



W.P.No.7284 of 2021

W.P.No.7284 of 2021

WEB COPY

N. ANAND VENKATESH, J.

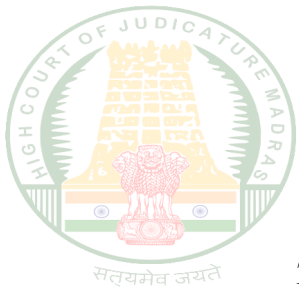
Pursuant to the earlier orders passed on 02.09.2022, the matter was posted for hearing today to report the follow up action on the directions issued by this Court during the previous hearing.

Glossary, Draft Transgender Persons (Protection of Rights) Rules, Sensitisation of Teachers and the Transgender Persons Policy

2. A status report has been filed by the Secretary to Government, Social Welfare and Women Empowerment Department. This status report covers the Rules framed framed under Section 22(1) of the the Transgender Persons (Protection of Rights) Act, 2019 and also the Policy for LGBTQIA + Community to be formulated by the State Government.

3. Insofar as the Rules are concerned, it is stated in the status report as follows:

“5. In respect of rules for Transgender persons, it is respectfully submitted that as per the sub section (1) of Section 22 of the Central Act, the appropriate Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of the Act. As per the said provision, Government have obtained orders in circulation on 27.10.2022 and notified the Draft Rules for Tamilnadu



W.P.No.7284 of 2021

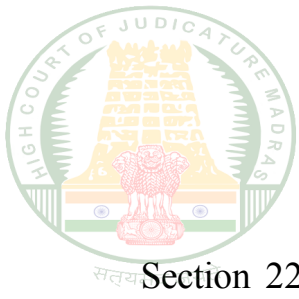
WEB COPY

Transgender Persons (Protection of Rights) Rules, 2022 on 28.10.2022 in the Government Gazette Extraordinary along with notice given that the draft Rules will be taken into consideration on or after the expiry of thirty days from the date of publication of the Notification in the Tamilnadu Government Gazette. A copy of the same is annexed.

6. It is respectfully submitted that the notice period of thirty days is over and it is observed that no comments/suggestions have been received on the draft rules. Hence, it is respectfully submitted that action is being taken to notify the final version of Tamilnadu Transgender Persons (Protection of Rights) Rules, 2022 in the Government Gazette after approval of Law Department. Relevant file regarding the notification of final version of Rules has been sent to Law Department on 08.12.2022. After approval, orders will be obtained in circulation and the same rule will again be notified in the Government Gazette.”

4.It is clear from the above that the Draft Rules have already been published and comments/suggestions have been invited and since no comments/suggestions were received from any quarters, the Rules have been forwarded for the approval of the Law Department and what remains is only the Notification to be published in the Government Gazette and thereby bringing the Rules into effect. The learned Additional Advocate General, on instructions, submitted that the Notification in the Government Gazette will be effected by the end of this month. The learned Additional Advocate General also placed the relevant Rules before this Court.

5.In the considered view of this Court, the Rules that have been framed under



W.P.No.7284 of 2021

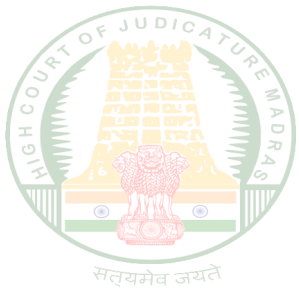
WEB COPY

Section 22(1) of the Central Act, is a giant step towards empowering transgender persons. This Court has to necessarily place its appreciation to the State Government for having taken effective steps to draft the Rules under the Central Act, 2019 and bringing it into force by the end of this month.

6.Insofar as the policy for LGBTQIA+ community is concerned, it has been mentioned in the status report as follows:

*“7. In respect of Policy for Transgender persons, it is respectfully submitted that in continuation of the consultation meeting held on 24.08 2022 under the Chairpersonship of Chief Secretary along with line Departments, the State Planning Commission has presented the draft **Policy for LGBTQIA+ community** before the Hon'ble Chief Minister on 27.10.2022. Based on the presentation made, the State Planning Commission has sent the draft Policy for LGBTQIA+ community to this Department on 15.11.2022 for further action on the draft policy.*

8. It is respectfully submitted that as the Tamil Nadu Transgender Welfare Board is administered by the Director of Social Welfare, she was directed to conduct meeting with concerned stakeholders at her level and send report to Government for further necessary action. Accordingly, the Director of Social Welfare has convened virtual meeting with stakeholders on 01.12.2022 and sent a report to Government on 06.12.2022.



W.P.No.7284 of 2021

WEB COPY

9. *It is respectfully submitted that this Hon'ble Court has directed to finalize the policy for Transgender persons, the policy has been drafted for the whole LGBTQIA+ community by the State Planning Commission, and hence more time is required for Government for the finalization of the policy. After finalisation, action will be taken to upload the Policy for LGBTQIA+ community in the public domain at the earliest for inviting suggestions, comments. It is respectfully submitted that Government have followed up efforts continuously and the same will be finalised at the earliest after examination of suggestions, comments to be received if any.*

10. *It is respectfully submitted that Government of Tamil Nadu have taken sincere efforts to address the issues faced by the Transgender community and committed for their upliftment in order to bring them into the mainstream."*

7. The learned Additional Advocate General submitted that the Director of Social Welfare had convened a virtual meeting with the stakeholders and a report has already been sent to the Government. That apart, there is continuous follow up on the side of the Government and hence, three more months will be required to finalize the policy for the LGBTQIA+ community.

8. In the considered view of this Court, the Government of Tamil Nadu is taking sincere efforts to address the issues faced by the transgender community and the LGBTQIA+ community at large and the same is evident from various steps taken



W.P.No.7284 of 2021

सत्यम्
WEB COPY

by the Government. One such effective step that was taken by the State Government was to bring the Rules which were framed under Section 22(1) of the Central Act, 2019, effective from the end of this month. Hence, this Court has no hesitation to grant some more time to the State Government to finalise the policy for the LGBTQIA+ community. Accordingly, three months time sought for by the Social Welfare and Women Empowerment Department is granted.

Sensitizing teachers to the needs of queer children

9. During the earlier hearing, this Court directed the 17th and 18th respondents to start the process of sensitisation of teachers in the schools to cater to the needs of queer children. The Commissioner, School Education, Chennai has filed a report along with all the relevant documents by way of typed set of papers. On carefully going through the report, it is seen that already steps have been taken to bring awareness to the students about the transgenders and LGBTQIA+ community as a whole. Steps are also being taken to incorporate into the curriculum, the issues relating to the LGBTQIA+ community and to create awareness among the student community. The learned Additional Advocate General submitted that it is a continuing process and this awareness will be brought through the textbooks, gradually in the coming years in order to create more awareness amongst student



W.P.No.7284 of 2021

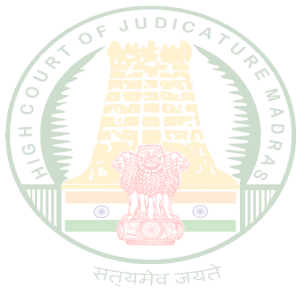
WEB COPY

10. Insofar as the sensitisation programme is concerned, it has been stated in the status report as follows:

“3... Every year High and Higher Secondary School B.T. and P.G. Teachers are trained for ten days on Content, Pedagogy, innovative approaches and co-curricular areas.

In 2021-22, SCERT organized Capacity Building Training to BT teachers handling classes IX and X and P.G. Teachers handling classes XI and XII through online. SCERT developed training content that included videos and assessment sheet to ensure individualized and Programmed Learning of teachers according to one's own pace of learning. The concept, 'Integrating Gender in Schooling Processes' has been one of the modules covered in the training. The duration to complete this module is three hours. This concept covers Gender and Gender Inclusion in School Process, Integrating Gender Concerns in Transaction of Disciplines such as languages, Mathematics, Science, Social Sciences, Economics, Gender Inclusiveness, Gender friendly Environment, Gender Inclusion in Schooling Processes, Gender Identity, Role of Teachers etc. The teachers of about 1,11,016 in number have been benefitted through this training.

4) It is further submitted that the LGBTQIA+ concepts such as, Gender Identity, Gender Expression, Gender Presentation, Vulnerability and Health Issues, Challenges faced by them, Implications and Recommendations, Gender non-conformity or gender variance, Cross dresser, Sexual Development Disorder (SDD), MTF, FTM and LGBTQIA+ will be included in the Teacher Training content and teachers will be oriented on these areas in the years to come.



W.P.No.7284 of 2021

WEB COPY

5) *It is further submitted that the teachers who had undergone awareness training as referred in the earlier paragraphs will also provide training to other teachers.*

6) *It is further submitted that in order to sensitize parents on LGBTQIA+ and extend support to such students, parents will be sensitized involving Parent Teachers Association, Village Education Committee and School Management Committee of each school in future”.*

11. The learned Additional Advocate General submitted that more than a Lakh of teachers have been benefited through the virtual training that was given to them and this process will be continued and such training will be given from time to time. The learned Additional Advocate General further submitted that the teachers who are trained will be made aware about the peculiarities of persons belonging to LGBTQIA+ community and they will only be a recipient of the communication from the concerned student belonging to the community and thereafter, they will refer the concerned student to a specialist who is trained to deal with the wants of the persons belonging to the LGBTQIA+ community. It was confirmed to this Court that the teachers who undergo training will not conduct any counselling to the concerned student belonging to the LGBTQIA+ community.

12. The learned Additional Advocate General further submitted that already



W.P.No.7284 of 2021

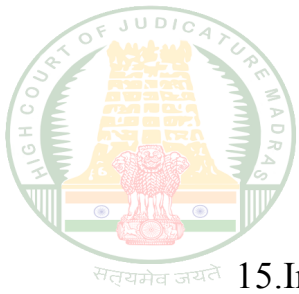
WEB COPY

mobile psychological counselling centres have been set up and Honourable Chief Minister during the month of July 2022 had inaugurated a scheme, whereby the mobile health team will go around and conduct counselling to the students by addressing the issues faced by them due to adolescence and other mental health issues. The learned Additional Advocate General submitted that the support staff belonging to the mobile health teams are also given special training to handle issues faced by the students belonging to LGBTQIA+ community.

13.The learned Additional Advocate General further submitted that all steps are being taken to ensure the availability of gender-neutral restrooms for the gender non-confirming students. Further steps are also being taken to create necessary columns in the application forms in addition to male, female sex so as to enable the students belonging to LGBTQIA+ community to mention their sex.

14.The effective steps that have been taken by the Commissionerate of School Education, deserves the appreciation of this Court. This Court further expects the Commissionerate of School Education to continue with the training and not to make it a one time affair.

Tamil Nadu Medical Council



W.P.No.7284 of 2021

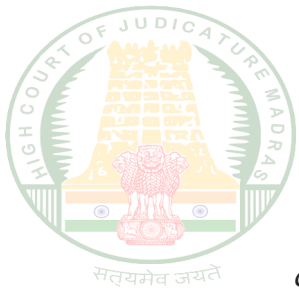
WEB COPY

15. In the previous order passed on 02.09.2022, a direction was issued to the 24th respondent, viz. Tamil Nadu Medical Council to implement the directions issued by the National Medical Commission and to file a status report before this Court. Accordingly, a status report has been filed along with the Notification issued by the Tamil Nadu Medical Council. For proper appreciation, the relevant portion in the status report is extracted hereunder:

2. It is submitted that in compliance of the orders passed by this Hon'ble Court above stated, the Respondent TNMC has published Notification in P.No.37/2022 dt.02.12.2022 (copy enclosed) with directions as follows:

"In compliance of the directions issued by Honourable High Court of Madras, in its Order dated 08.07.2022 given in W.P. No. 7284 of 2021, Ethics and Medical Registration Board, National Medical Commission, New Delhi, has issued Notification on the above captioned subject to all State Medical Councils, to incorporate "CONVERSION THERAPY OF LGPTQIA PLUS COMMUNITY GROUP" AS PROFESSIONAL MISCONDUCT under the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation, 2002.

According to the above said Notification and as per the directions issued by the Honourable High Court of Madras on 02.09.2022 in W.P. No. 7284 of 2021, it is hereby notified to all the Registered Medical Practitioners that Tamilnadu State Medical Council is conferred with powers to take disciplinary action on any



W.P.No.7284 of 2021

WEB COPY

complaint received with regard to any attempt/ interventions to change the sexual orientation and/or gender identity of a person, which is commonly referred to as "Conversion Therapy", which will be construed as a professional misconduct on the part of the medical professionals and appropriate action shall be taken in accordance with the existing rules."

16.It is clear from the above that the Tamil Nadu Medical Council has implemented the directions issued by the National Medical Commission and the conversion therapy has been made a professional misconduct and as against the medical professionals who indulge in such conversion therapy, action will be taken for professional misconduct.

17.Mr. G Sankaran, learned Standing Counsel appearing on behalf of the Tamil Nadu Medical Council, submitted that the directions issued by this Court has been complied with in line with the instructions given by the National Medical Commission and action will be taken against medical professionals, who indulge in conversion therapy.



W.P.No.7284 of 2021

National Medical Commission (NMC)

WEB COPY

18.This Court issued certain directions to the NMC during the last hearing. A status report has been filed on behalf of NMC enlisting all the steps that have been taken by the Commission. Some clarity has to be given by the learned Standing Counsel appearing on behalf of NMC on the status report that has been filed before this Court. This Court was informed that the learned Standing Counsel is not able to be present before this Court and hence, some time was sought for. The learned Standing Counsel appearing on behalf of NMC, shall clarify the report filed today, during the next date of hearing.

Tamil Nadu State Legal Services Authority

19.The learned Standing Counsel appearing on behalf of the Tamil Nadu Legal Services Authority, submitted that the Secretary of the State Legal Services Authority is in New Delhi and he is attending a programme and hence, sought for some more time to file a status report and to incorporate the various programmes that have been conducted by the Legal Services Authority.

Enlisting NGOs



W.P.No.7284 of 2021

WEB COPY

20. The learned Senior Panel Counsel filed the status report of the Under Secretary to the Ministry of Social Justice and Empowerment, Government of India.

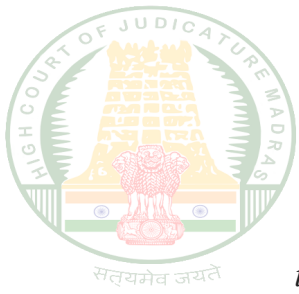
The relevant portions in the status report are extracted hereunder.

“3. MSJE vide OM dated 27.10.2022 requested Cabinet Secretariat to allocate the subject matters related to LGBA+ to any Ministry including MSJE under Allocation of Business (AoB) Rules 1961, so that directions issued by Hon'ble High Court may be complied with.

4. Cabinet Secretariat vide OM dated 17.11.2022 has advised to take necessary action by this department in the matter without linking it to the amendment of Allocation of Business (AoB) Rules.

5. Further, National Institute of Social Defense (NISD), an autonomous institute and nodal training and research institute in the field of social defence under the Ministry of Social Justice and Empowerment has been requested to compile a list of NGO/CBO which have sufficient expertise in handling the issue faced by the LGBTQIA+ community as per the direction of the Hon'ble High Court and send to this Ministry for placing on the Website of MSJE.

6. Now, NISD has informed that the process of compilation of the list of such organizations has been initiated through a user-friendly form (copy attached) specially developed and uploaded on the website of NISD. The prescribed form is also being circulated



W.P.No.7284 of 2021

WEB COPY

through digital mode among the NGOs/CBOs who are working in the area of welfare of LGBA+. The list of such NGOs will be compiled along with the address, contact details, and will be published and revise periodically on the official website”.

21.The learned Senior Panel Counsel also brought to the notice of this Court the format of the Registration Form that is now available in the digital mode. It was submitted that the NGOs, who are working in the area of welfare of LGBTQIA+community are required to submit the duly filled up application form to the Ministry of Social Justice and Empowerment. Once this is done, the concerned NGOs will be enlisted and it will be maintained in the website of the Ministry.

22.A major step has been taken by the Ministry of Social Justice and Empowerment and the process of enlisting NGOs has commenced. This will ensure that the NGOs are made accountable and those who do not enlist themselves with the Ministry of Social Justice and Empowerment will not be allowed to run a NGO for the welfare of persons belonging to LGBTQIA+community.

23.The NGOs who are working for the welfare of persons belonging to LGBTQIA+community, are directed to immediately fill up the registration form that has been made available by the concerned Ministry in their website and they shall



W.P.No.7284 of 2021

WEB COPY

enlist themselves with the Ministry. The organisations which are already in existence shall complete this process within a period of **two months** from the date of this order. If the concerned Ministry has already fixed a deadline, the same can be extended for a period of **two months** as indicated in this order. The concerned Ministry shall also issue sufficient instructions through print and electronic media directing the NGOs to enlist themselves within the time frame fixed by this Court. It is also made clear that any fresh NGO, who wants to work towards the welfare of LGBTQIA+community, can do so only after submitting an application before the concerned Ministry and enlisting themselves as a NGO.

NCERT Manual

24.The learned Senior Panel Counsel submitted the written communication/status report received from the Department of Gender Studies, NCERT. For proper appreciation, the report is extracted hereunder:

"The Draft Module 'Inclusion of Transgender Children in School Education: Concerns and Roadmap' has been finalized and sent to all SCERTs for their feedback and suggestions, if any. The last date for the same has been given as 10 December, 2022. After getting all comments, if found appropriate/relevant, they will be incorporated and the Module will be uploaded on NCERT Website for (the reference consumption) of all Stakeholders".

25.The learned Senior Panel Counsel submitted that after receiving the



W.P.No.7284 of 2021

comments, the draft module will be finalised and it will be uploaded in the NCERT
WEB COPY
website for the benefit of all the stakeholders.

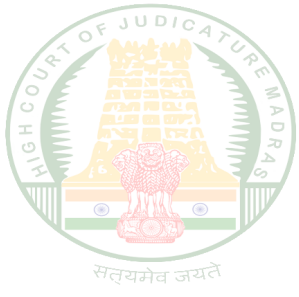
26.Post this Writ Petition for further hearing on **23.01.2023 at 2.15 pm.**

09.12.2022

KP

Internet: Yes

N.ANAND VENKATESH.,J



WEB COPY



W.P.No.7284 of 2021

KP

WP No.7284 of 2021

09.12.2022