

AD-06
Ct No.09
03.01.2023
TN

WPA No. 27665 of 2022

Samrat Bhattacharyya
Vs.
Union of India and others

Mr. Kaushik Gupta,
Ms. Srimoyee Mukherjee

.... for the petitioner

Ms. Mary Datta

.... for the Union of India

Mr. T.M. Siddiqui,
Mr. Supratim Dhar

.... for the State

Learned counsel for the petitioner contends that the petitioner had applied for an identity card to be issued within the contemplation of the Transgender Persons (Protection of Rights) Act, 2019 (hereinafter referred to as “the 2019 Act”). However, the concerned District Magistrate has not yet issued such identity card to the petitioner. It is argued that the necessary application was made on the National Portal meant for such purpose in or around the month of March, 2022.

Learned counsel submits that in terms of the provisions of the Act, the mandate is upon the District

Magistrate to comply with such requirement within thirty days.

It is further argued that a set of statistics disclosed before the Lok Sabha by the Ministry of Social Justice and Empowerment, Lok Sabha indicates that in West Bengal, there were fifty-three valid applications pending in total, but the number of certificates issued was merely one as on December 14, 2021.

It is contended that even if one person was issued such identity card, the respondent-authorities are mandated in law to comply with the provisions enshrined in Article 14 of the Constitution of India in order to do complete justice and equality between all concerned and to issue such cards to the petitioner and the other valid applicants.

Learned counsel appearing for the State submits that the Rules-in-question were promulgated by the State of West Bengal only recently, that is, with effect from November 04, 2022. Since the Central Rules had not been adopted prior thereto by the State, the implementation of the scheme within the Act could not have been given effect to previously.

Upon hearing learned counsel for the parties, it is evident that even if the State did not adopt the Central Rules, it was the mandate of law on the

District Magistrate to issue the identity card to transgender persons within the contemplation of the 2019 Act and the Central Rules within the period as stipulated therein. Unfortunately, it is apparent that only one out of fifty-three total valid applications had been processed till December 14, 2021.

Thus, it is incumbent upon the District Magistrate to issue the identity card of the petitioner, upon being satisfied that the petitioner complies with the provisions of the 2019 Act.

Hence, WPA No. 27665 of 2022 is allowed, thereby directing the respondent-authorities to ensure that, subject to satisfaction of the concerned District Magistrate that the petitioner fulfills the criteria as stipulated in the Transgender Persons (Protection of Rights) Act, 2019, to issue a transgender identity card to the petitioner latest by February 02, 2023.

It is expected that within the said time-frame, the respondents shall process all similar pending valid applications before it and take decisions thereon.

The parties shall act on the written communication of the learned Advocates for the parties, accompanied by server copies of this order, without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)