



W.P No.31702 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

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Sivakumar T.D.

.. Petitioner

-VS-

1.State of Tamil Nadu

Represented by the Secretary to
Government, Department of
Stationery and Printing,
110, Anna Salai, Chennai 600 002.

2.State of Tamil Nadu

Represented by the Secretary to Government
Department of Social Welfare
Fort St.George, Chennai 600 009.

3.National Legal Services Authority

Jam Nagar House, Shahjahan Road
UPSC, Man Singh Road Area,
New Delhi, Delhi-110 011.

(R3 suo-motu impleaded as per order
dated 12.11.2019 made in W.P.No.
31702/2019 by MSNJ&NSSJ)

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent herein to effect publication of name and gender change to male, female or transfender in the official gazette without insisting on production of a medical certificate indicating completion of Sex Reassignment Surgery or the third gender identity card issued by the 2nd respondent, in compliance with the directions of the Hon'ble Supreme Court of India in National Legal Services Authority -Vs- Union of India and others (2014 [5] SCC 438) dated 15.04.2014.

For the Petitioner : Ms.B.Poongkhulali

For the Respondents : Mr.A.Edwin Prabakar
State Government Pleader
- for R1 & R2

Ms.Adhilakshmi Logamurthy
- for R3

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Ms.B.Poongkhulali, learned counsel for the petitioner, Mr.A.Edwin Prabakar, learned State Government Pleader for respondents 1 and 2 and Ms.Adhilakshmi Logamurthy for the third respondent.



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2. The petitioner seeks direction against the first respondent to effect publication of name and gender change to male, female or transgender in the official gazette without insisting on production of a medical certificate indicating the completion of Sex Reassignment Surgery or the third gender identity card issued by the second respondent, in compliance with the directions of the Supreme Court in National Legal Services Authority -Vs- Union of India and Others [2014 (5) SCC 438].

3. It is the contention of the learned counsel for the petitioner that while effecting publication of the name and gender change, the medical certificate endorsing Sex Reassignment Surgery cannot be sought for. The same would be in compliance with Rule 6 of the Transgender Persons (Protection of Rights) Rules, 2020.

4. Rule 6 deals with the procedure for issue of a certificate of identity for change of gender and under Rule 7, the certificate of identity is issued. An affidavit has to be filed in Form-2 for a certificate of identity by the transgender person and the certificate of identity for change of gender is issued by the District Magistrate in



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Form-4.

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5. The Government has already issued a Government Order doing away with the medical certificate endorsing Sex Reassignment Surgery. Now self declaration is sufficient. The status report filed by the first respondent suggests that documentary proof of the individual's name, date of birth and father's name along with the identity card issued to them by Tamil Nadu Government's Social Welfare Department is required to be submitted for the purpose of publishing the change of name and gender in Tamil Nadu Government Gazette.

6. No doubt, the name, date of birth and father's name can be submitted by the persons. Insofar as the identity card issued by the Tamil Nadu Social Welfare Department is concerned, the same would be necessary if the said person seeks the benefit of the social welfare schemes of the Government. Naturally, if a person is desirous of availing the benefit of social welfare schemes, then the said person will have to produce the identity card issued to them by the Social Welfare Department of the Government of Tamil Nadu. However, only



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for publication of the change of name or gender, the said identity card issued by the Social Welfare Department may not be necessary and shall not be insisted upon. Of course, for proving the identity the Government can ask for other authentic document such as Aadhar Card or such other documents which are sufficient for the proof of identity.

With the above observation, the writ petition is disposed of.
There shall be no order as to costs.

(S.V.G., CJ.)

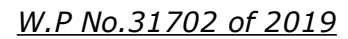
(J.S.N.P., J.)

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Index : Yes/No

Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
J.SATHYA NARAYANA PRASAD, J.

(kst)

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