



Special Marriage Act, 1954

For Prelims: [Special Marriage Act 1954](#), **Inheritance rights**, [Muslim Marriage Act, 1954](#), [Hindu Marriage Act 1955](#)

For Mains: [Basic Provisions of Special Marriage Act](#), Issues Related to SMA

Source: TH

Why in News?

Recently, the **Madhya Pradesh High Court's** decision concerning the marriage of a Muslim man with a Hindu woman, despite it being registered under the [Special Marriage Act \(SMA\)](#), has garnered significant attention.

- The court dismissed the couple's petition seeking protection and assistance in registering their marriage, citing **incompatibility with personal laws**.
- A '**registered marriage**' is a **civil marriage** under the SMA, solemnised in a registrar's office **without religious rituals**.

What is the Recent Judgement of the MP High Court?

- The petitioners had argued that since they planned to marry under the Special Marriage Act, the Islamic Nikah ceremony was unnecessary, and they intended to keep following their own religions without the Hindu petitioner converting to Islam.
- However, the High Court observed that as per [Mahomedan law](#), the marriage of a Muslim man with a Hindu woman is **not valid**; even if such a marriage is registered under the Special Marriage Act, it would still be **considered irregular**.
 - The court emphasised that **personal laws override** the provisions of the Special Marriage Act in this context and dismissed the couple's petition.

What is the Special Marriage Act, 1954?

- **About:**
 - The Special Marriage Act of 1954 (SMA) governs a **civil marriage** where the state sanctions the marriage rather than the religion.
 - Codified religious laws govern issues of personal law such as marriage, divorce, and adoption. These laws, such as the Muslim Marriage Act, 1954, and the Hindu Marriage Act, 1955, require either spouse to convert to the religion of the other before marriage.
 - However, the SMA enables marriage between **inter-faith or inter-caste couples** without them giving up their religious identity or resorting to conversion.
- **Eligibility:**
 - The applicability of the Act extends to the **people of all faiths**, including Hindus, Muslims, Sikhs, Christians, Sikhs, Jains, and Buddhists, across India.
 - Some customary restrictions such as parties not being within degrees of a prohibited

relationship (as per their personal laws) still apply to couples under SMA.

- The minimum age to get married under the SMA is 21 years for males and 18 years for females.

▪ **Procedure:**

- As per **Section 5 of the Act**, the parties to the marriage are required to give a notice, in writing, to a “Marriage Officer” of the district in which at least one of the parties has resided for at least 30 days immediately preceding the notice.
- Before the marriage is solemnised, the parties and three witnesses are required to sign a declaration form before the **Marriage Officer**.
 - Once the declaration is accepted, the parties will be given a “**Certificate of marriage**” which is essentially proof of the marriage or “conclusive evidence of the fact that a marriage under this Act has been solemnised and that all formalities respecting the signatures of witnesses have been complied with”.

▪ **“Notice Period” Under the SMA:**

- As per Section 6, a true copy of the notice given by the parties will be kept under the “**Marriage Notice Book**” which will be open for inspection at all reasonable times, without a fee.
- Upon receiving the notice, the marriage officer shall publish it in “some conspicuous place in his office” to invite any objections to the marriage within 30 days.

▪ **Concerns Associated with SMA:**

- **Objections to Marriage: Section 7** allows **any person** to object to a marriage within 30 days of notice publication if it contravenes **conditions under Section 4**, requiring the **Marriage Officer** to investigate and resolve the objection before solemnising the marriage, unless the objection is withdrawn.
 - This can often be used to **harass consenting couples** and delay or prevent their marriage from taking place.
- **Privacy Concerns:** The requirement for notices to be published can also be seen as a **violation of privacy**, as it can disclose the personal information of the couple and their plans to get married.
 - The **Supreme Court** in an oral observation, said that the mandatory 30-day notice inviting public objections to an intended marriage under the SMA is “**patriarchal**” and makes it “**open for invasion by society**”.
- **Social Stigma: Inter-caste or inter-religious marriages** are still not widely accepted in many parts of India, and couples who choose to get married under the SMA may face social stigma and discrimination from their families and communities.

Note:

- The Constitution of India guarantees the **right to life** and **personal liberty** under **Article 21**, which includes the **right to marry a person of one’s choice**. The Supreme Court of India has dealt with several cases involving the marriage of a person of his/her choice. Like:
 - **Lata Singh v. State of U.P., 2006:** The Court held that the right to marry a person of one’s choice is a **fundamental right under Article 21**, and that no one, including the parents or the community, **can interfere** with or object to such marriages.
 - **Shakti Vahini v. Union of India, 2018:** The Supreme Court held that consensually choosing life partners is a manifestation of their freedom of choice guaranteed **under Articles 19 and 21** of the Constitution.

Conclusion

- The ruling by the MP High Court highlighted the **complexities and conflicts** arising from the interplay between personal laws and secular marriage legislation in India, underscoring the **challenges** faced by interfaith couples in India. Going forward, there is a **need for a nuanced understanding** of matrimony related legal frameworks and the socio-cultural dynamics.

Drishti Mains Question:

Q. Discuss the challenges faced by couples seeking to marry under the Special Marriage Act, 1954, in India. Suggest potential reforms to address these issues.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

Q. In the context of Indian history, the Rakhmabai case of 1884 revolved around (2020)

1. Women's right to gain education
2. Age of consent
3. Restitution of conjugal rights

Select the correct answer using the code given below:

- (a) 1 and 2 only
(b) 2 and 3 only
(c) 1 and 3 only
(d) 1, 2 and 3

Ans: (b)

Q. Which Article of the Constitution of India safeguards one's right to marry the person of one's choice? (2019)

- (a) Article 19
(b) Article 21
(c) Article 25
(d) Article 29

Ans: (b)

Mains:

Q. Explain the constitutional perspectives of Gender Justice with the help of relevant Constitutional Provisions and case laws. (2023)