



W.P.No.7284 of 2021

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N. ANAND VENKATESH,, J.

1.Pursuant to the earlier orders passed by this Court on 18.02.2022, 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

2.This Court had directed the Department of Social Welfare and Women Empowerment to publish a fresh glossary in line with the one suggested by this Court from page 14 to 27.

3.The learned Additional Advocate General submitted that necessary steps have been taken by the Department and the suggested glossary will be published in the Gazette within a period of 3 weeks. The concerned department shall follow it up and publish the same within the time limit undertaken by them.

The Draft Transgender Persons (Protection of Rights) Rules

4.The learned Additional Advocate General also brought to the notice of this Court the letter sent by the Joint Secretary to the Government to the Social Welfare and Women Empowerment Department on 23.03.2022, wherein, certain incorporation/modification has been suggested to the Draft Transgender Persons (Protection of Rights) Rules. The learned Additional Advocate General submitted that the



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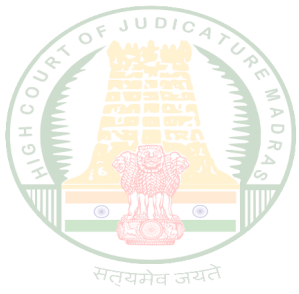
concerned Department will incorporate the modifications in the Draft Rules and it will be sent to the Government in order to enable the Government to issue the necessary notifications. For proper appreciation, the suggestions made by the Law Department are extracted herein under:

I.Sub-section (1) of section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (Central Act 40 of 2019) empowers the Government to make rules subject to the condition of the previous publication. The draft has been modified in the form of preliminary notification, called for objections and suggestions from the public. The time limit for receiving the same may be specified in the spaces left blank therein. The draft notification may be appended to the G.O to be issued for the purpose.

II.As the proposed Rules will come into force on the date of its publication in the Tamil Nadu Government Gazette. sub-rule (2) of rule 1 is not necessary and may therefore, be omitted.

III.Draft rule 2(h): The said Act does not provide for recognition of the "certificate of identity" issued by a State authority prior to the coming into force of the said Act. In the absence of such an enabling provision in the Act, Identity Certificates issued prior to the coming into force of the said Act cannot be recognized as such, in the Rules. Hence, the expression "or an identity card to a transgender person issued by the State authority prior to the coming into force of these rules" may be omitted and the said draft rule may be modified suitably.

IV.Draft rule 3(2): SW&WE Department shall enter the name of the web portal in the space left blank.



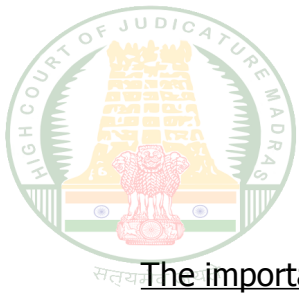
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V. Draft rules 10, 11 and 13 (3):- Section 22 (2) of the said Central Act 40 of 2019, among others, provides for making rules for the welfare measures to be provided under sub-section (2) of section 8 of the said Act. The said Section 8 (2) mandates the State Government to take such welfare measures as may be prescribed to protect the rights and Interests of transgender persons and facilitate their access to welfare schemes framed by the State Government "Prescribed" means prescribed by rules made by the appropriate Government - vide section 2() of the said Act. Hence, the welfare measures, education, social security and health of transgender persons, as contemplated in the said section 8(2) has to be specified in draft rule 10 itself, instead of requiring the State Government to do so as now mentioned in draft rule 10. On similar lines, draft rule 11 and draft rule 13 (3) also need to be modified suitably.

VI. The welfare board referred to in draft rule 10 (1) may be constituted in the Welfare Scheme to be formulated under section 8(3) of the said Act.

VII. Draft rule 13: section 11 of the said Act provides that every establishment shall designate a person to be a "Complaint Officer" to deal with the complaints relating to violation of the provisions of the said Act. Draft rule 13 provides for setting up of a State level Grievance Redressal Cell at the Directorate of Social Welfare to entertain the complaints. The said rule is silent as regards the officer to be designated as Complaint Officer. That department may indicate the composition of the State Grievance Redressal Cell and the procedure to be followed for the Redressal of grievances and the time limit therefore in the Rules.

2. I am to request you to incorporate the modification suggested by Law Department in the Draft rules and send to Government.

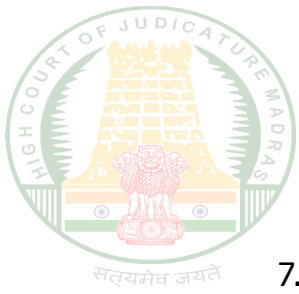


The importance of sensitizing teachers to the needs of queer children

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5. During the course of the hearing, this Court brought to the notice of the learned Additional Advocate General that with the prevailing system, there is no mechanism provided for children who belong to the LGBTQ+ community to discuss the issue and to make complaints in case they are harassed or bullied. The children belonging to the community are not in a position to talk with their parents, they are not in a position to talk with the teachers in the school, they feel very apprehensive to discuss with their own friends, and the society is not prepared to lend its ears to them. In the said process, the children undergo untold mental agony and even physical abuse. By the time they enter adulthood, many develop suicidal tendencies due to continuous neglect from all quarters. There are many unreported cases where persons belonging to the LGBTQ+ community commit suicide since they lose all hope in the society and don't find any light at the end of the tunnel.

6. This Court suggested to the learned Additional Advocate General that the 17th and 18th Respondents can organize a programme spanning from 6-8 weeks and invite one teacher from every school who can be sensitized on this issue. These teachers can be addressed by the NGOs who are working for the welfare of the community. They can also be addressed by persons belonging to the community. Even medical professionals who have a proper understanding of this issue can address teachers. The teachers who undergo the programme will at least get sensitized about this issue and will have a proper understanding as to what is undergone by a child who belongs to the community.



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7.The 17th and 18th respondents shall immediately take steps to arrange a programme for the school teachers as suggested by this Court. This programme shall be conducted for all teachers in various schools across Tamil Nadu. The 17th and 18th respondents shall file a report.

National Medical Commission

8.During the previous hearing, the National Medical Commission (hereinafter referred as "NMC") was directed to circulate the report of the expert committee and the recommendations made to all the State Medical Councils across the country. When the matter was taken up for hearing today, the learned Standing Counsel for NMC, submitted a status report wherein, it is seen that the NMC through communication dt. 30.03.2022, has circulated the recommendations of the Expert Committee to all the State Medical Councils. For proper appreciation, the communication sent by the NMC is extracted hereunder:

To

State Medical Councils

(As per list attached)

Subject: Compliance of order dated 18.02.2022 in Writ Petition No. 7284 of 2021
titled S. Sushma & Anr. Vs. The Commissioner of Police and Ors. filed
before Hon 'ble High Court of Madras.

Sir/Ma'am,

I am directed to enclose herewith a copy of the report of expert committee along with its recommendations in compliance with order dated 18.02.2022 passed by the Hon 'ble



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High Court of Madras in Writ Petition No. 7284 of 2022 titled Mrs. S. Sushma & Anr. Vs. The Commissioner of Police and Ors.

2. In the present writ petition, the petitioner has sought various reliefs from several authorities including National Medical Commission. In order to deal with the issues in the matter, the Commission constituted an expert committee and the said committee prepared recommendations in consultation with UGMEB, NMC on various issues. Said recommendations were placed before the Hon'ble Court in the hearing dated 18.02.2022 and accordingly the Hon'ble Court after considering the said recommendation made certain directions to **NMC**.

3. The Hon'ble High Court has directed National Medical Commission to circulate the report of expert committee and the recommendations to all the State Medical Councils so as to ensure that the State Medical Council, wherever it is conferred with the power of taking disciplinary action for professional misconduct, can take note of the recommendations of the expert committee, and proceed to take action against the concerned medical professional. Relevant para is reproduced hereunder for reference:

"25. One more important recommendation that has been made by the expert committee is with regard to the "conversion therapy" being identified as a professional misconduct. In the recommendations, the committee had made it very clear that any attempt I interventions to change the sexual orientation and/ or gender identity of a person, which is commonly referred to as "conversion therapy", should be construed as a professional misconduct on the

part of the medical professionals under Chapter VII of the Indian Medical Council, Professional Conduct, Etiquette and Ethics Regulation 2002. The National Medical Council on the basis of the recommendations made by the expert committee, through their communication dated 15.02.2022, has specifically directed the National Medical Council- Ethics and Medical Registration Board to take action wherever such "conversion therapies" are undertaken by any medical professional. Section 27 of the National Medical Council Act, 2019 specifically provides that the compliance of the Code of Professional and Ethical Conduct shall be done through the State Medical Council wherever the concerned State Medical Council has been conferred with the power to take disciplinary action with respect to professional or ethical misconduct. In view of the same, there shall be a direction to the



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National Medical Council to immediately circulate the report of the expert committee and the recommendations made to all the State Medical Councils across the country. This will ensure that the State Medical Council, wherever it is conferred

with the power of taking disciplinary action for professional misconduct, can take note of the recommendations of the expert committee, and proceed to take action against the concerned medical professional. This direction shall be complied with by the National Medical Council within a period of four weeks"

4. In view of above, all State Medical Councils are hereby requested to take note of the report of expert committee and its recommendations and take appropriate action wherever required.

5 . This issues with the approval of President, UGMEB.

9.The NMC has also further directed all the State Medical Councils to take necessary action whenever their attention is drawn to the non-compliance of the recommendations made by the Expert Committee.

10.The Expert Committee, after identifying that conversion therapy will constitute a professional misconduct, had requested the NMC to issue necessary official notification. The learned Standing Counsel appearing for the NMC submitted that steps are being taken to notify the recommendation suggested by the Expert Committee and make it part of the regulations. It was further submitted that once it forms part of the regulations, any violation of the regulations itself will be construed as a misconduct. The NMC shall also ensure that the State Medical Councils also notifies conversion therapy as a professional misconduct in their Rules so that there is consistency between the NMC Rules and the State Medical Council Rules. The compliance of this direction shall be



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11. The modification of the competency presently confines itself to psychiatry and forensic medicine. However, it is brought to the notice of this Court that there are many other fields and subjects in the medical curriculum that are lacking due to non mentioning of LGBTQ+ orientations and identities. These include pediatrics, obstetrics, and gynaecology. There are also areas like endocrinology and general medicine which require modification of competencies. On the basis of the materials collected by this Court, the following are the suggested modifications in pediatric relevant competencies.

Suggested Pediatric Competencies for National Medical Commission

Submitted by

Dr. Ramya Ramadas, MD, MPH

PGY-1, Boston Combined Residency Program

Boston Medical Center | Boston Children's Hospital | USA

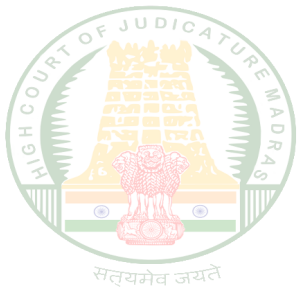
and

Dr. L. Ramakrishnan, PhD

SAATHII, Chennai, India

April 7, 2022

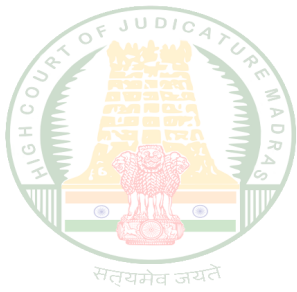
Context: Following the interim orders of Justice Anand Venkatesh of the Madras High Court in 2021, the National Medical Commission in India has modified the competency-based curricula for Psychiatry and Forensic Medicine. However, there are many other subjects in the medical curriculum that suffer due to lack of mention of LGBTIQ+ orientations and identities. These include pediatrics, obstetrics and gynecology, endocrinology, general medicine, to mention a few.



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Here we submit suggested modifications in pediatrics-relevant competencies.

S.No	Current	Proposed (to be added)
	<i>CM10.1</i> Describe the current status of Reproductive, maternal, newborn and Child Health K KH Y Small group discussion, Lecture Written / Viva voce Obstetrics & Gynaecology, Pediatrics.	<i>Describe the current status of sexual health (safe sex practices, contraception, consent, sexuality), gender-affirming care, and LGBTQI healthcare for adolescents. Consider state and national policies and how these impact the care these populations receive.</i>
1.	-This objective is very broad. The other objectives with which it is paired are around reproduction, embryology, and birth. This can be a potential place to expand reproductive health into sexual health and gender affirming care.	
2.	<i>PE6.2</i> Describe the physical, physiological and psychological changes during adolescence (Puberty) K KH Y Lecture, Small group discussion Written/ Viva voce Psychiatry.	<i>Describe the physical, physiological and psychological changes during adolescence and how this pertains to the special healthcare needs and options available for transgender and gender-nonconforming youth – particularly pubertal suppression, hormone therapies, and gender affirming surgeries.</i>
3.	<i>PE6.4</i> Describe adolescent sexuality and common problems related to it K KH N Lecture, Small group discussion Written/ Viva voce Psychiatry	<i>Describe development of sexuality and gender identity during adolescence and what factors (examples: socialization, media, family) impact the expression of these.</i>
4.	<i>PE6.7</i> Describe the common mental health problems during adolescence K KH Y Lecture, Small group discussion Written/ Viva voce Psychiatry	<i>Describe how an adolescent's gender identity, sexuality and sex characteristics (particularly if they identify as LGBTQI) can impact an adolescent's mental health.</i>
5.	<i>PE6.9</i> Perform routine Adolescent Health checkup including eliciting	<i>Perform routine Adolescent Health check-up including eliciting history, performing</i>



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history, performing examination including SMR (Sexual Maturity Rating), growth assessments (using Growth charts) and systemic exam including thyroid and Breast exam and the HEADSS screening S SH Y Bedside clinics Skills station

examination including SMR (Sexual Maturity Rating), growth assessments (using Growth charts) and systemic exam including thyroid and Breast exam and the HEADSS screening. Use a trauma-informed approach (example: only doing parts of exam that are essential) particularly when interacting with transgender or gender fluid patients. Discuss how to approach goals of gender-affirming care while recognizing that not all patients have the same endpoint.

6.

PE6.10 Discuss the objectives and functions of AFHS (Adolescent Friendly Health Services) and the referral criteria K K N Lecture, Small group discussion Written/ Viva voce

The Adolescent Friend Health Services programme of the Government of India also has very little mention of SOGIESC beyond the HIV context. This content needs to be modified too, to discuss diverse sexual orientations, gender identities, expression and sex characteristics.

12.The NMC shall take into consideration the suggested modifications and the same can be placed before the Expert Committee for their recommendations. A status report shall be filed in this regard during the next hearing.

Tamil Nadu State Legal Services Authority

13.The Standing Counsel appearing on behalf of the Tamil Nadu State Legal Services Authority submitted that pursuant to the earlier directions issued by this Court, a programme was conducted by selecting 3 advocates from each District Legal Services Authority in every District and totally 96 advocates underwent a training programme spanning for 6 weeks. The learned Standing Counsel further submitted that the programme was conducted by roping in persons belonging to NGOs who are working for



the community, persons who belonged to the LGBTQ+ community, medical professionals and also lawyers who are working for the cause. The learned Standing Counsel submitted that the programme was concluded and a comprehensive report will be filed before this Court in 10 days.

NCERT manual

14. During the previous hearing, this Court directed the NCERT to give a status report on the reviewing of the available module. When the matter was taken up for hearing, a status report was filed by NCERT and for proper appreciation, the same is extracted hereunder:

The Department of Gender Studies has done the consultative meetings with experts and the gaps with existing training manual for Inclusion of Transgender children in School Education were identify for its adaptation as a training module. The work to create the activities and other aspects of the module, the work had been assigned to different committee members. The write ups have been received and the draft of the Module has been prepared at the Department level.

Latest Status as on 07-04-2022

As mentioned in the earlier response, at the third and last stage a meeting with all the Committee members will be held for vetting of the module on 11-12 April, 2022. During the process of finalization, the DRAFT module will be shared with all SCERTS, CBSE, KVS, NVS etc. for inviting suggestions and comments about the same, so that it will be rolled out during the academic session 2022-2023 as committed earlier by the NCERT.

It is clear from the above that the NCERT is taking all steps to roll out a training module effective from the next academic session 2022-23. The progress made shall be updated



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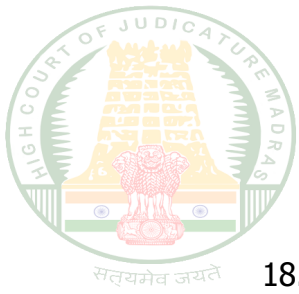
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Enlisting NGOs

15. This Court directed the 10th respondent to complete the process of enlisting NGOs with all details and to upload the same on their website, during the previous hearing. A status report has been filed by the 10th respondent and it is seen that there are only 12 NGOS who have been enlisted and recognised by the Ministry of Social Justice and Empowerment.

16. It is clear from the above that the 10th respondent has not taken any positive step to devise a mechanism for inviting applications from concerned NGOs who are taking care of the LGBTQ+ issues, to scrutinize them and to enlist them.

17. There shall be a direction to the 10th respondent to make a public announcement calling for applications from the concerned NGOs who are working for the welfare of the persons belonging to the LGBTQ+ community. The 10th respondent can seek necessary information from the concerned NGO. The applications can be scrutinized and once the 10th respondent is satisfied with the credibility of the concerned NGO, they can be enlisted and the name of the NGO can be uploaded on the website of the 10th respondent. This process shall be commenced immediately and a status report shall be filed during the next date of hearing.



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18. The 10th respondent has filed a status report and has explained the various steps taken by them. For proper appreciation, the same is extracted hereunder:

1. *Proposals for setting up new Garima Grehs from interested CBOS have been invited from 01.04.2022 on e-Anudaan portal of Ministry. Any CBO working for Transgender Persons can apply for the same. An advertisement has also been published in leading newspapers for wider reach of the initiative among Transgender Community.*

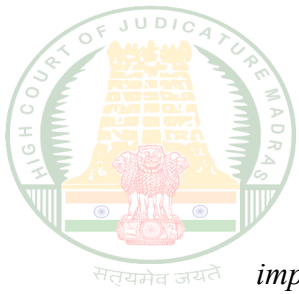
2. *A comprehensive package in convergence with PM-JAY which shall also support Gender-Reaffirmation surgeries would be provided to Transgender persons through empanelled hospitals. The package would be fully funded by the Ministry. A Memorandum of Understanding with National Health Authority will be signed shortly.*

3. *Skill development programmes are currently open for registration for Transgender persons on National Portal for Transgender Persons and PM-DAKSH portal. Interested transgender persons can register for Short term and long term courses in various trades.*

4. *Registration for Pre/Post Matric Scholarship to Transgender Students has started on National Portal for Transgender Persons since 15.03.2022. An amount of Rs. 13,500 will be provided to TG students, which is higher than most of the scholarship schemes.*

5. *Ministry has written to States/UTs for submitting proposals for setting up Transgender Protection Cell in their respective States under the charge of Director General of Police. The aim of Transgender Protection Cell is to effectively deal matters related to discrimination and violence against Transgender Persons. Transgender Protection Cell have been set up in three States namely Rajasthan, Chhattisgarh and Arunachal Pradesh.*

6. *Ministry is also going to conduct regional consultations in collaboration with NITI Aayog, UNDP and state governments for effective*



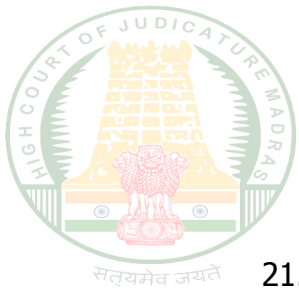
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implementation of SMILE Scheme and the Transgender Persons (Protection of Rights) Act, 2019.

The Transgender Persons Policy

19. The learned Additional Advocate General sought for some more time to finalise the Transgender Persons Policy since the suggestions are still awaited from the stakeholders. This court expects that Transgender Persons Policy should be given a shape and should be finalized and it must be made operational at the earliest since it will give some visibility as to how the Government is going to deal with persons belonging to the LGBTQ+ community. Once the policy is implemented, it can always be improved by getting suggestions from the stakeholders and necessary modifications/alterations/additions can be made. It is not possible to come up with a perfect policy to start with since even the Government is venturing into uncharted waters and hence improvements can always be made as and when required to make it more effective and all pervasive.

20. The above directions issued by this Court shall be implemented/followed up and a report shall be submitted by the concerned departments before this Court during the next date of hearing.



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21. Post this case under the caption "for reporting compliance" on **17.06.2022**
at 2.15 pm.

08.04.2022

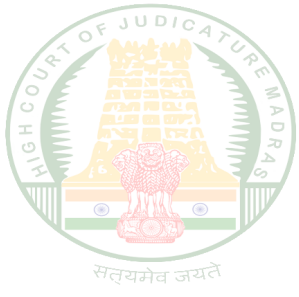
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Copy To

- 1.The Department of Social Welfare and Women Empowerment.
- 2.State Medical Councils (across the Country)
- 3.Ministry of Social Justice and Empowerment, New Delhi.

N.ANAND VENKATESH.,J

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WP No.7284 of 2021

08.04.2022

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