

PROCEDURE FOR DIVORCE FOLLOWED BY THE CABS IN INDIA:

1. Upon receipt of an Application in writing from either spouse, RCAB issues a request to the other spouse informing him/her about the application received.
2. Meetings are held with the Party/ies, singly and jointly on the principles of mediation and conciliation to narrow down the disputes and where possible and feasible reconciliation is arrived at.
3. In the event reconciliation is not possible and the Party/ies are adamant, efforts are made to arrive at the mutually agreed resolution of disputes.
4. In case where reconciliation or mutually agreed resolution is not possible, the disputes, issues, claims and counter claims are adjudicated in accordance with the applicable law, the principles of natural justice, equity, goodwill, fairness, good conscience and based upon the facts and circumstances of the case.
5. When dispute is resolved by mutually agreed resolution, a draft of memorandum or deed of settlement is drawn by the office of the concerned CAB and read over or explained to the Parties. Final copy of the settlement is drawn by the office of CAB on requisite stamp paper and signed by the Parties and witnesses, who are invariably their family members or friends.
6. The terms of settlement are implemented by the Parties on or before signing of settlement deed and or documents in the presence of the Board or any Committee thereof. *[Note: When the settlement is arrived at by mutual consent and the Memorandum or Deed of Settlement is signed by both the parties, it is dissolution of marriage and no permission for divorce is required or granted].* However, the Board needs to pass appropriate resolution and take the same on record.
7. In case the settlement by consent results in dissolution of marriage, requisite communication is sent to the concerned Jamatkhana/s for announcement pursuant to the Rules for Matrimonial Proceedings framed by NCAB and applicable to the Parties.
8. Letters and Certificates are issued to the Parties regarding dissolution of their marriage for their records.
9. When the matter does not get resolved by mutually agreed terms, the same is required to be adjudicated and an order is passed by the concerned RCAB refusing or granting permission to divorce his/her spouse and the terms and conditions are stipulated therein subject to which the permission is granted.

10. Party/ies have choice either to accept and implement the order passed by the RCAB or if aggrieved, prefer an appeal to NCAB against the said order.
11. If the order passed by RCAB is accepted, the Parties implement the same, mostly in the office of the Board. Draft/s of Declaration/s (Talaknama) is/are drawn by the office of RCAB and read over and/or explained to the parties. Final copy of the Declaration is drawn by the office of RCAB on requisite stamp paper and signed by the Parties and witnesses who are invariably their family members or friends. The Office of RCAB assist the Party/ies to get the Declaration notarized before the Notary Public. The procedure for communication to concerned Jamatkhanas set out in Clause 7 above is followed.
12. In the event if any appeal/s is/are filed by any Party/ies against the Order passed by RCAB with the NCAB, the matter is taken up again, firstly, in accordance with the principles of mediation and conciliation, failing which, adjudication.
13. When the settlement is arrived at before NCAB, procedure set out in Clause 5 above is followed by NCAB.
14. When the matter does not get resolved upon mutually agreeable terms, the same is required to be adjudicated and an order is passed by the concerned NCAB refusing or granting permission to divorce his/her spouse and the terms and conditions are stipulated therein subject to which the permission is granted.
15. Party/ies have choice either to accept and implement the order passed by the NCAB or if aggrieved, prefer an Appeal by way of Special Leave Petition to ICAB against the said order.
16. If the order passed by NCAB is accepted, the Parties implement the same, mostly in the office of the Board, draft/s of the Declaration/s is/are drawn by the office of NCAB and read over and/or explained to the parties. Final copy of the Declaration is drawn by the office of NCAB on requisite stamp paper and signed by the Parties and witnesses who are invariably their family members or friends. The Office of NCAB assists the Party/ies to get the Declaration notarized before the Notary Public. The procedure for communication to concerned Jamatkhanas set out in Clause 7 above is followed.
17. After the Special Leave Petition or Appeal is disposed of by ICAB, any Party wishing to implement the orders passed, approaches office of NCAB. If the order passed by NCAB/ICAB is accepted, the Parties implement the same, mostly in the office of the Board. Draft/s of the Declaration/s is/are drawn by the office of NCAB and read over and/or explained to the parties. Final copy of the Declaration is drawn by the office of NCAB on requisite stamp paper and signed by the Parties and

witnesses who are invariably their family members or friends. The Office of NCAB assists the Party/ies to get the Declaration notarized before the Notary Public. The procedure for communication to concerned Jamatkhana set out in Clause 7 above is followed.

18. It is pertinent to note that:

18.1 CAB at any level (i.e. RCAB, NCAB or ICAB) never grants divorce to any party. It only grants permission to divorce in accordance with the provisions of the Nikahnama (i.e. Marriage Contract) signed by the couple at the time of their marriage;

18.2 in handling matters, the principles of natural justice are followed broadly;

18.3 on or before the implementation, care is taken to ensure that the terms and conditions are fulfilled by the Party wishing to implement the permission granted to divorce.

18.4 for the purpose of implementation of the order passed by the CAB, consent of the other spouse is neither necessary nor required.

19. The above procedure is followed by CABs in India since inception.

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