

489) 13752 by
Rohan Kothari

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2019

BEFORE:

THE HON'BLE MRS. JUSTICE S.SUJATHA

WRIT PETITION No.12113/2019 (EDN - RES)

BETWEEN:

JEEVA M.,
S/O Mr. MURUGESAN R.,
AGED 18 YEARS, R/AT NO.1510,
1ST FLOOR, 7TH MAIN,
4TH CROSS, HAMPINAGAR,
BANGALORE-560 104.

... PETITIONER

[BY SMT.JAYNA KOTHARI, SENIOR ADV. FOR
SRI ROHAN KOTHARI, ADV.]

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF PRE-UNIVERSITY
EDUCATION, SAMPIGE ROAD,
18TH CROSS, MALLESHWARAM,
BANGALORE-560 012
THROUGH ITS SECRETARY.

2. THE KARNATAKA SECONDARY
EDUCATION EXAMINATION BOARD,
6TH CROSS, MALLESHWARAM
BANGALORE-560 003
THROUGH ITS SECRETARY.

...RESPONDENTS

[BY SMT.PRAMODHINI KISHAN, AGA.]

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 &
227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT
THE RESPONDENT TO ISSUE TO THE PETITIONER REVISED



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SSLC AND PU CERTIFICATES REFLECTING HIS CURRENT NAME AS 'JEEVA M' AND GENDER AS 'MALE'.

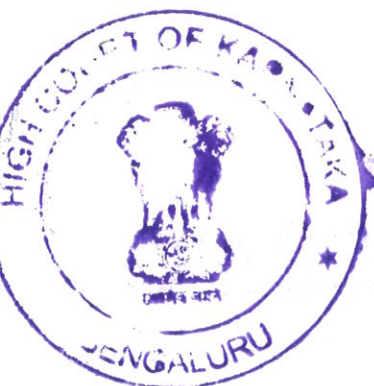
THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Heard the learned counsel for the respective parties.

2. The sole prayer made in the writ petition is seeking for a direction to the respondents to issue to the petitioner revised SSLC and PU certificates reflecting his current name as 'Jeeva M' and gender as 'Male'.

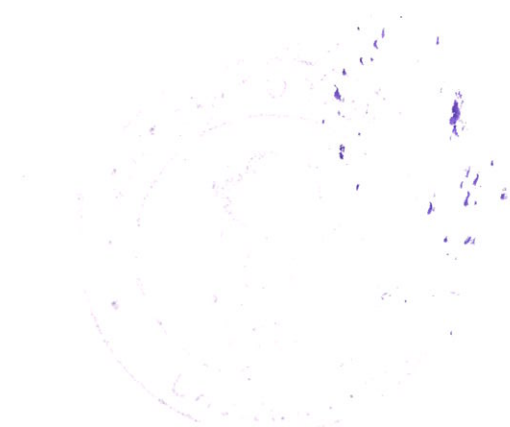
3. The petitioner is claiming to be a transgender person on the basis of the evidence said to have been produced by him along with his representations to the respondents. It is contended that the petitioner has sent a representation dated 03.10.2018 to the respondents requesting for change of name and gender in his educational certificates. The respondents refused to take action. Consequently, the



petitioner sent a representation by registered post on 12.10.2018 to the respondents. It is the grievance of the petitioner that despite the receipt of the said representation through the registered post, neither of the respondents undertook any action pertaining to the petitioner's request.

4. The learned Senior counsel Smt. Jayna Kothari appearing for the petitioner has brought to the notice of this Court that under similar circumstances, the co-ordinate bench of this Court in W.P.No.32978/2013 (D.D. 08.10.2013) has observed as under:-

"5. Therefore, in the instant case, the prayer as sought by the petitioner to direct the respondents to the extent of considering the representations of the petitioner will have to be accepted. Accordingly, the respondent Nos.1 to 5 herein are directed to consider the representations made by the petitioner along with the necessary documents and on enquiry the necessary changes in the appropriate registers and the other documents maintained by the respondents shall be carried out on satisfaction of the case



put forth by the petitioner. Considering that such decision would have to be taken by the respondents within a time frame, the petitioner shall now file one more set of the representations and the supporting documents along with a copy of this order with the respective respondents from whom the petitioner seeks relief. The said respondents shall look into the same and come to a conclusion in the manner as indicated as expeditiously as possible but not later than three months from the date on which the representations are submitted.”

5. The learned Additional Government Advocate appearing for the respondent - State does not dispute the same and fairly submits that the representations of the petitioner would be considered and decided by the concerned authorities in accordance with law, subject to the petitioner filing requisite documents and evidence in support of the representations filed.

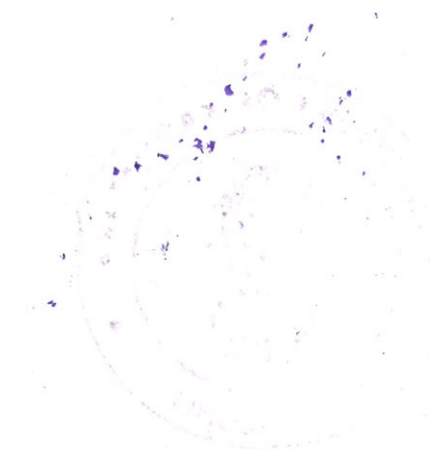
6. The learned counsel for the petitioner submits that all the requisite documents have already been furnished along with the representations. It is further submitted that respondent No.2 is insisting for



the Court orders for issue of revised certificates reflecting the current name as far as transgenders are concerned despite the directions issued by this Court in identical circumstances. In contrast, the learned AGA would submit that there being no guidelines/circulars on the point relating to the rectifications of the name and gender of the candidates in the marks cards/certificates, the respondents – authorities are insisting for the Court orders to carry out necessary change in the name and gender in the certificates.

7. In the circumstances, the respondents are directed to consider the representations submitted by the petitioner along with the documents and take a decision in the matter within a period of two months from the date of receipt of certified copy of the order.

8. The Hon'ble Apex Court in the case of National Legal Services Authority vs. Union of India and



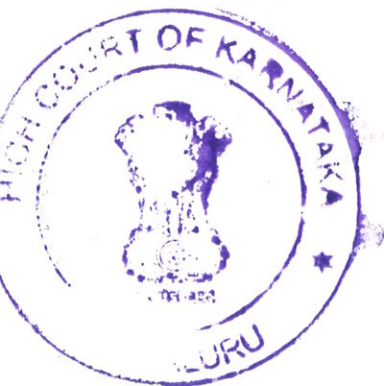
others reported in (2014) 5 SCC 438 has observed thus:-

“135.1. Hijras, eunuchs, apart from binary genders, be treated as “third gender”, for the purpose of safeguarding their rights under Part III of our Constitution and the laws made by Parliament and the State Legislature.

135.2. Transgender persons’ right to decide their self-identified gender is also upheld and the Centre and State Governments are directed to grant legal recognition of their gender identity such as male, female or as third gender.

135.3. We direct the Centre and the State Governments to take steps to treat them as Socially and Educationally Backward Classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments.”

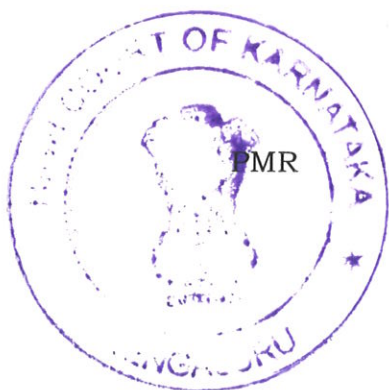
9. In the light of the judgment of the Hon’ble Apex Court as aforesaid, it is mandatory for the State of Karnataka represented by the Principal Secretary of Educational Department to issue circular instructions to the authorities/institutions concerned to act in consonance with the directions issued by the Hon’ble



Apex Court. The Principal Secretary, Education Department, State of Karnataka shall consider the same and take necessary action to implement the directions of the Hon'ble Apex Court in an expedite manner without driving the Transgenders to Courts in as much as change of their name and gender is concerned.

Copy of this order shall be made available to the Principal Secretary, Education Department, State of Karnataka, for compliance.

With the aforesaid observations and directions, the writ petition stands disposed of.



Sd/-
JUDGE

- a) The date on which the application was made *27/3/19*
- b) The date on which charges and additional charges if any are called for
- c) The date on which charges and additional charges if any are deposited/paid
- d) The date on which the copy is ready
- e) The date of notifying that the copy is ready for delivery *2/4/19*
- f) The date on which the applicant is required to appear on or before *2/4/19*
- g) The date on which the copy is delivered to the Applicant *2/4/19*
- h) Examined by *[Signature]*

'TRUE COPY'
[Signature]
Section Officer *2.4.19*
High Court of Karnataka
Bengaluru-560 001

