



W.P.No.7284 of 2021

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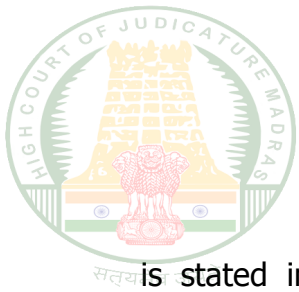
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**N. ANAND VENKATESH,. J.**

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

The learned Additional Advocate General submitted that the suggested glossary has been published in the Tamil Nadu Government Gazette in G.O.(Ms).No.52, Social Welfare and Women Empowerment [SW3(1)] Department, dated 20.08.2022. A copy of the same was also produced before this Court. The learned Additional Advocate General submitted that by virtue of the publication of the glossary in the Official Gazette, these terms have a statutory backing and whenever the LGBTQIA+community is addressed by any forum, it is mandatory to address them only by using the terms that have been published in the gazette. By doing so, an attempt is being made to address persons belonging to LGBTQIA+community with more dignity and respect. The submissions made by the learned Additional Advocate General is recorded and it is made clear that all concerned including the press must take note of the notification published in the gazette on 20.08.2022 and address persons belonging to LGBTQIA+community by using only the notified terms wherever required.

2.Insofar as the Transgender Persons (Protection of Rights) Rules is concerned, it



*W.P.No.7284 of 2021*

is stated in the written instructions received from the Additional Chief Secretary to Government that the draft rules has been received from the Director of Social Welfare and it requires scrutiny and compliance of the Central Act, 2019 and the approval of the Law Department must also be obtained before circulating the same to the Hon'ble Chief Minister, to obtain orders and to notify the same. Hence, six more months time is sought for to finalise the rules and to notify the same.

3. Similarly, insofar as Transgender Policy is concerned, instructions have been issued to the Principal Secretary of the Transgender Welfare Board, to prepare the exclusive policy for transgender persons in consultation with concerned stakeholders including the officials of State Planning Commission. Six more months time is sought for to come up with the final Transgender Policy.

4. In the considered view of this Court, six months time sought for by the Government to finalise the Transgender Policy and the rules is totally unacceptable and that only shows that priority is not being given for this issue. This process has been going on for more than a year and it is not known as to why six months time is sought for to bring out the Transgender Policy and the rules under the 2019 Act. The Government must bear in mind that persons belonging to LGBTQIA+community have been sidelined from the main stream of the Society for too long and it is high time that top priority is given to implement the policy and rules. If the Government is really willing and serious about the upliftment of persons belong to LGBTQIA+community, some urgency must be



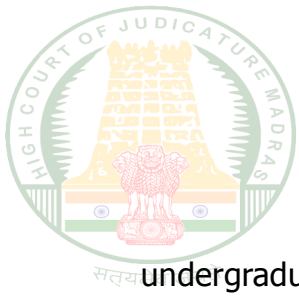
*W.P.No.7284 of 2021*

shown to finalise the policy and the rules. This Court expects the Government to appreciate the concern shown by this Court .

5. Even if sometime is required to finalise the policy and the rules, the concerned Secretary is expected to file a status report during each hearing and only then this Court will be able to ascertain the progress. Hence, the Additional Chief Secretary to Government, is directed to file a status report and explain the present status of the policy and the rules and the process yet to be completed regarding the same. On going through the status report, this Court will fix some time lines for the completion and implementation of the policy and the rules.

### **National Medical Commission**

6. The learned Standing Counsel appearing on behalf of the National Medical Commission (NMC) filed a status report on behalf of the 12<sup>th</sup> respondent. It is seen from the status report that insofar as the modified competency for the Undergraduate Medical Education is concerned, the recommendation given by the Expert Committee for making modifications in the Medical Education curriculum has already been sent to all the Medical Colleges / Medical Institutions in India and also to the Registrar and Director of all Medical Universities and Medical Education Boards. By virtue of the same, it was submitted that the recommendation of the Expert Committee on the modified competency pertaining to Forensic Medicine and Psychiatry will be implemented at the

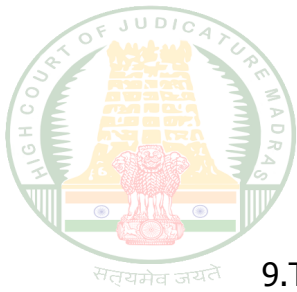


*W.P.No.7284 of 2021*

undergraduate level. In view of the same, there shall be a direction to the NMC, to upload the recommended modifications in the competencies as suggested through notification dated 18.08.2022, in their website.

7.This Court while passing the earlier orders, specifically directed the NMC, to issue an official notification by enlisting the conversion therapy as a professional misconduct. The public notice dated 23.05.2022, issued by the NMC along with the draft regulations does not contain the subject pertaining to conversion therapy being recommended as a professional misconduct. Hence, the learned Standing Counsel shall take specific instructions from the National Medical Commission as to whether any subsequent draft regulations have been uploaded in the website by incorporating conversion therapy as a professional misconduct.

8.Insofar as the revised guidelines for competency based PG Training Programme for MD in Psychiatry and preparation of module on psychiatric issues among LGBTQIA+ community groups, the Expert Committee has already suggested the revised guidelines and the module to the National Medical Commission. The learned Standing Counsel shall take instructions from NMC as to whether the Post Graduate Medical Education Board of NMC has already issued any communication to the Medical Colleges / Medical Institutions /Medical Universities / Medical Education Boards, for implementation of the same.



W.P.No.7284 of 2021

9.The learned Standing Counsel shall file a status report enlisting all the steps taken by NMC from the date of passing of the order in the writ petition, till date. This status report shall be filed during the next date of hearing. The status report shall also contain the compliance of the directions issued by this Court supra.

### **ENLISTING NGOS**

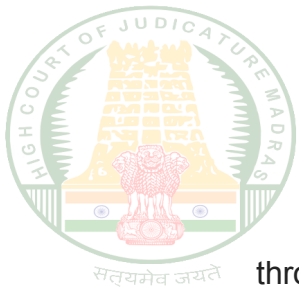
10.The written instructions received from the 10<sup>th</sup> respondent are extracted hereunder: unity

1.It is submitted that Ministry is not working for LGBTQIA+ community as Allocation of Business rules do not provide the mandate for the same.

2. Ministry provide financial supports to CBOs working for Transgender Persons and monitors their performance on various parameters. It may be noted that Ministry has no experience with the NGOs who are active in the field of welfare of LGBTQIA+ community. Due to this fact, even if Ministry enlist the NGOs, accessing their credentials and tracking their activities will not be possible for the Ministry and this may adversely affect the cause.

3.Other than existing 12 Garima Grehs, this Ministry has also approved 3 more /CBOs from the Andhra Pradesh, Punjab, and Uttarakhand for setting up Garima Grehs.

4.Further, this Ministry invited proposals for new 'Garima Greh: Sheltem homes for Transgender Persons in the States of Andhra Pradesh, Assam, Jharkhand, Karnataka, Bihar, Madhya Pradesh and Uttar Pradesh



*W.P.No.7284 of 2021*

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through the E-Anudaan portal from the CBOS. Ministry has received 71 applications which are under examination.

11.It is quite disappointing that the 10<sup>th</sup> respondent has once again gone back to the original position inspite of repeated Orders passed by this Court, directing the 10<sup>th</sup> respondent to enlist the NGOs.

12.A careful scrutiny of the allocation of business rules of the Department of Social Justice and Empowerment clearly shows that it is the 10<sup>th</sup> respondent, who is responsible for enlistment of NGOs. The 10<sup>th</sup> respondent seems to be under the mistaken understanding that welfare of Transgender persons will not cover the persons belonging to LGBTQIA+ community. The persons belonging to this community are sidelined by this society and they require societal empowerment. The 10<sup>th</sup> respondent should give the business rules a purposive meaning and understanding and it is very much within the jurisdiction of the 10<sup>th</sup> respondent to enlist NGOs, who are working for the welfare of persons belonging to LGBTQIA+ community. The 10<sup>th</sup> respondent is directed to take up the issue seriously since the NGOs, who are working for the upliftment of the LGBTQIA+ community must be properly empanelled and they must come within the control of the 10<sup>th</sup> respondent in order to ensure accountability. The learned Senior Panel Counsel shall place this order before the 10<sup>th</sup> respondent and this Court expects the 10<sup>th</sup> respondent to do the needful in line with the earlier directions issued by this Court and a status report shall be filed in this regard during the next date of hearing.



*W.P.No.7284 of 2021*

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13.Post this writ petition for hearing on **02.09.2022 at 2.15 pm.**

22.08.2022

Internet: Yes  
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*W.P.No.7284 of 2021*

**N.ANAND VENKATESH.,J**

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**WP No.7284 of 2021**

22.08.2022