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بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ



جمیة علماء الہند

Press Release

for Favor of Publication

Jamiat files its counter affidavit on Triple Talaq', 'NikahHalala' and 'Polygamy'

New Delhi, December 2, 2016

The Jamiat Ulema-i-Hind [JUIH]- one of the most influential Muslim organizations has filed its much awaited counter affidavit through its General Secretary Maulana Syed Asad Madani as a party respondent impleaded by the Supreme Court in all the matters pertaining to 'Triple Talaq', 'NikahHalala' and 'Polygamy'.

The counter affidavit filed by the JUIH furthers the argument that there is no scope for interference with the Muslim Personal Law, which is based on primarily the Holy Quran and the Sunnah of Prophet Muhammad, explained and applied by various scholars of great antiquity and authority after thorough research. For driving home the said argument the JUIH has insisted that 'instantaneous triple talaq', 'nikahhalala' and 'polygamy' are well rooted in Muslim Personal Law. Relying upon the earlier judgments of the Supreme Court of India and various High Courts, it has stated that Part III of the Constitution, which contains Fundamental Rights including the right to approach Supreme Court by way of a Writ Petition, does not touch upon the personal laws of the parties. Referring to the Supreme Court's earlier judgment in Krishna Singh v. Mathura Ahir, JUIH has also stated that in Personal Laws new concepts of modern times should not be evolved by the Courts and the Courts should enforce the law as derived from recognized and authoritative sources of personal laws except where such law is altered by any usage or customs or is modified or abrogated by statute.

In its counter affidavit the JUIH has also stated that the Muslim Personal Law stands on a much higher pedestal when compared to customs or practices because the former has element of certainty and is not local or regional in operation. The counter affidavit refers to the Statement of Objects and reasons of Muslim Personal Law (Shariat) Application Act, 1937 to demonstrate that Muslim Personal Law was lauded by the Law Makers of the day for its certainty. It also highlights that it was demanded by the Organizations of the Muslim Women that they should be allowed to be governed by Muslim Personal Law instead of local customs and practices because the Muslim Personal Law treats Women with greater dignity.

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In its counter affidavit, the JUIH has also stated that the matters agitated by various Muslim Women before Supreme Court do not involve any new issue and those women should approach regular civil courts seeking adjudication of validity of divorce granted to them in the light of the law already settled by the Supreme Court.

The JUIH has also explained the 'NikahHalala', which is surrounded by various misconceptions. It has stated that when the talaq becomes absolute and irrevocable then the former Husband and Wife immediately fall in prohibited degree and they cannot remarry each other. However, if subsequently she enters into marriage with another man and the said marriage is also dissolved by any mode prescribed by Islam only then she can marry her former husband by way of fresh nikah. It is stated that Muslim Women enjoy greater freedom as there is no compulsion on the wife to remarry the same man or to contract any further marriage at all.

For Polygamy the JUIH has stated that the provisions for Muslim men to have more than one wife are neither absolute nor unguided nor unconditional rather it is canalized by the Holy Quran.

The JUIH has also stated that protection of peculiarities in Personal Laws is necessary for securing Freedom of Religion and bringing uniformity by removing those peculiarities shall be enforcement of Uniform Civil Code by the Judicial Process, which shall be against the Constitutional bar.

The JUIH's counter affidavit is filed by Mr. Shakil Ahmed Syed a very senior Advocate on Record of Supreme Court of India. Mr. Shakil Ahmed Sayed Advocate has been assisting the Supreme Court of India in various other matters involving Muslim Personal Law.

Dear Sir,
Kindly publish the press Release and oblige.

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