

**IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)**

W.P.No. 6052 of 2019

Grace Banu Ganesan
D/o M.Ganesan aged about 29 years
Residing at 7/4, Annamalai Mesthri street
Ayyavoo colony, Aminjikarai
Chennai-600 029

Vs

State of Tamilnadu
Through the Minister of social welfare
Tamilnadu State Government
Secretariat, Fort St. George
Chennai-600 009 & 5 Others

STATUS AFFIDAVIT FILED ON BEHALF OF 6TH RESPONDENT

I, V. Amuthavalli, I.A.S., D/o. Thiru S. Velappan, Hindu aged 52 years, residing at A-106, Deccan Enclave, 72, T.M. Maistry Street, Vannanthurai, Thiruvanmiyur, Chennai.41 do hereby solemnly affirm and sincerely state as follows:

1. I am the Commissioner of Social Welfare having office at 2nd Floor, Panagal Building, Saidapet, Chennai-15 and 6th respondent herein and as such I am well acquainted with the facts of the case based on the records available. I deny all the allegations and averments contained in the Main Affidavit except those which are specifically admitted herein. At the outset, the following Status Affidavit is filed herein to bring to the consideration of the Hon'ble High Court the following facts:

2. It is humbly submitted that the Department of Social Welfare is already providing various welfare measures to the third genders in the State.

No. of Correction: Nil

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In order to help the Third genders to lead a decent life and mainstream them into the society, the Government of Tamilnadu has constituted the Third genders Welfare Board on 15.4.2008.

3. It is further humbly submitted that the Tamil Nadu Third gender Welfare Board consists of 11 Official members with the Hon'ble Minister for Social Welfare as its Chairperson and 12 Third Genders as Non-official members. The Board initiates many welfare programmes for the upliftment of Third genders. It obtains funds from Government of Tamil Nadu and distributes to various projects approved by the board, issues ID Cards, gives financial approval for various Income generating programmes, initiates awareness programmes and decisions on new initiatives are also taken.

4. It is humbly submitted that the Government initially designed a survey format and conducted survey of Third genders in all the Districts. Wide publicity was given through District Administration on this regard. In order to enlist the third genders as members of the Third gender Welfare Board and provide them welfare measures, the Government has constituted the District Level Screening Committees.

5. It is humbly submitted that after due certification by the District Level Screening Committee they are registered with Third gender Welfare Board and given an identity card. By recognizing them as Third genders they are also provided with documents like Identity Cards, Health Insurance Card, Ration Card, Voter Identity Card, Housing Patta and Housing facilities, etc. are provided through convergence with other departments.

No. of Correction: Nil
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No. of Third gender as per survey done by the Department	:	6962
No. of Identified Third genders	:	5589
No. of Identity Card issued	:	5073
No. of Sewing Machines	:	144
No. of bank loans with subsidy to Self Help Groups	:	51 (441 Third genders)
No. of Group Houses	:	133 + 515 SCB tenements
No. of Education Assistance	:	9 (Rs. 2,35,030)
No. of Ration Card issued	:	2039
No. of House Pattas	:	1303
No. of Health Insurance Card	:	1048

6. A grant amount of Rs.20,000/- was sanctioned to Third Genders who opt to carry out self employment businesses like provision stores, rearing of milch animals, canteens, cloth businesses, etc.

7. It is humbly submitted that from 2018-19, the grant amount of Rs.20,000/- have been enhanced to Rs.50,000/- as per G.O. (2D) No. 69, Social Welfare & NMP (SW8-2) Department, dated 26.09.2018 and an amount of Rs. 75.00 lakh have been allotted to benefit 150 Third Genders.

8. It is humbly submitted that the names of 260 Third genders residing in Chennai who are members of the Third genders Welfare Board have been recommended for sanctioning of Tamil Nadu Slum Clearance Board tenements. Housing Allotment to 260 Third Genders have been made vide G.O (2D) No.202, Housing Board & Urban Development (S.C1(1)) Dept., Dt.22.12.2015 and handed over to the third genders. During 2018-19, 255 Houses were allotted to 255 Third Genders vide G.O (Ms) No.174, Housing Board & Urban Development (S.C1(1)) Dept., Dt.17.12.2018.

8. It is humbly submitted that in order to provide financial assistance

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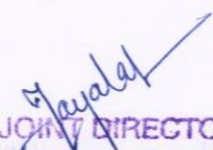
for the aged destitute Third genders the Government has introduced the Monthly Pension Scheme of Rs.1,000/- per month for the Destitute Third genders who are above 40 years of age.


9. I humbly submit that every year Government allocates Rs.1.20 crore for the old age pension scheme to benefit 1000 destitute Third genders, who are in the age group of 40 years and above. The total budget allotment of Rs.1.20 crore, will be released and distributed to all the District Collectors.

10. It is humbly submitted that the following G.O's have been issued by the State Government in this subject:-

- **Formation of Transgender Welfare Board** - G.O.(Ms) No.38, Social Welfare and Nutritious Meal Programme (SW-8) Department, Dated: 15.04.2008 was issued for formation of separate board for Third Genders with 9 Official members of different Department and 9 Non-official members being Third Genders of different Third Gender Association. Now as per G.O.(Ms) No.74, SW&NMP (SW-8(2)) Department, Dated: 06.11.2017 the Non-official members have been increased as 12 Non-official members.
- **Formation of State and District Level Committees for identifying the Transgender** - As per G.O.(Ms) No.152, Social Welfare and Nutritious Meal Programme (SW-8) Department, Dated: 24.10.2008 separate committee for State level and District level have been formed to identify and certify them as Third Genders.

No. of Correction: Nil
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- **Implementation of Transgender Pension Scheme** - G.O.(Ms) No.235, Social Welfare and Nutritious Meal Programme (SW-8) Department, Dated: 02.08.2012 was issued to implement pension scheme for Destitute Third Genders who are above 40 years of age at the rate of Rs.1000/- per month. Every year an amount of Rs.1.20 crores is being sanctioned to benefit nearly 1000 Third Genders.
- **Registration in Employment Office** - As per G.O.(Ms) No.127, Labour and Employment (T2) Department, Dated: 27.10.2014 the persons who are certified as Third Genders can register their educational qualification for jobs in the Employment Offices under Third Gender category.
- **Classification of Transgender as Third Gender** - G.O.(Ms) No.71, Social Welfare and Nutritious Meal Programme (SW-8(2)) Department, Dated: 06.11.2015 classifies Transgenders as Third Genders.
- **Determination of the Community and Reservation in Employment for Third Gender** - G.O.(Ms) No.90, Social Welfare and Nutritious Meal Programme (SW-8(2)) Department, Dated: 22.12.2017 was issued for the purpose of determination of the community and employment. As per the G.O. Third Gender candidates who do not possess any community certificate may be considered under Most Backward Class as per G.O. (Ms) No.28, Backward Classes, Most Backward Class and Minority Welfare Department, Dated:06.04.2015. Third Gender candidates who identify themselves as female may be

No. of Correction: Nil

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consider against both 30% reservation for women as well as 70% reservation for the General category (both Men & Women).

Third Gender candidates, who identify themselves as "Male" or "Third Gender", may be considered against the 70% reservation for General category (both Men & Women) as the case may be.

- **Grant for Self -employment** - Vide G.O.Ms.No.79, SW & NMP *(SW.8) Department, dated 29.03.2010 was issued for sanction of grant of Rs.20,000/- to Third Genders for carrying out business of their own. This grant amount of Rs.20,000/- has been enhanced upto Rs.50,000/- as per G.O.Ms.69, SW & NMP (SW.8(2) Department, dated 26.09.2018.

11. It is further humbly submitted that subsequent to the Orders of Hon'ble Apex Court In National Legal Services Authority vs. Union of India, (2014) 5 Section 43F, the following actions have been initiated by the State Government:

i. The Hon'ble Apex Court had observed that Hijras, Eunuchs, apart from binary gender, be treated as "third gender" for the purpose of safeguarding their rights under Part III of our Constitution and the laws made by the Parliament and the State Legislature. It was also held that Third gender persons' right to decide their self-identified gender is also upheld and the Centre and State Governments were directed to grant legal recognition of their gender identity such as male, female or as third gender. In this

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regard G.O. (Ms) No. 71 SW&NMP (SW8(2)) Department Dt: 06.11.2015 was issued.


Under the said G.O.


- (1) Transgenders will be identified as "Third Gender" apart from the Binary Gender system.
- (2) The categories of Transgenders like "Hijras, Eunuchs, Aravani, Thirunangai, Kothis, Jogcas / Jogappas, Shiv-Shakthis" and any other names for Transgenders prevalent in Tamil Nadu shall be included in the term "Third Gender".
- (3) The category "Third Gender" shall also be included along with Male / Female categories in all places where gender identity is required to be mentioned.
- (4) The Transgender persons referred to above in the preceding clauses will also have the right to decide their self-identified gender as male or female or as the third gender.

ii. The Hon'ble Apex Court also directed 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. In this regard G.O (D) No.127, Labour & Employment (T2) Dept., Dt.27.10.2014 was issued, whereby

"Third Genders can register their names in Employment Exchange under the category Third Gender and those registered under these category will be reserved for women

No. of Correction: Nil
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category and they can also register in the General category (both male / female)".

iii. It was directed that Centre and State Governments should also take steps for framing various social welfare schemes for their betterment and that Centre and State Governments should take steps to create public awareness so that Transgenders will feel that they are also part and parcel of the social life and be not treated as untouchables and also Centre and the State Governments should also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life. It is humbly submitted that as stated above many steps have been taken to extend several benefits to the Transgenders in the State and also the reconstitution of Tamilnadu Transgender Welfare Board with 11 official members and 12 Third Genders as non-official members and many awareness programme are being conducted in the Districts.

It is therefore prayed that this Hon'ble Court may be pleased to pass consider the above facts and pass appropriate orders in the above Writ Petition and thus render justice.

Solemnly affirmed at Chennai on this
the day of June, 2019 and
signed his Signature in my presence.

No. of Correction: Nil
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BEFORE ME
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11:30 A.M

HIGH COURT : MADRAS

DISTRICT : CHENNAI

**IN THE HIGH COURT OF
JUDICATURE AT MADRAS**

**(SPECIAL ORIGINAL
JURISDICTION)**

W. P. No.6052 of 2019

**STATUS AFFIDAVIT FILED ON
BEHALF OF 6TH RESPONDENT**

ADDITIONAL GOVERNMENT PLEADER