislation even when laws governing marriage are unconstitutional.

KKK. For that High Courts have recognised that a transwoman is a woman and has the right to marry even under personal laws such as the Hindu Marriage Act and have read down the Hindu Marriage Act to save it from the unconstitutionality of not permitting an LGBT Couple to marry [*Arunkumar v. Inspector General of Registration* in W.P. No. 4125 of 2019 by an order dated 22.04.2019 of the High Court of Kerala].

LLL. For that the SMA ought to be interpreted through the constitutional lens of non-discrimination, dignity, autonomy, freedom of choice of partner and the choice of union to recognize same-sex marriages within India's only legislation governing solemnization of civil marriages of choice.

<u>There is no rational basis for discriminating against same sex couples and the SMA therefore violates Article 14 leading to a consequent denial of other legal rights available to identically placed opposite sex couples</u>

MMM. For that marriage is a profound relationship that is adorned with legal and social recognition, rewarded with privileges and secured by obligations. The institution of marriage is a bundle of rights that married couples enjoy. These rights include rights around succession, maintenance, joint ownership of assets and those around health decisions.

NNN. For that the institution of marriage protects family life and consequently protects the right to reside in a shared household irrespective of ownership, the right to maintenance and alimony, amongst other things.

OOO. For that consortium, defined as "the right to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate" is a recognized monetary compensation that is to be given due weightage in claims including claims for injury and death in Motor Vehicle Act cases. The consortium is recognised as 'spousal consortium' available only to married couples and hence denied to the Petitioners. Reliance may be placed on the following Supreme Court decision of *Rajesh and Ors. vs. Rajbir Singh and Ors.* reported at (2013) 9 SCC 54

> "**In legal parlance, 'consortium' is the right of the spouse to the company, care, help, comfort,**

> **guidance, society, solace, affection and sexual relations with his or her mate**. That non-pecuniary head of damages has not been properly understood by our Courts. **The loss of companionship, love, care and protection, etc., the spouse is entitled to get, has to be compensated appropriately**. The concept of non-pecuniary damage for loss of consortium is one of the major heads of award of compensation in other parts of the world more particularly in the United States of America, Australia, etc. English Courts have also recognized the right of a spouse to get compensation even during the period of temporary disablement. By loss of consortium, the courts have made an attempt to compensate the loss of spouse's affection, comfort, solace, companionship, society, assistance, protection, care and sexual relations during the future years. Unlike the compensation awarded in other countries and other jurisdictions, since the legal heirs are otherwise adequately compensated for the pecuniary loss, it would not be proper to award a major amount under this head. Hence, we are of the view that it would only be just and reasonable that the courts award at least rupees one lakh for loss of consortium."[Emphasis Supplied]

PPP. For that the Transplantation of Human Organs Act, 1994 ["**TOHA**"] only permits "near relatives", defined as spouse,

son, daughter, father, mother, brother or sister, to object to the use of a deceased person's body for therapeutic purposes. Similarly the declaration to donate organs ought to be made in presence of at least one near relative. Therefore same sex couples are excluded by law from making these vital decisions about their partners.

QQQ. For that even to donate organs to each other, same sex couples need prior approval of the Authorisation Committee under the TOHA where their proof of "affection" or "attachment" to the proposed recipient of the organ is evaluated before permitting organ donation. Married couples do not need prior approval because they are "near relatives" as per TOHA.

RRR. For that married couples enjoy a host of legal benefits and the exclusion of LGBT persons from the legal regime of marriage, and therefore the legal regime protecting families, amounts to discrimination against them only on the grounds of sexual orientation. These include:

- Section 80C of the Income Tax Act, 1961 provides for deductions of certain sums for computing the total income of the assessee when such sums are paid on behalf of a spouse, specifically:
    - Payments or deposits made towards life insurance for a wife or a husband [Section 80C(2)(i)]

- Payments or deposits made to effect or keep in force a contract for a deferred annuity on the life of a wife or a husband [Section 80C(2)(ii)]
- A contribution to any provident fund set up by the Central Government, where such contribution is to an account standing in the name of a wife or a husband [Section 80C(2)(v)].
- A contribution in the name of a wife or a husband for participation in the Unit-Linked Insurance Plan [Section 80C(2)(x)].

- Section 6 of the Payment of Gratuity Act, 1972 requires that as long as a family member is alive, they have to be nominated by every employee who has completed one year of service. Thus, a person cannot extend the statutory benefits of gratuity to their same sex partner, as long as their family members, including their parents, are living.
- Rule 3(2) of the Payment of Wages (Nomination) Rules, 2009 under the Payment of Wages Act, 1936 also provides that if that as long as a family member is alive, they have to be nominated by every employee.
- Clause 61 of the Employee's Provident Fund Scheme, 1952 framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952] requires the employee to make a nomination only in favour of a family member conferring the right to receive the amount that may stand to his credit in the fund in the event of his death.

- Under Section 10A(4) of the Employees' Compensation Act, 1923, provides compensation to "dependants" which are only defined as spouses, children or parents. A same-sex partner is not entitled to the benefit of the said provision.
- Under the Pradhan Mantri Shram Yogi Maan-dhan Yojana, passed under the Unorganized Workers' Social Security Act, 2008, a subscriber will receive a minimum assured pension after attaining the age of 60 years and in the event of the death of the subscriber, the spouse shall be entitled to receive half of the pension as family pension; which benefit is also not available to same-sex partners.
- Section 122 of the Indian Evidence Act, 1872 provides for spousal privilege, i.e., immunity from being compelled to disclose any communication made to them during marriage by their partner. They shall also not be permitted to disclose any such communication, unless their partner, or their representative in interest consents. Same-sex couples do not enjoy this crucial protection privilege under Indian evidentiary law.

SSS. For that same sex couples are excluded from private entitlements, such as club memberships, health benefits in private employment, opening of joint accounts, spousal benefits extended under certain work permits Same sex couples face more barriers to entry and higher scrutiny in aspects of private life and health insurance nominations,

mutual fund/savings plan nominations even though the law permits non-relatives to be nominated.

TTT. For that as a same sex couple the Petitioners have been denied the automatic rights that come from being a married couple, for example to prove residence, a spouse's rented or owned home is sufficient for opposite sex married couple.

UUU. For that a government servant in a same sex relationship cannot extend employment benefits available to spouse, to their same sex partner. These include coverage under the Central Government Health Scheme, compassionate appointments, family pension on the death of a government servant, requests for family postings and requests for same-city postings when both partners are in government service.

VVV. Despite having the same emotional, financial, and romantic commitment to each other, same sex couples are rendered strangers in law, and are excluded from the rights and privileges available through the institution of marriage. Exclusion from this legal regime violates Article 14, 15, 16, 19 and 21 of the Constitution.

Exclusion of same sex couples under the SMA is arbitrary and unreasonable

WWW. For that SMA violates article 14 insofar as the classification is arbitrary and unreasonable inasmuch as it excludes same sex couples from the right to a valid and legal marriage.

XXX. For that the provisions of SMA fall foul of Article 14 as they fail the test of reasonable classification.

YYY. For that there is no constitutionally valid intelligible differentia between LGBT and non- LGBT persons.

ZZZ. For that equality before law is designated to protect all persons against legislative discrimination and to prevent any class of persons to be singled out as a special subject not to be covered under a legislation.

AAAA. For that inability to procreate is not a reasonable distinction for discrimination against same sex couples with respect to the right to marry. The law does not prohibit other couples who cannot have children from marrying, and many couples have children through adoption or rely on artificial insemination and other assisted reproductive technology.

BBBB. For that there is no intelligible differentia between same sex couples and opposite sex couples.

CCCC. For that this Hon'ble Court has held that there can be no mathematical precision or formula to classification but if there is no difference between the classified group and non-classified one, then classification cannot be regarded as reasonable differentia as there has to be an acceptable and persuasive reason in favour of the classification.

DDDD. For that to withstand the test of Article 14 the objective of a statute must be in tune with constitutional morality and not an assumed public or majoritarian morality.

EEEE. For that it is the responsibility of Constitutional Courts to protect minorities from arbitrary and unreasonable discrimination predicated on popular ideas of the notion of marriage. It is therefore the responsibility of this Hon'ble Court to uphold constitutional morality to read down the unreasonable discrimination of the SMA.

FFFF. For that when the grounds of classification are impermissible even if the objective of the Act are permissible or appear to embody legitimate state interest, the legislation , to the extent of its discrimination, cannot be constitutionally valid..

GGGG. For that the exclusion of same-sex couples from the Special Marriage Act is manifestly arbitrary inasmuch as there is no fair or reasonable justification for the exclusion of couples merely because they are of the same sex.

HHHH. For that a law may become arbitrary with the passage of time and hence, as society has changed and accepted same-sex couples, the SMA ought also to be interpreted to extend the regime of marriage to the Petitioners

Positive obligation of Courts to protect LGBT couples in the same ways as inter-caste and inter-religious couples

IIII. For that marriage is the forging of an enduring relationship. It is intimate to a degree of being sacred. It is an association that promotes bilateral loyalty and everyone should have equal access to this association.

JJJJ. For that Courts have protected couples in their union, and their right to choice of partner when they have fallen in love outside accepted social mores, legally embracing all adult couples into the social institution of marriage. Legal embracing the choice of couples can often lead to social embracing of love that may fall outside traditional constructs of acceptable norms.

KKKK. For that increased protection of inter-caste or inter-religious marriages by the Supreme Court has had a cascading effect on High Courts providing (i) police protection to same sex couples who may fear violent familial backlash, and (ii) directing release from illegal confinement of a LGBT person, in the same manner as protection has been given to other couples who face threats and violence from their families and communities for their choice to marry outside their caste, religion, or social diktat.

LLLL. For that the legislative recognition of live-in relationships as being in the nature of marriage is also an indication of the continuous evolution of the ideas around marriage, either consistent with or contrary to the societal beliefs.

MMMM. For that this Hon'ble Court has intervened multiple times to protect eloping couples who seek to marry outside caste and religious norms holding that the right to marry a person of choice inheres in all persons [For instance in *Vivek Kumar @ Sanju and Another* Crl MC No. 3073-74 of 2006

decided on 23.02.2007]. Similarly, apart from intervening in inter-caste and inter-religious marriages, other High Courts have also protected same-sex couples. The following examples may be useful:

(a) Order dated 06.12.2019 passed by this Hon'ble Court in W.P. Crl. No. 3407 of 2019 entitled "Monu Rajput & Anr. v. State of Ors." directing police protection to be granted to a same-sex couple in view of threats faced from family members.

(b) While discussing the right of a same sex couple to live together the Hon'ble Uttarakhand High Court in *Madhu Bala v State of Uttarkhand and Others* [Habeas Corpus Petition No.8 of 2020 dated 12.06.2020] has held that "the exclusive choice of an individual is appropriately respected and conferred its esteemed status as the constitution guarantees, it was found that the social values and morals they do have their space, but they are not above the constitutional guarantee of freedom assigned to a citizen of a country. This freedom is both a constitutional as well as a human right." The Uttarakhand High Court reiterated that "Intimacy of marriage, including the choice of partner, which individual make, on whether or not to marry and whom to marry are the aspects which exclusively lies outside the control of the State or the Society. The court as an upholder of the constitutional freedom has to safeguard that such a relationship where

there is a choice exclusively vested with a major person has to be honoured by the courts"

(c) Order dated 22.07.2020 passed by the Hon'ble High Court of Punjab and Haryana in C.R.W.P. No. 5024 of 2020 entitled "*Paramjit Kaur & Anr. V. State of Punjab*" whereby police protection was granted to a same-sex couple

(d) This Hon'ble Court in *Sadhana Sinsinwar and Anr. V State* [W.P (Crl.) 3005/2018 dated 01.10.2018] relied on *Johar* to provide police protection to a same-sex couple who were being threatened by their natal families who did not approve of their relationship.

(e) Similarly this Hon'ble Court in *Bhawna & Ors v State* [W.P.(CRL) 1075/2019 vide Order 12.04.2019] has provided police protection to a same sex couple who feared threats of their family.

(f) This Hon'ble Court in Parveen Dayal versus State and Others [W.P(Crl) 2384 of 2019 dated 06.09.2019] has given primacy of choice of a lady in an abusive heterosexual marriage to choose to live with her female friend instead of her matrimonial home where she was forcefully confined.

(g) The Hon'ble Gujarat High Court in *Vanitaben Damjibhai Solanki v State of Gujarat* [Special Criminal Application No. 3011 of 2020] has provided police protection to two

women police constables who were facing threats from their family members because of their relationship.

(h) The Hon'ble Orissa High Court in *Chinmayee Jena @ Sonu Krishna Jena v State of Odisha & others* has recognized that a trans person's partner who was illegally confined for being in a relationship with a LGBT person had the choice of her life partner. The Hon'ble Court further directed that the State ought to provide protection to facilitate the release from illegal confinement and facilitate their joining their partner's life.

NNNN. For that the Hon'ble Supreme Court has the responsibility to play the role of a counter majoritarian institution, protecting constitutional morality over social morality. Public opinion may run counter to the rule of law and constitutionalism.

The right to privacy predicated on dignity, autonomy, liberty is violated if same sex marriages are not legally recognised

OOOO. For that sexual orientation is an essential attribute of privacy. Discrimination against an individual on the basis of sexual orientation is deeply offensive to the dignity and self-worth of the individual.

PPPP. For that privacy of the individual is an essential aspect of dignity as well. As an intrinsic value, human dignity is an entitlement or a constitutionally protected interest in itself.

QQQQ. For that privacy safeguards individual autonomy and recognises the ability of the individual to control vital

aspects of his or her life. Personal choices governing a way of life are intrinsic to privacy.

RRRR. For that every individual in society irrespective of gender identity or sexual orientation, is entitled to the intimacy and autonomy which privacy protects. The pursuit of happiness is founded upon autonomy and dignity. Both are essential attributes of privacy.

SSSS. For that right to privacy must encompass and protect personal intimacies of the home, the family, marriage, motherhood, procreation and child-bearing and the Hon'ble Supreme Court in *Gobind v. State of M.P.,* (1975) 2 SCC 148 (J Mathew's opinion) reiterated in *Puttaswamy* has held this right to be implicit in the concept of ordered liberty.

TTTT. For that right to privacy is not merely the right to be left alone. The right to privacy been extended to protecting an individual's interests in making vital personal choices such as the right to abort a foetus; rights of same sex couples—including the right to marry; rights as to procreation, contraception, general family relationships, child-bearing, education, data protection, etc.

UUUU. For that a right to privacy with respect to other matters of family life extends to the decision to enter the relationship that is the foundation of the family in our society, i.e., the decision to marry.

VVVV. For that the right to privacy being an intrinsic part of the right to life and personal liberty under Article 21, the

State cannot interfere in someone's desire to go through a ceremony which gives them the same rights and benefits under law that accrue to married opposite-sex couples.

Denying same sex couples the right to marry violates Article 19 of the Constitution

WWWW. For that Article 19(1)(a) guarantees freedom of speech and expression of all citizens including expression of choice of partner.

XXXX. For that as mental health professionals the Petitioners are certain that not having the legal regime and space to be assured recognition in the choices around love, can lead to a deterioration of mental health. This can lead to a connected despair about the future leading to restrictions in free speech and expression.

YYYY. For that a meaningful expression of a choice of partner in a society like India that socially places the institution of marriage on a pedestal cannot be attained if same sex couples do not have the option to legally solemnize their union.

ZZZZ. For that in a society that primarily recognizes partners within the institution of marriage, not being able to express the choice of a romantic partner within that institution, inhibits the Petitioners ability to find their place within the social fabric of their community.

AAAAA. For that as highlighted earlier the agony of this inhibition of expression has been seen by the Petitioners

through their work as mental health professionals, in persons across gender identity and sexual orientation.

BBBBB. For that forcing LGBT persons into heterosexual marriages deeply impacts their mental health and well-being which affects their ability to exercise the freedoms guaranteed under Article 19.

CCCCC. For freedom of association and union guaranteed under Article 19(1)(c) includes the right to choice of marital partner.

DDDDD. For that the institution of marriage is ultimately a union of two persons and their families coming together to forge a new unit of a family.

EEEEE. For that a union of persons who want to enter into committed relationships outside the realm of personal law is supposed to be given the legal recognition of marriage under the SMA.

FFFFF. For that the exclusion of same sex couples from the ability to form a union recognized in a legal regime is a violation of the right to freedom to form a civil union.

GGGGG. For that the Hon'ble Supreme Court has held in *K.S. Puttaswamy* held that the right to privacy includes the right to form intimate associations with persons of one's choice.

Freedom of Conscience

HHHHH. For that the freedom to decide who will enter a union of companionship based on a shared sense of values is an integral component of freedom of conscience

IIIII. For that the choice of a marital partner is also a facet of freedom of conscience under Article 25 of the Constitution. A partner is one's companion on life's ethical and moral journey.

JJJJJ. For that compatibility between partners is also a matter of conscience, as partners support each other socially, financially, spiritually and intellectually and guide one another should they falter.

Judicial Review

KKKKK. For that Judicial Review is part of the basic structure of the Constitution and a violation of equality before law in the exclusion of same sex marriage from India's civil marriage law, cannot be left to the parliament to decide.

LLLLL. For that limited conditions laid on the solemnization and recognition of marriage is to secure the basic requirement that the union be between consenting adults. As such, the non-inclusion from the right to marry of the Petitioners' who are consenting adults, and who fall outside any degree of prohibited relationships merely on the basis of their sexual orientation has no rational nexus to the object sought to be achieved by the Act.

MMMMM. For that this Hon'ble Court in *Pranav Kumar Mishra & Anr. v. Government of NCT of Delhi & Anr*.,[WP (C) 748 of 2009 decided on 18.04.2009] held that the SMA was enacted to cover cases of persons desiring a civil form or marriage as per choice of parties that were not covered by any

other legislations. The legislative intent of the SMA has been held to provide for choice and agency of a person to enter into a marriage of their will, irrespective of social or religious acceptance of the marriage.

NNNNN. For that Courts have read in conditions into statutes to achieve the basic purpose of the statute which may be lost because the statute lacked necessary specifications to match the object of the statute. [*Martin F Dsouza v Mohammed Ishfaq* (2009) 3 SCC 1]

OOOOO. For that while interpreting a statute that has a legitimate object but needs to be saved from the vice of unconstitutionality due to an unintelligible differentia, the purpose of the legislation as well as realities of social change are relevant. The Hon'ble Supreme Court in *Badshah v. Urmila Badshah Godse*, [(2014) 1 SCC 188] in the context of S. 125 of the Cr.P.C has held in this regard that:

> "16. The law regulates relationships between people. It prescribes patterns of behaviour. It reflects the values of society. The role of the court is to understand the purpose of law in society and to help the law achieve its purpose. **But the law of a society is a living organism. It is based on a given factual and social reality that is constantly changing.** Sometimes change in law precedes societal change and is even intended to stimulate it. In most cases, however, a change in law is the result of a change in social reality. Indeed, when

social reality changes, the law must change too. **Just as change in social reality is the law of life, responsiveness to change in social reality is the life of the law**. **It can be said that the history of law is the history of adapting the law to society's changing needs. In both constitutional and statutory interpretation, the court is supposed to exercise discretion in determining the proper relationship between the subjective and objective purposes of the law**." (emphasis supplied)

PPPPP. For that in adjudicating the constitutional validity of statutes, this Hon'ble Court determines whether the laws made by the Legislature are in conformity with the provisions of the Constitution.

QQQQQ. For that the role of the judiciary is the protection of fundamental rights which is essential to promote a just and tolerant society.

RRRRR. For that the purpose of elevating certain rights to the stature of guaranteed fundamental rights is to insulate their exercise from the disdain of majorities, whether legislative or popular.

SSSSS. For that the Constitution ought to be interpreted in a way that would enable citizens to enjoy rights guaranteed by it in the fullest manner and ought not to interpreted in a way that whittles rights down.

TTTTT. For that LGBT persons have the right to not be relegated to second-class citizenship while allowing other persons free entry into the regime of legal protections of the institution of marriage.

UUUUU. For that the right to marry is embodied in India's international obligations of the Universal Declaration of Human Rights and the International Convention of Civil and Political Rights which are enforceable in India under the Protection of Human Rights Act, 1993.

VVVVV. For that the Hon'ble Supreme Court has already recognized Yogyakarta Principles and held that they must be recognized and followed to the extent that they are not inconsistent with Part Ill of the Constitution. (*NALSA*) The Yogyakarta Principles on the Application of. Human Rights Law in Relation to Sexual Orientation and Gender Identity (Yogyakarta Principles) were adopted in 2007 as a coherent and comprehensive identification of the obligation of States to respect, protect and fulfil the human rights of all persons regardless of their sexual orientation or gender identity.

WWWWW. For that the Yogyakarta Principles specifically iterate an obligation to ensure that irrespective of gender identity, sexual orientation, gender expression or sex characteristics, all persons have the right to universal enjoyment of human rights, right against non-discrimination, right to recognition before the Law, right to found a family and participate in cultural life of a community, right to

economic, social and cultural rights, right to expression, opinion and forming association etc.

Article 226

XXXXX. For that the right to approach this Hon'ble Court seeking redress for violation of fundamental rights is in itself a fundamental right protected by the Constitution of India.

YYYYY. For that the Petitioners submit that the non-recognition of same-sex marriages under the Special Marriage Act, 1954 presents an exemplar case where this Hon'ble Court as a constitutional court must intervene under its extraordinary writ jurisdiction to uphold constitutional morality. The transgression of the fundamental rights of same-sex couples in this case is singularly due to the dereliction on the part of the Respondents to recognize fully the rights of LGBT persons, and in this case, their right to marry a person of their choice.

Interpretation to save the SMA from the vice of unconstitutionality

ZZZZZ. For that the SMA must be interpreted in such a manner as to save it from the vice of unconstitutionality.

AAAAAA. For that the right of same sex couples to marry should be read into the provisions of SMA.

44. That no such similar Petition has been filed earlier before this Hon'ble Court or before any other Court, including the Supreme Court of India.

45. That this Hon'ble Court has the jurisdiction to entertain and try this petition. The cause of action has arisen in the jurisdiction of this Hon'ble Court.
46. That the Petitioner craves leave to alter, amend or add to this petition.
47. That this Petition is made bona fide and in the interest of justice.

PRAYER

Under the circumstances mentioned hereinabove, it is most humbly prayed that this Hon'ble Court may be pleased to:

a. Issue a writ of mandamus declaring that the Special Marriage Act, 1954 is unconstitutional insofar as it does not provide for solemnization of marriage between a same sex couple; and

b. Issue a writ of mandamus declaring that the Special Marriage Act, 1954 ought to apply to all couples regardless of their gender identity and sexual orientation, and reading the SMA so as to apply to all couples irrespective of their gender identity and sexual orientation;

c. Issue a writ of mandamus directing the Sub-Divional Magistrate Kalkaji as Marriage Officer, South East District, Delhi to register the marriage of Petitioner no. 1 and 2 under the Special Marriage Act, 1954; and

d. Any other Order this Hon'ble Court may deem fit and necessary in the interests of justice

AND FOR THIS KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

FILED THROUGH

ARUNDHATI KATJU / SURABHI DHAR
ADVOCATES

NEW DELHI
05.10.2020

OUR TEAM
(https://childrenfirstindia.com/about-us/team/)

OUR STORY
(https://childrenfirstindia.com/about-us/our-story/)

OUR PARTNERS
(https://childrenfirstindia.com/about-us/our-partners/)

Building a community of concern for our children...

Children First was set up by Dr Amit Sen, Dr Shelja Sen and Dr Kavita Arora. Over the years they were joined by some of the most committed, empathetic and skilled professionals to build a multidisciplinary team, which continues to grow.

The main objective initially was to move away from a hospital setting and establish a children's centre in the community, which provided effective, ethical and culturally grown services. However, as the journey has progressed, we have learnt that our vision and intent is so much more than creating "a" centre.

Once upon a time, there was a wise, old man who lived near the sea. One day he was walking along the shore after a big storm had passed ,and found the beach littered with starfish as far as the eye could see.

Off in the distance, he saw a small girl approaching. He noticed that she paused every so often and as he grew closer, the man could see that she was occasionally bending down to pick up something and throw it into the sea.

“Good morning! May I ask what it is that you are doing?” The young girl paused, looked up, and replied “Throwing starfish into the ocean. The tide has washed them up onto the beach and they can’t return to the sea by themselves.

When the sun gets high, they will die, unless I throw them back into the water.”

The old man replied, “But there must be thousands of starfish on this beach. I’m afraid you won’t really be able to make much of a difference.”

The girl bent down, picked up yet another starfish and threw it as far as she could into the ocean. Then she turned, smiled and said, “It made a difference to that one!”

CO-FOUNDERS

Amit Sen

Director, Senior Child & Adolescent Psychiatrist

Children First was waiting to happen. The gaping needs of children in today's times was demanding it. We were catalysts in starting a movement which has, since then, been nurtured and sculpted by our ever growing team of the most talented, dedicated and sensitive people. They make Children First dynamic, creative and responsive to the complex and changing needs of young people and their families.

Shelja Sen

Child & Adolescent Psychologist & Family Therapist and Author.

At the heart of CF's philosophy is a core belief that we need to build emotionally safe spaces as a prerequisite for a child to grow, thrive and flourish. Therefore, Children First is not just an organization, a center or a service, it is a catalyst for change in bringing together a tribe of people from mental health, disability, community, education, advocacy to start a movement for our children and youth.

Kavita Arora

Child & Adolescent Psychiatrist

Nature and Life work in cycles of need and then creation, and creation leading to awareness of possibility.In my mind, Children First is a vehicle for just such a cycle .It has arisen from a felt need within a few of us, and drew us to each other. It aligned us despite all odds, to the shared conviction of building an ecosystem that sees the hidden foundations of our very being- The mental health and wellbeing of our children.

It has taken the shape and form of a force, which now draws others who have felt deeply this need too. It nourishes and enriches each one of us that becomes a part of this force”

OUR VISION

Our vision is to create communities of concern for our children. We have strived to do this now for over a decade through attempting to provide clinical services, school programmes, trainings, developmental interventions, working with parents, within the community and with other organisations, as well as increasing awareness.

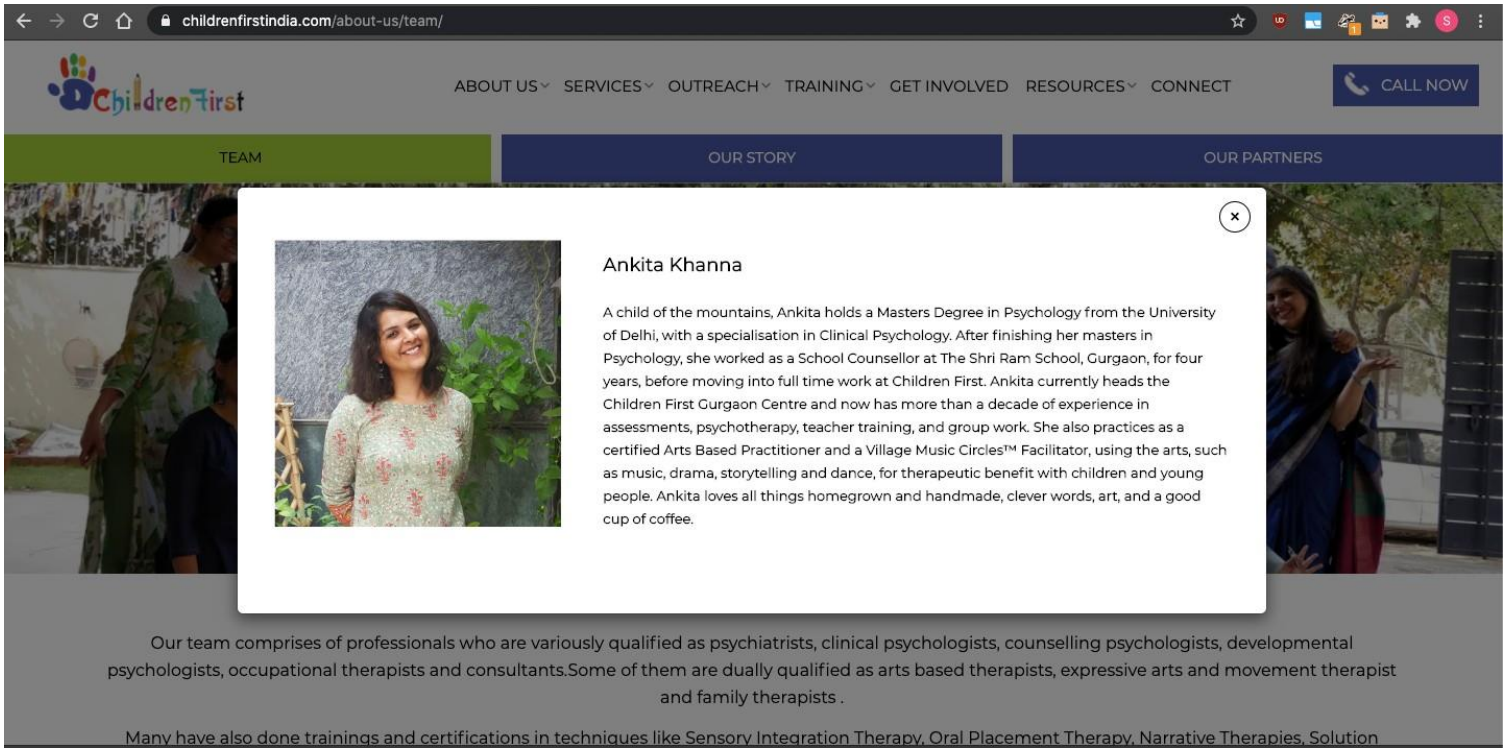
OUR BELIEF

Children First firmly embodies the belief that a small group of passionately connected and determined individuals can create a movement for the voice of our children to be heard.We continue to innovate, grow and find ways to increase the reach of this voice. Come join us in this exciting and wondrous journey to 'somewhere "!

MAKE AN APPOINTMENT

Connect
(https://childrenfirstindia.com/contact-us/)

(https://www.facebook.com/childrenfirstindia/)
(https://twitter.com/childrenfirst_i)
(https://www.instagram.com/childrenfirstindia/)
(http://www.youtube.com/childrenfirstindia)


childrenfirstindia.com/about-us/team/
ChildrenFirst
ABOUT US
SERVICES
OUTREACH
TRAINING
GET INVOLVED
RESOURCES
CONNECT
CALL NOW
TEAM
OUR STORY
OUR PARTNERS
Ankita Khanna
A child of the mountains, Ankita holds a Masters Degree in Psychology from the University of Delhi, with a specialisation in Clinical Psychology. After finishing her masters in Psychology, she worked as a School Counsellor at The Shri Ram School, Gurgaon, for four years, before moving into full time work at Children First. Ankita currently heads the Children First Gurgaon Centre and now has more than a decade of experience in assessments, psychotherapy, teacher training, and group work. She also practices as a certified Arts Based Practitioner and a Village Music Circles™ Facilitator, using the arts, such as music, drama, storytelling and dance, for therapeutic benefit with children and young people. Ankita loves all things homegrown and handmade, clever words, art, and a good cup of coffee.
Our team comprises of professionals who are variously qualified as psychiatrists, clinical psychologists, counselling psychologists, developmental psychologists, occupational therapists and consultants.Some of them are dually qualified as arts based therapists, expressive arts and movement therapist and family therapists .
Many have also done trainings and certifications in techniques like Sensory Integration Therapy, Oral Placement Therapy, Narrative Therapies, Solution

ANNEXURE P-4

On vacation with Petitioner No.1's father Dr. Devinder Singh Arora and the Petitioner No.2's parents in Landour, Mussoorrie around 2017. Petitioner No.1's father and Petitioner No.2's mother are in this photograph.

ANNEXURE P-5 (colly)

Petitioner No.1 and 2 with Petitioner No.1's father, Dr. Devinder Singh Arora and their family friends celebrating the 87th birthday of Petitioner No.1's father, Dr. Devinder Singh Arora at a brunch in 2019.

Petitioners with the Petitioner No.2's mother,Ms Sunita Khanna on their way to Petitioner No.2's cousin's wedding in 2018.

Petitioner No.1 and 2 with Petitioner No.1's father, Dr. Devinder Singh Arora and their family friends celebrating the 86th birthday of Petitioner No.1's father, Dr. Devinder Singh Arora at a brunch in 2018.

Petitioners with the father of Petitioner No.1, Dr. Devinder Singh Arora, and Petitioner No.1's sister in law, Dr. Richa Arora during a family lunch at the time of Petitioner No.1's brother's family's most recent visit to India in February 2020 from the United Kingdom.

Petitioners at lunch with the father of the Petitioner No.1, Dr. Devinder Singh Arora

Petitioner No.1 and 2 at an evening hosted with their friends

Petitioners No.1 and 2 with their colleagus at the office retreat of Children First in 2016

Petitioners on holiday with Petitioner No.2's mother, Ms Sunita Khanna and the Petitioner No.2's Maci and Mami (aunts) in the Petitioner No.2's family home in Dehradun in 2019

Petitioners at Petitioner No.2's cousin's wedding with Petitioner No.2's parents in 2018.

Combined Birthday celebration of both the Petitioners with the friends of the Petitioners in April 2017

The Petitioners with the Petitioner No.2's youngest masi(aunt), Mrs. Poonam Kohli's at her 25th wedding anniversary celebration in Ghaziabad in 2016

The Petitioners with Petitioner No.1's brother, Dr. Anand Arora, sister-in law, Dr. Richa Arora and niece, Devanshi Arora on the Petitioners holiday and visit to the Petitioner No.1's brother's home in Birmingham, United Kingdom. (2015)

The Petitioners with Petitioner No.1's brother, Dr. Anand Arora, sister-in law, Dr. Richa Arora and niece, Devanshi Arora on the Petitioner No.1's brother's family's annual visit to India in 2016

ANNEXURE P-9

GOVERNMENT OF NCT OF DELHI
REVENUE DEPARTMENT
e-DISTRICT DELHI

ACKNOWLEDGMENT RECIEPT

Temporary Application Id:	3575956
Name of Applicant:	KAVITA ARORA
Applied For:	Solemnization of Marriage
Date of Application:	23/09/2020
Appointment Type	General
Date of Appointment	30/09/2020 (10:04:00.00 AM)
Appointment Scheduled At:	Kalkaji Plot-No 37,Institutional Area,Tuglkabad,Near Batra Hospital,
Payment Mode:	Pay at Window
Payment Details	
Payment Amount:	**Service Charges: 500.00**

Note:

- You have been allotted temporary application no., kindly pay the application fees at Citizen Service Counter at the Sub Division where you have scheduled the appointment. Your application will be processed after payment of fees.
- The date of application will be the date on which fees payment is made and fees will be calculated at the time of submission of fees.

Please bring your original documents to the Certificate Counter at your respective sub-division for verification on any working day between 10:00 am and 1:00 pm with in 7 days. Further processing of your application will be initiated once the originals have been compared with the scanned documents. Separate preferential counter for verifying original documents of applicants who have applied online will be functional at the sub-division certificate counter between 2:00 pm and 3:00 pm.

Gmail

Denial of application to solemnise our marriage.

1 message

Kavita Arora Wed, Sep 30, 2020 at 10:30 PM
To: kalkasdm@nic.in
Cc: Ankita Khanna

To,
Mr. B.L Meena, SDM (Kalkaji),
Marriage Officer under the Special Marriage Act.

I write on behalf of my partner, Ankita Khanna, and myself to express our deep distress as we have been subjected to discrimination by your office on account of our sexual orientation.

We have been in a committed relationship together for eight years, and we now wish to solemnise our commitment . We therefore booked an appointment at your office, i.e., SDM Kalkaji to register our marriage under Section 13 read with Section 5 of the Special Marriage Act. We had submitted an online application for solemnization of our marriage via the Delhi Government's eDistrict website. After uploading all our documents, the website had processed an appointment with your office for today, the 30th of September, 2020 at 10:04 am. We carried our application and documents and we were prepared to pay the cash fee of INR 500. We were accompanied as required by three witnesses, Shelja Sen, Saurabh Taneja, and Jonaki Arora who had also brought their documents.

When we reached your office at Plot No. 37, Institutional Area, Tughlakabad, Near Batra Hospital at 9:45 am, we were told to wait outside the gate till we would be called in. Till around 11:30 am, we were not called in and were not allowed to even enter the building. All of us waited patiently outside .Finally at 11:45 am, only our lawyer was permitted to enter the building, but we were still not permitted to enter. On realising that the request was with respect to a same sex couple, your dealing officer said that he would need to confer with you. At this stage as well, we were not permitted to meet you. After your staff conferred with you, only our lawyer was permitted to enter your room.

There, you explained that we would be unable to solemnize and obtain a certificate of marriage from you, despite you being the designated marriage officer under the SMA of our jurisdiction in Delhi. The reason given for the rejection was that you did not have any guideline to register and solemnize a marriage of a same sex couple. You also did not issue any formal rejection of our application to solemnize our marriage. You indicated that your refusal to accept our paperwork was the de facto denial.

We are deeply saddened by this denial of our basic right to choice of a partner. In 2018, we were delighted and relieved by the Supreme Court's decision in Navtej Singh Johar that recognized that LGBT people are equal citizens of India and ought to not face discrimination on the basis of their sexual orientation. However the actions of your office told us today that we are not equal in the eyes of the Indian Government. We are both proud, law-abiding Indian citizens– but we have to live with the fact that our home, the world's largest democracy, still does not ensure equal rights and treatment under the law to its lesbian, gay, bisexual and transgender citizens.

You would not have rejected our request if we were an opposite-sex couple. We were discriminated against only on grounds of our sexual orientation and denied our right to choice of partner. It undermines the strength of the diverse and vibrant Indian democracy and is deeply hurtful – not only to my partner and me, but also to every other same-sex couple that seeks fundamental equality in the eyes of the law.

I have attached the application we submitted online, our appointment confirmation, together with all the documents we had brought for submission.

Sincerely,

Dr. Kavita Arora and Ankita Khanna

Documents- Marriage solemnization30.09.20.pdf
3892K

ANNEXURE P-11 (colly)

District Delhi
Service at doorstep.....

Hello KAVITA

Home Apply Online Service Specific Payment Print Custom Reports Help
About Profile

VERIFY APPLICATION DETAILS BEFORE FINAL SUBMIT/PAYMENT

BASIC/PERSONAL DETAILS

Aadhaar Card	********
Registration ID	1
Name of Applicant	KAVITA ARORA
Gender	Female
Date of Birth	/1973
Name of Father	
Mother Name	
Spouse Name	ANKITA KHANNA
Mobile No.	
Present Address	
Permanent Address	,
Applied For	Solemnization of Marriage
Subdivision/District of Application	Kalkaji

NOTE: For any kind of modification in above basic/personal details, kindly delete it and re-apply the service.

Personal and Parentage Details of Groom & Bride | Edit

	Groom	Bride
Name	ANKITA KHANNA	KAVITA ARORA
Father Name		
Mother Name		
Date of Birth	/1984	/1973
Place of Permanent Residence before Marriage		
Place of Residence after Marriage in Delhi		

Mobile Number	9	
Email		
Marital Status before Marriage		U
Nationality	Indian	Indian
Religion	Hindu	Hindu
Occupation	PRIVATE JOB	PRIVATE JOB
Length of Residence in Delhi (in Yrs.)		5
Marriage Act:	Special Marriage Act Under Section 13	

Witness Deatils For Marriage Application | Edit

S.No.	Witness Name	Witness Father Name	Witness Identity	Identity No	Witness Address
1			PAN Card	******269R	
2			Government Employee ID Card	******735R	
3			Card	******196L	

List of Supporting Documents for Husband/Groom | Edit

S.No.	Category of Document	Type of Document	Message / Information	Whether Details of data recieved from concernerd department	View Enclosure
1	Affidavit (minimum two pages required in single file) *	Notarized	**********	DNV	View
2	Date of Birth Proof *	Passport	***	DNV	View
3	Divorce Document Proof *	Divorce	*******	DNV	View
4	Identity Proof *	Passport	****	DNV	View
5	Residence Proof *	Passport	****	DNV	View

List of Supporting Documents for Wife/Bride					Edit
S.No.	Category of Document	Type of Document	Message / Information	Whether Details of data recieved from concernerd department	View Enclosure
6	Affidavit (minimum two pages required in single file) *	Notarized	**********	DNV	View
7	Date of Birth Proof *	SSC from	**********	DNV	
8	Identity Proof *	Voter ID	*****	DDV	View
9	Residence Proof *	Voter ID	*****	DDV	View

List of Supporting Documents for Husband/Groom					Edit
S.No.	Category of Document	Type of Document	Message / Information	Whether Details of data recieved from concernerd department	View Enclosure
10	Optional Document (1)	--	**	--	--

List of Supporting Documents for Wife/Bride					Edit
S.No.	Category of Document	Type of Document	Message / Information	Whether Details of data recieved from concernerd department	View Enclosure
11	Optional Document (1)	--	**	--	--

List of Supporting Documents for Husband/Groom					Edit
S.No.	Category of Document	Type of Document	Message / Information	Whether Details of data recieved from concernerd department	View Enclosure
12	Optional Document (2)	--	**	--	--

List of Supporting Documents for Wife/Bride					Edit
S.No.	Category of Document	Type of Document	Message / Information	Whether Details of data recieved from concernerd department	View Enclosure
13	Optional Document (2)	--	**	--	--

Description:	***WNA** - Web Service Not Implemented | ***WNR** - Web Service Not Responding | ***DDV** - Document Found on Server | ***DNV** - Document Not Found on Server | ***DVP** - Document Verification Pending on Server

Photograph Details | Edit

S.No.	Photograh to be uploaded of	Photograph (if available)
1	Husband/Groom	
2	Wife/Bride	

Go to Payment/Appointment

GOVERNMENT OF NCT OF DELHI
REVENUE DEPARTMENT
e-DISTRICT DELHI

ACKNOWLEDGMENT RECIEPT

Temporary Application Id:	3575956
Name of Applicant:	KAVITA ARORA
Applied For:	Solemnization of Marriage
Date of Application:	23/09/2020
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Date of Appointment	30/09/2020 (10:04:00.00 AM)
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Payment Mode:	Pay at Window
Payment Details	
Payment Amount:	**Service Charges: 500.00**

Note:

- You have been allotted temporary application no., kindly pay the application fees at Citizen Service Counter at the Sub Division where you have scheduled the appointment. Your application will be processed after payment of fees.
- The date of application will be the date on which fees payment is made and fees will be calculated at the time of submission of fees.

Please bring your original documents to the Certificate Counter at your respective sub-division for verification on any working day between 10:00 am and 1:00 pm with in 7 days. Further processing of your application will be initiated once the originals have been compared with the scanned documents. Separate preferential counter for verifying original documents of applicants who have applied online will be functional at the sub-division certificate counter between 2:00 pm and 3:00 pm.