



W.P.No.7284 of 2021

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N. ANAND VENKATESH, J.,

Pursuant to the earlier orders passed by this Court on 29.01.2024, the matter was posted for hearing today.

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

2. During the previous hearing, this Court made a suggestion to the State government to undertake a larger consultation with the stake holders and expand the committee by adding persons belonging to the trans community so that their interest is also taken care. Pursuant to this direction given on 29.01.2024, the Secretary to Government, Social Welfare and Women Empowerment Department, Secretariat, Chennai, has filed a status report today. For proper appreciation, the relevant portions are extracted hereunder :-

6. It is respectfully submitted that in continuation of the meeting held on 20th January 2024, it was decided to conduct regional level consultative meetings to reach out more persons of transgenders and sexual minority community and get their opinion. All District Social Welfare officers were instructed by the Commissioner of Social Welfare on 31.01.2024 to coordinate with



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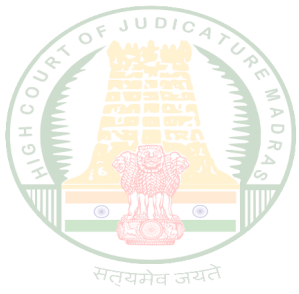
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transgender and LGBQA+ community persons and ensure them to participate in regional level meetings. Nearly 9-10 districts are covered in each region. Transgender Board members and LGBQA+ members were also informed about the consultation meetings with request to spread the programme schedule.

7. Accordingly, following four regional level consultative workshops were conducted by the Commissioner of Social Welfare along with concerned District Social Welfare Officers. Transgender community, LGBQA+ community people, transgender welfare activists and representatives from NGOs have participated

Sl.No.	District	Date	No. of participants
1	Villupuram	08.02.2024	128
2	Trichy	10.02.2024	100
3	Coimbatore	13.02.2024	200
4	Madurai	15.02.2024	120

8. It is respectfully submitted that the main request during the meetings arised was exclusive policy for transgenders and reservation in education and employment as they are the vulnerable and marginalized people.



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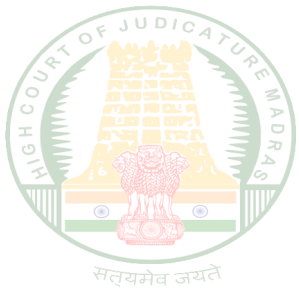


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9. It is respectfully submitted that the draft LGBTQIA+ policy was discussed during the Transgender Welfare Board meeting held on 29.02.2024 under the Chairmanship of Hon'ble Minister for Social Welfare and Women Empowerment Department. Objections were raised by the board members and it was requested to frame separate policy for transgenders which includes transwomen, transmen and intersex persons. It was also resolved to conduct camps at District levels to enhance the enrolment of transgenders through online mobile app.

10. It is respectfully submitted that the Transgender Welfare Board was formed on 15.04.2008 first of its kind in the country. Since then the Government have been formulating schemes and programmes for the welfare of the transgenders to safeguard their rights and uplift them and mainstream them in the society. As the department is implementing welfare schemes for the transgenders for the past two decades and the plight of the transgenders is evident, a separate policy for transgenders persons has been formulated.

11. The English draft of the Tamil Nadu State Policy for Transgender, 2024 is received by the Government on 15.05.2024 The Tamil translation is being done and will



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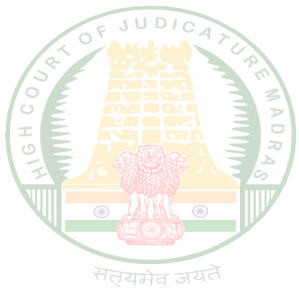
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be finalised once the English draft is approved by the Government.

12. It is respectfully submitted that a camp was conducted in Zone-8, Chennai on 06.03.2024 on pilot basis, in coordination with other departments like e-seva centres, Health department, Revenue department for issue of Transgender Identify cards, CMCHIS card, ABHA card (Ayushman Bharath Health Account Card), corrections in Voter ID, Aadhar card etc. In the same manner it was proposed to conduct camps in all districts. Due to Model Code of Conduct, it has been proposed to conduct on June 21, 2024 in all districts on the same day.

13. Hence, it is respectfully submitted that action is under process to revise the draft policy for LGBQIA+ community excluding transgender community and will be expedited at the earliest. Therefore it is considered that atleast three months time is kindly needed for the above said process.

14. In view of the above submissions made, it is prayed that this Hon'ble Court may be pleased to accept the aforesaid Status Report and most humbly prayed that appropriate time may be granted to prepare the separate



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policy for LGBQA+ Community and pass appropriate orders as this Hon'ble Court may be deem fit and proper and thus render justice.

3. Mr.Hasan Mohammed Jinnah, learned State Public Prosecutor submitted that the State Government at a policy level has taken a preliminary decision to the effect that there must be an exclusive policy for transgenders and they must be provided with reservation in education and employment as they fall within the most vulnerable and marginalised sector.

4. The learned State Public Prosecutor made it clear that the draft policy was made ready in English and the Tamil Nadu State Policy for Transgenders, 2024, was submitted to the Government by the committee on 15.05.2024. The Government is in the process of coming up with a Tamil version of this draft policy. Ultimately, the same will be placed for the approval of the Government. The learned State Public Prosecutor further submitted that further consultations are going to be held and since the moral code of conduct was in force, the Government was not in a position to conduct any meeting during this period. The further process of conducting special camps and meeting will commence



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from 21.06.2024 in all Districts. Thereafter, the draft policy will be finalised and approved by the Government and this process may take three months. Therefore, the learned State Public Prosecutor requested this Court to adjourn this case by three months to enable the State Government to finalise the policy and to grant approval and to bring it into effect.

Ministry of Social Justice Empowerment, Government of India,

Enlisting NGOs

5. A status report has been filed by the Under Secretary to the Ministry of Social Justice and Empowerment, Government of India. The learned Additional Solicitor General Assisted by Mr.V.Chandra Sekhar, learned Standing Counsel, submitted that the earlier order passed by this Court was followed up and till date, 88 NGOs/ CBOs have been registered in the second phase from January 2024 to 05.06.2024.

6. During the previous hearing, only 30 NGOs /CBOs were registered and thereafter, there has been a substantial increase in the registration of the various organisations with the Ministry of Social Justice and Empowerment, Government of India. Along with the status



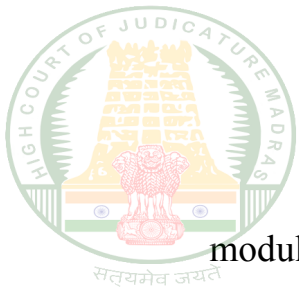
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report, the list of organisations, who had registered themselves was also placed before this Court. The status report and the particulars of the various organisations are taken on record.

7. Considering the appreciable increase in the number of NGOs / CBOs registering themselves with the Ministry of Social Justice and Empowerment, Government of India, this Court directs that the process of enlisting NGOs/CBOs shall be kept open till the next date of hearing. This will ensure that more NGOs will come forward and submit their applications for enlisting themselves in the official portal. It should be made clear that this is the last extension granted by this Court to enable further enlisting of the NGOs/CBOs and no further extension of time will be granted.

NCERT

8. The Head of the Department of Gender studies belonging to NCERT has filed a status report along with the draft module which provides for integrating transgender persons' concerns in schooling processes. The Learned Additional Solicitor General Assisted by Mr.V.Chandra sekar, learned Standing counsel, submitted that this draft



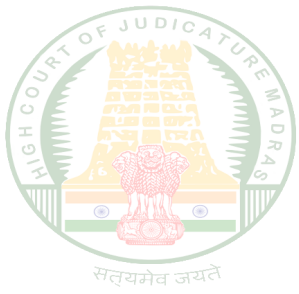
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module has now been placed before the concerned Ministry and the concerned Ministry will take a final decision on the draft module that has been submitted by the NCERT.

9. The learned Standing counsel appearing for the National Medical Commission submitted that the incorporation of the conversion therapy as a professional misconduct in the relevant regulations is under process.

10. The learned Standing Counsel brought to the notice of this Court the notification dated 23.08.2023, which is extracted hereunder :-

No. R-12013/01/2022/Ethics In exercise of the powers conferred by Section 27(1)(b), read with Sections 10(1)(b) & (f), 16(2), 57(2) (zd), (zh), (zi) and (zl), of the National Medical Commission Act, 2019, (Act No. 30 of 2019), the National Medical Commission hereby makes the following Regulations to further amend the "National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023" namely:



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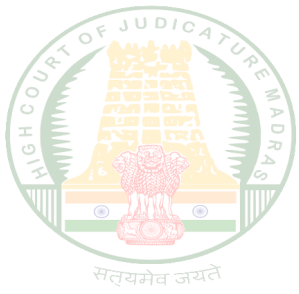
1. These Regulations may be called the "National Medical Commission Registered Medical Practitioners (Professional Conduct) (Amendment) Regulations, 2023"

2. These Regulations shall come into force from the date of their publication in the Official Gazette.

3. That National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023, are hereby held in abeyance with immediate effect.

4. That for removal of doubts, it is clarified that the National Medical Commission Registered Medical Practitioner (Professional Conduct) Regulations, 2023, shall not be operative and effective till further Gazette Notification on the subject by the National Medical Commission.

5. That the National Medical Commission hereby adopts and makes effective with immediate effect the "Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002", as if the same have been made by the Commission by virtue of the



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powers vested under the National Medical Commission Act, 2019 (Act No. 30 of 2019).

6. That for removal of doubts, it is clarified that Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, shall come into force with immediate effect.

11. It is clear from the above that the 2023 regulations are yet to be made operational and the report that has already been submitted by the National Medical Commission will be taken into account and the incorporation of the conversion therapy as a professional misconduct will be made in the New Regulations viz., “National Medical Commission Registered Medical Practitioners (Professional Conduct) (Amendment) Regulations, 2023 before the next date of hearing.

12. The learned counsel for petitioners submitted that the National Medical Commission was directed to follow up and report on the modified competency being incorporated in the relevant books and materials to be supplied for students undergoing the medical course. When the matter came up for hearing on 22.08.2022, a status report was

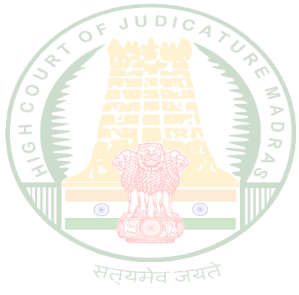


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also filed to the effect that the recommendation that was given by the Expert committee on the modified competency pertaining to Forensic Medicine and Psychiatry, will be implemented at the Under graduation level. However, it is submitted by the learned counsel for the petitioner that the changes have not taken place in the curriculum and the material that are available in the website of National Medical Commission shows the earlier status without any change.

13. The learned Standing counsel shall immediately follow up on this issue since a mistake cannot continue in the curriculum and more particularly when the committee has already considered the same and submitted their report and therefore, it has to be necessarily brought within the curriculum. This shall be ensured by the National Medical Commission before the next date of hearing.

14. The time sought for by the State Government to finalise and approve the policy is granted. This Court is confident that the State Government will finalise and approve the policy within a period of three months. If this is done, it will set a precedent for the entire country and it will give a ray of hope for persons belong to LGBTQIA+ community.



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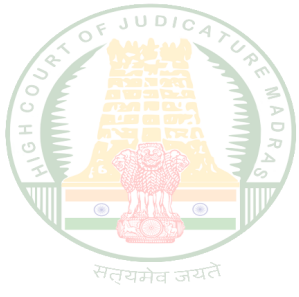
16. Post this case for further hearing on 09.09.2024 @ 2.15 p.m.

10.06.2024

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10.06.2024