

F.No. OI-19016/5/2007-SS
Government of India
Ministry of Overseas Indian Affairs

Venue : Committee Room, Ministry of Overseas Indian Affairs, Akbar Bhawan

Date of Meeting : Friday 10th October, 2007

Time of Meeting: 1100 Hrs.

Subject: Inter-Ministerial meeting to discuss the clauses to be inserted in the bilateral agreements to protect victims of failed/fraudulent marriages with NRIs-Regarding.

Representatives from different Ministries:

1. Shri Nirmal Singh, Secretary, Ministry of Overseas Indian Affairs – in chair
2. Sh. P.M. Meena, Joint Secretary (Cons.), MEA.
3. Shri G. Gurucharan, Joint Secretary (FS), MOIA.
4. Sh. D.S. Saroya, Addl. Secretary (NRI Affairs), Govt. of Punjab
5. Dr. M.Gandhi, Director (L&T), Ministry of External Affairs
6. Shri Suresh Chandra, Govt. Counsel & Legal Advisor (MOIA),
7. Ms. Sandhya Shukla, Director (DS), MOIA
8. Sh. Ram Phal, Under Secretary, MHA.
9. Ms. Aditi Sharma, SRO, NHRC.
10. Sh. S.K. Nanda, SRO, National Commission for Women.
11. Sh. S.S. Rana, Under Secretary (P&C), MOIA.

The Inter-Ministerial Sub-Committee during its meeting held on 3rd July, 2007 had constituted a Special Task Force with Shri P.M. Meena, JS(Cons.), MEA, Shri Suresh Chandra, Government Counsel & Legal Adviser (MOIA), and Dr. M. Gandhi, Director (Legal and Treaties Division), MEA, to study the problems and give their recommendations on the following issues:-

- (i) Appointment of special public prosecutors, may be private agency, who can espouse the cause of those who have been suffering due to fraudulent/failed NRI marriages;
- (ii) Making the provisions for compulsory registering the marriages by way of amendment, etc. or on the strength of recent Supreme Court Judgment.
- (iii) Having bilateral agreements for service of summons in Civil Suits for execution of decrees of civil courts, for enforcement of maintenance orders etc. especially, with the countries including USA, UK, Canada, Australia and New Zealand where problem of desertion by NRIs is acute.
- (iv) Proposal to amend the Indian Passport Act to provide inclusion of name and photograph of the wife in the passport of an NRI spouse.

Recommendations, as given below, of the Special Task Force were presented to the sub-committee:

1. Instead of giving emphasis on a more logistic and litigatory solution to the problem, a multipronged approach is necessary. First, there is a need for a vigorous information campaign at all levels using all the media channels and the NGOs.
2. Where there is a need for litigation, the litigations relating to NRI marriages should be taken up on fast track courts through Ministry of Law and Justice and also where necessary, by special public prosecutors.
3. Whenever there is a ongoing litigation in a foreign court the bride's case should not go un-represented. The existing funding mechanism to such cases is required to be strengthened by organizing a network of NGOs and NRI legal professionals as volunteers.

On the issue of appointment of special public prosecutors, Shri Suresh Chandra, Govt. Counsel and Legal Advisor expressed the view that since 'marriage' is a State subject the proposal for appointment of special public prosecutor to handle such cases has to come from the State Govt. in consultation with the High Court concerned. However, in case of Central enactments such proposals can be made by the Ministry/Department concerned in consultation with the jurisdictional High Court.

The recommendations made by the Task Force were discussed at the meeting and it was decided that additional comments if any, may be sent to the Ministry by the members for an early finalization of the recommendations.

In the meeting the following recommendations were also made:

- (i) Efforts should be made to incorporate suitable provisions in respect of serving of notices, summons, etc. particularly concerning NRI marriages in the mutual legal assistance treaties (MLAT) which are in the pipe line.
- (ii) Steps should be taken to make funds available to selected NGOs in the States with a view to enable them provide assistance to the victims of NRI marriages in registering cases with the police authorities and courts etc.
- (iii) States/UTs should be requested to pass on information regarding court orders against accused NRIs to Emigration Authorities to prevent such people from leaving India against these orders.
- (iv) MOIA may design a information brochure by an expert, who have knowledge on Private International Law, regarding the working of the relevant Hague Conventions and also procedures to be followed by the general public regarding serving of notices, summons etc. to parties staying abroad. A media campaign may thereafter, be launched to make general public aware of the provisions pertaining to serving of summons, notices etc. to accused NRIs in foreign countries.

The meeting ended with thanks to the Chair.
