

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	513
Land:	Indien
Kilde:	Nationalt ID-Center
Titel:	India: Marriage registration in Chennai, Tamil Nadu
Udgivet:	2. november 2023
Optaget på baggrundsmaterialet:	22. marts 2024



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2 November 2023

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Introduction

The Danish National ID Centre (NIDC) conducted a fact-finding mission to India in December 2019. During the mission, the NIDC met with representatives of the Office of the Inspector General of Registration in Chennai, Tamil Nadu. The mandate of the office is to register civil events and issue civil status documents when a civil event (birth, death, marriage or divorce) has occurred. The note is primarily based on information from this meeting.

Besides a brief introduction to the diverse legal framework regarding marriages across India, the note is exclusively focusing on marriage registration and issuance of marriage certificates at the Office of the Inspector General of Registration in Chennai, Tamil Nadu.

Be aware that the information provided in the present note not necessarily applies to other states, cities, or offices in India than the Office of the Inspector General of Registration in Chennai, Tamil Nadu.

The diverse legal framework of marriage in India

Different marriage legislations apply depending on e.g. state/municipality and religious affiliation. The same marriage might be eligible for registration under several marriage acts simultaneously. If a couple does not meet the requirements of one marriage act, they can choose to seek registration under one of the remaining marriage acts.¹ Every Indian state is regulated by an individual state marriage act and marriage certificates are issued locally and vary in design. However, the Hindu, the Christian and the Special Marriage Acts all provide a legal framework of marriage

¹ Australia: Refugee Review Tribunal, June 2012, p. 6.

registration across states.² The Special Marriage Act (1954) is the national framework of marriage registration and applies to all marriages with parties of Indian nationality.³

In Tamil Nadu the legal framework of marriage registration is a combination of the Special Marriage Act (1954), the Hindu Marriage Act (1955), the Tamil Nadu Marriage Act (2009), and the Christian Marriage Act (1872). The following describes the combination of marriage acts, which was in use at the Office of the Inspector General of Registration in Chennai, Tamil Nadu as of December 2019.⁴

Marriage under the Hindu Marriage Act, 1955

The Hindu Marriage Act applies primarily to Hindus, but does also include marriages between members of other religions, such as Buddhists, Jains, and Sikhs. Couples, who are not Indian nationals, are also eligible for registration under the Hindu Marriage Act.⁵ The solemnisation of a Hindu marriage can take place anywhere, but the person who solemnises the wedding must be licensed. A license can be obtained online.⁶

When registering a Hindu marriage, the couple must file an online application for registration. Then, the couple receives a time slot where they must go to the Office of the Inspector General of Registration with the required documentation and pay the registration fee. The bride and groom are required to attend the appointment as well as three witnesses. The witnesses must present a valid governmentally issued photo ID and proof of residence. Male witnesses must be above the age of 21 and females over 18 years of age.⁷

When the couple has submitted the required documentation, the marriage certificate can be issued. If the couple fails to attend their appointment, they will have to reapply.⁸

According to the Office of the Inspector General of Registration, timely registration under the Hindu Marriage Act is within 150 days after the solemnisation. If the couple fails to register within 150 days, a fee for late registration of 25 rupees is imposed. It is common for Hindu marriages to be registered late; even years after solemnisation of the marriage.⁹

² Office of the Inspector General of Registration, Chennai, December 2019.

³ Office of the Inspector General of Registration, Chennai, December 2019.

⁴ Office of the Inspector General of Registration, Chennai, December 2019.

⁵ The Hindu Marriage Act, May 1955, p. 1.

⁶ Office of the Inspector General of Registration, Chennai, December 2019.

⁷ Office of the Inspector General of Registration, Chennai, December 2019.

⁸ Office of the Inspector General of Registration, Chennai, December 2019.

⁹ Office of the Inspector General of Registration, Chennai, December 2019.

Marriage under the Special Marriage Act, 1954

The Special Marriage Act extends to all of India apart from Jammu and Kashmir. However, the act does allow for the appointment of Marriage Officers within Jammu and Kashmir to register the marriages of Indian citizens living in Jammu and Kashmir. In accordance with the Special Marriage Act, all solemnised marriages are regarded as legally valid in India.¹⁰

Prior to enter into a marriage under the Special Marriage Act the couple must publish a public notice after having submitted proof of singlehood of both parties. The notice must be public for a total of 30 days. The period of 30 days is allowed to be interrupted, but the combined 30 days' notice must have been given within 60 days after the notice being initiated.¹¹

During this period anyone can object to the marriage, provided that the person, who objects, presents a valid reason, such as; one of the parties is already married, one or both parties is a minor, the marrying couple is related or that one or both parties of the couple is mentally incapable of making the decision to marry. When objecting, the person must present documentation to support his/her claim to a government official. The couple is allowed to address the claim.¹²

Couples marrying under the Special Marriage Act must initiate the registration of their marriage by applying online when the 30 days' notice is completed. The rest of the issuance procedure is the same as the procedure of a Hindu marriage.¹³

Late registration is accepted and free of charge under the Special Marriage Act.¹⁴

Marriage under the Tamil Nadu Registration of Marriages Act, 2009

The Tamil Nadu Registration of Marriages Act applies to all couples getting married in the state of Tamil Nadu.¹⁵ To register a marriage under the Tamil Nadu Registration of Marriages Act, the couple must present a photo ID and only two witnesses are required.¹⁶ The couple and the witnesses must be present in person to register the marriage.¹⁷

¹⁰ Australia: Refugee Review Tribunal, June 2012, p. 5.

¹¹ Office of the Inspector General of Registration, Chennai, December 2019.

¹² Office of the Inspector General of Registration, Chennai, December 2019.

¹³ Office of the Inspector General of Registration, Chennai, December 2019.

¹⁴ Office of the Inspector General of Registration, Chennai, December 2019; Tamil Nadu Marriage Act, August 2009, p. 89.

¹⁵ Tamil Nadu Marriage Act, August 2009, p. 89.

¹⁶ Office of the Inspector General of Registration, Chennai, December 2019.

¹⁷ Tamil Nadu Marriage Act, August 2009, p. 90

Corrections in the documents can be conducted if the owner of the document can present a valid photo ID when identifying the error. Corrections are registered in the footnotes.¹⁸

In accordance with the Tamil Nadu Registration of Marriages Act, which extends to the whole Tamil Nadu State, registration of marriage within 150 days is compulsory.¹⁹

Marriage under the Christian Marriage Act, 1872

Christian marriages are solemnised in a church by a pastor. The pastor also registers the details of the marriage in the church archive. The details of the marriage are transferred to the district registrar by the pastor for official registration. The registrar's office verifies the received information before forwarding it to the Office of the Inspector General of Registration, where the marriage certificate is issued.²⁰ Christian couples cannot apply for a marriage registration online as opposed to couples marrying under the Special Marriage Act or the Hindu Marriage Act.²¹

In case of an error in the document, the owner of the document must submit photo ID. Corrections are registered in the footnotes.²²

Reissuance of documents from the Office of the Inspector General of Registration

Issuance and reissuance of civil status documents at the Office of the Inspector General of Registration cost 10 rupees. When issuing the document for the first time, it is issued in three copies. There is no limit to the number of times a document can be reissued.²³

The procedure of obtaining a copy of one's document is to go to the Inspector General of Registration's office and submit an application in person. The fee is 10 rupees. The applicant is given a receipt, which must be handed in to the office when collecting the copy of the document a few days later.²⁴

Issuance by proxy

A document can be picked up by a proxy. The proxy can be parents of one of the marrying parties or anyone who has been granted written authorisation to collect the document by the couple. The proxy must bring and present a photo ID. It is only

¹⁸ Office of the Inspector General of Registration, Chennai, December 2019.

¹⁹ Office of the Inspector General of Registration, Chennai, December 2019.

²⁰ Office of the Inspector General of Registration, Chennai, December 2019.

²¹ Office of the Inspector General of Registration, Chennai, December 2019.

²² Office of the Inspector General of Registration, Chennai, December 2019.

²³ Office of the Inspector General of Registration, Chennai, December 2019.

²⁴ Office of the Inspector General of Registration, Chennai, December 2019.

possible to pick up the issued document by proxy, not to enter into a marriage or to register a marriage.²⁵

Verification in marriages in Tamil Nadu

Registration of civil events is decentralised in India and there are no national or state level archives of civil registration. Still, it is possible to verify the details of marriages performed in Tamil Nadu with the Office of the Inspector General of Registration by providing the names of the couple and the date of the marriage.²⁶

²⁵ Office of the Inspector General of Registration, Chennai, December 2019.

²⁶ Office of the Inspector General of Registration, Chennai, December 2019.

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