

**HIGH COURT OF THE STATE OF TELANGANA AT JUDICATURE AT
HYDERABAD**

**(Rule 4 (e) of the High Court of Judicature at Hyderabad for the States of
Telangana and Andhra Pradesh PUBLIC INTEREST LITIGATION RULE, 2015)**

W.P. (PIL) NO. OF 2020

Between:

Vyjayanti Vasanta Mogli

[REDACTED]

... Petitioner

And

1. The State of Telangana
Represented by its Principal Secretary
Room Nos. 301 & 302, iii floor, "A" block,
Telangana Secretariat, Hyderabad – 500 021.
 2. The State of Telangana
Rep by its Principal Secretary,
Department of Health Medical & Family Welfare,
Telangana State Secretariat, Hyderabad.
 3. The State of Telangana
Rep by its Principal Secretary, Department of Civil Supplies,
Telangana Secretariat, Hyderabad.
 4. The State of Telangana
Rep by its Principal Secretary, Department of Home,
Telangana Secretariat, Hyderabad.
 5. The State of Telangana, Rep by its Principal Secretary
Department of Finance, Telangana Secretariat, Hyderabad.
 6. The State of Telangana, Rep by its Principal Secretary,
Department of Panchayat Raj and Rural Development,
Telangana Secretariat, Hyderabad
-Respondents

1. PARTICULARS OF THE CAUSE/ORDER AGAINST WHICH

The Petitioner herein being a public-spirited person is aggrieved by the inaction of the Respondents herein, for not implementing appropriate schemes to protect the

transgender community during the COVID-19 related lockdown. The Petitioner has approached this Hon'ble Court, in the interest of the transgender community of Telangana, to seek specific relief from this Hon'ble Court to protect the transgender community during the COVID-19 related lockdown particularly with rations, social security and access to medications.

2. SUBJECT MATTER IN BRIEF:

2.1 The present writ petition is filed as a Public Interest Litigation under Article 226 of the Constitution of India, seeking reliefs for the welfare and protection of the rights of transgender persons in the State of Telangana. The Hon'ble Supreme Court in **NALSA v. Union of India & Ors.** [(2014) 5 SCC 438], recognized the discrimination faced by transgender persons and directed several measures to be undertaken for their welfare and equal rights, and further specifically held as follows:

(1) 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.

(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.

(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. (4) Centre and State Governments are directed to operate separate HIV Sero-surveillance Centres since Hijras/Transgenders face several sexual health issues.

(5) Centre and State Governments should seriously address the problems being faced by Hijras/Transgenders such as fear, shame, gender dysphoria, social pressure, depression, suicidal tendencies, social stigma, etc. and any insistence for SRS for declaring one's gender is immoral and illegal.

(6) Centre and State Governments should take proper measures to provide medical care to TGs in the hospitals and also provide them separate public toilets and other facilities.

(7) Centre and State Governments should also take steps for framing various social welfare schemes for their betterment. (8) Centre and State Governments should take steps to create public awareness so that TGs will feel that they are also part and parcel of the social life and be not treated as untouchables. (9) 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.

2.2 Further, the right to food has been upheld by the Hon'ble Supreme Court in **Swaraj Abhiyan v. Union of India**, (2016) 7 SCC 498, where it held that in cases of drought

and other such conditions, free rations should be provided to people. It was held by the Hon'ble Supreme Court that:

“We would like to draw attention to [Article 47](#) of the Constitution which provides that one of the primary duties of the State is to raise the level of nutrition and the standard of living of the people.[4] Although [Article 47](#) is not enforceable being a Directive Principle, there is considerable moral force and authority in this provision to persuade the State Governments and the Government of India to attempt at ensuring that the people, particularly those in drought affected areas, are provided adequate food grains and a cooking medium for the preparation of their meals.”

“It would be inappropriate for the State Governments to deprive any household in drought affected areas of the requisite food grains merely because they do not have a ration card. We find substance in the contention of learned counsel for Swaraj Abhiyan that in grave and emergent situations such as those in the drought affected areas, the requirement of a ration card for obtaining food grains can only be considered a procedural requirement and that requirement should be substituted with a valid identity card or any appropriate proof of residence that is acceptable to the functionaries in the State Governments, who need to construe such a condition open-handedly and without being tight-fisted.”

2.3 The Right to Health and the Right to Food have also been held to be a part of the Right to Life guaranteed to all, under Article 21 of the Constitution of India and hence, the very basic needs of the transgender community have to be provided for the protection of their fundamental rights.

2.4 In the instant situation of the lockdown, the transgender community in Telangana have been deprived of their Right to life, food and health care and hence the present petition.

3. PARTICULARS OF THE PETITIONER:

I, Vyjayanti Vasanta Mogli, [REDACTED]

[REDACTED]

[REDACTED] Telangana - 500048, do hereby solemnly affirm and state on oath as follows:

3.1 The Petitioner is a transgender person and is a Trans Rights Activist. She is one of the founding members of the Telangana Hijra, Intersex and Transgender Samiti, which is an unregistered organization working for the welfare and the rights of transgender persons in Telangana. She has also been a public policy student at the Tata Institute of Social Sciences and has been a Fellow at the International Visitors Leadership Program of the State Department of the United States of America. The Petitioner has actively worked for the improvement of the conditions of the transgender community.

3.2 The Petitioner is also a recipient of the Vocational Excellence award from the Rotary Club of Hyderabad Midtown and Barclays Bank for her contributions to the advancement of the welfare of women and transgender people. She has helped the community in many instances of violence to file First Information Reports against atrocities, which are focused on the transgender community. The Petitioner has fought for the rights of the entire Transgender community, and works towards creating awareness on the government policies as well as corporate policies of companies, which exclude transgender persons. As a founding member of the Telangana Hijra Intersex and Transgender Samiti, she has actively worked with the collective in promoting and protecting the rights of the Transgender community.

3.3 The Telangana Hijra Intersex and Transgender Samiti is an unfunded collective of transgender, hijra, non-hijra intersex, trans-women, trans-men and gender non-conforming people. It has participated in and organized several protests against the inaction of the police and the government in securing the rights of transgender persons. The Samiti has been vocal in addressing the lacuna in the legal system, and has made recommendations on the Rights of Transgender Persons Bill, 2014 and on the Transgender Persons (Protection of Rights) Bill, 2016. It deposed with the inter-parliamentary Standing Committee of Social Justice & Empowerment on the Transgender Persons (Protection of Rights) Bill, 2016. It has initiated and taken part in awareness campaigns and protests condemning the murder of trans-women and the violence faced by the community as a whole.

3.4 The Petitioner herein is filing the present Public Interest Litigation as she is concerned about the plight of the transgender community, who are being gravely affected due to the COVID-19 health crisis and lockdown. The present PIL is filed based on the information available to the Petitioner, which is believed to be true. The Petitioner is willing and ready to bear the costs and to face the consequences, if the facts and pleadings made hereunder are found not to be correct.

4. DECLARATION AND UNDERSTANDING OF THE PETITIONER:

I, Vyjayanti Vasanta Mogli, [REDACTED]
[REDACTED]
[REDACTED] do

hereby solemnly affirm and state on oath as follows:

4.1 I am the Petitioner herein and I am fully acquainted with the facts of the case.

4.2 I respectfully submit that by way of filing of the above writ petition, I, as an individual, am not going to achieve any personal benefit. It is only intended to be for the public good and strictly public in nature. My desire and intention to file the present Petition is only to seek relief for the transgender community in Telangana during the COVID-19 health crisis and lockdown and to seek relief for those who are unable to approach this Hon'ble Court.

4.3 I respectfully submit that the entire litigation costs, to the extent of clerical expenses and filing charges are being borne by me and the advocate on record is rendering services pro-bono. There is no other manner in which the litigation is being financed.

4.4 I respectfully submit that in the present situation of the COVID-19 health crisis and the lockdown announced by the central government, there is a serious impact on the transgender community in Telangana specifically with regard to access to food, basic essentials and other requirements. The Trans community is an extremely vulnerable group. The Petitioner would seek to submit suggestions for specific directions to be passed by this Hon'ble Court to provide relief to the transgender community and people most vulnerable and severely affected by this lock-down, to enable them to have food, water and basic necessities met.

4.5 I respectfully submit that many victims belonging to Transgender Community from the state of Telangana have approached the Petitioner over phone and narrated their grievances. The Petitioner herein has also learned many devastating facts through various news paper reports describing the plight of Transgender Community at the time of the present prevailing lockdown.

4.6. I respectfully submit that the Petitioner herein has previously never approached this Hon'ble court seeking for the relief similar/identical to the reliefs which are being sought in the Present Petition. However, earlier the Petitioner herein has filed a W.P. (P.I.L.) 355 of 2018 before this Hon'ble court in the interest of Transgender

Community for the implementation of the NALSA Guidelines, and the same is subject to the jurisdiction of the Court for adjudication.

4.7 I respectfully submit that the Petitioner has understood that in the course of hearing of this petition, the Court may require any security to be furnished towards costs or any other charges and the Petitioner shall have to comply with such requirements. In the event of this Hon'ble Court, for any reason, comes to a conclusion that the above writ petition is not intended for any public purpose and decides to impose costs, I, being the petitioner herein shall stand obligated to comply with the same.

5. FACTS IN BRIEF:

The facts necessary for the purpose of this Writ Petition (Public Interest Litigation) are stated as follows:

5.1 It is submitted that the decision of COVID-19 related lockdown by the state government is welcomed by all sections of society. This definitely will help in preventing the community spread of the disease. However, there are important concerns for the transgender community across Telangana, which being an extremely vulnerable group, is facing a huge crisis during this time, specifically with regard to the access of basic needs.

5.2 **Access to Social Security Pension:** It is submitted that during the lockdown period, the marginalized transgender community in Telangana is facing great hardship to meet its very basic needs. With a large section of the community dependent on begging and sex work for their sustenance, the situation of the lock down has resulted in no earnings for most of them, as the streets and shops are closed. It is further submitted that due to a complete loss of income, members of the transgender community are unable to pay for rations and basic essentials like food grains, milk, vegetables and staple food items, pay rents for their houses and are thus being threatened with eviction. Many have taken private loans and unable to repay the interest to the money lenders.

5.3 In light of this situation, the State of Telangana is providing a social security pension scheme to widows, Senior citizens, Weavers, Differently-abled Persons etc. called the Asara Scheme. It is further submitted that the same is not being extended to the Transgender Community, who, despite of their increased vulnerability and financial backwardness, are equally entitled for such state aid. It is further submitted that the said scheme which was introduced by the Respondent State Government, may be made available to transgender persons and two months pension should be released in their favour as well.

5.4 It is further submitted that the present Aasara scheme does not specifically cover transgender persons. It is further submitted that they may be permitted to apply under the category of women, senior citizens and disabled, as and where applicable and further the scheme may be extended by the Respondents to include transgender persons. A copy of the Aasara scheme is annexed herein and is marked as **ANNEXURE – P1**)

5.5 It is submitted that in Karnataka, the Hon'ble High Court, in a similar petition, directed the Karnataka Government to provide for two months social security pensions for the transgender community and also directed that even those who had not registered, could register and receive the two months pension during the lockdown period. (A copy of the order of the Karnataka High Court dated 9.4.2020 in W.P. No. 6435 / 2020 is annexed herein and is marked as **ANNEXURE- P2**)

5.6 **Access to Free Rations:** It is submitted that there is the need to provide rations free of cost for the transgender community in Telangana. Presently, only persons having a ration card are being provided rations, essentials and free rations are given only to those having BPL cards or white ration cards. In the case of transgender persons, many of them have been disowned, dispossessed, evicted, ex-communicated and ostracized by their own very natal families. Many have no connection with their natal families and have spent decades away from them and with the doors of their natal households being permanently shut on them. Consequently, they have no access to the family

ration cards of their natal families where they may have been listed on their dead names i.e. the gender and name assigned to them at birth. Many transgender persons are illiterate, have little or no access to information and media. Consequently, a vast majority of transgender persons have no ration cards. It is submitted that in the present time of the lockdown and the COVID pandemic, the access to free ration should not be restricted to only the production of a ration card or even a BPL card, and transgender persons should be provided with free rations and food grains from the public distribution shops on the basis of any other government identity card if they do not have a ration card. This has also been held by the Hon'ble Supreme Court in *Swaraj Abhiyan v. Union of India*, (2016) 7 SCC 498, that :

“It would be inappropriate for the State Governments to deprive any household in drought affected areas of the requisite food grains merely because they do not have a ration card. We find substance in the contention of learned counsel for Swaraj Abhiyan that in grave and emergent situations such as those in the drought affected areas, the requirement of a ration card for obtaining food grains can only be considered a procedural requirement and that requirement should be substituted with a valid identity card or any appropriate proof of residence that is acceptable to the functionaries in the State Governments, who need to construe such a condition open-handedly and without being tight-fisted.”

Additionally, the Telangana Government, has been issuing free rations and cash to migrant workers from other states who do not have ration cards and many do not even have any government ID proofs. It should thus be made available to even the transgender community.

5.7 Access to Medicines: It is submitted that many transgender persons who are undergoing sex re-assignment are taking hormone therapy and during this period they do not have the means to purchase their medications which have to be continued. It is further submitted that any discontinuation of hormone therapy can have serious effects on a person's physical and mental health and well-being, latter of which may potentially trigger suicides. It is submitted that many persons are HIV positive and need anti-retroviral medicines. The most vulnerable are those who are elderly, with diabetes, HIV and other health conditions where they need medications and they are unable to afford them and get them due to the lockdown and complete loss of earnings. It is further submitted that Aarogyasri, the state government medical insurance should be

extended to transgender persons as petitioned in our many attached representations. Aarogyasri, must cover all health challenges, including specifically COVID 19 & SARS-CoV-2.

The copy of newspaper reports describing the financial aid, free rations distributions to migrants are annexed herein and is marked as **ANNEXURE – P3**

5.8 **Moratorium on rents:** It is submitted that almost all Below Poverty Line working class people and daily wage earners do not have homes of their own and live in rented huts, shanties and tenements. The journey of COVID 19 across the globe in various affected countries clearly reveals that lockdowns on an average lasts for 2-3 months. Even after lockdowns eventually get relaxed, they wouldn't be lifted totally but be relaxed in a gradual and a phased manner. The economy is severely affected and the livelihoods of all daily wage earners, Below Poverty Line working class people and transgender persons stand decimated by their landlords/owners. Many transgender people have been evicted from their rented homes for non-payment of rent. Many underprivileged Indian poor and transgender people are yet facing the specter of dispossession and eviction by landlords and owners under the pretext of non-payment of rents. There is an urgent need for an Ordinance & Government Order or stay by the Hon'ble court over collection of rents for a 3 month period free of interest & late payment penalty fee.

5.9 **Social Stigma:** It is further submitted that the transgender community has to face increased social stigma in Telangana's capital region Hyderabad, wherein a slew of posters surfaced in various parts of Hyderabad, inappropriately connecting the transgender community with the novel coronavirus. The persons belonging to transgender community are living in constant threat due the aforesaid hatred spread against Transgender community. Presently, there is no support of any kind provided by the Respondent State Government to the transgender community.

(The Copies of the posters displayed in public places along with Various News paper reports describing the manner in which the transgender community are being targeting by

miscreants during the Present Pandemic are annexed herein and is marked as ANNEXURE – P 4 & 5)

It is submitted that, in the above circumstances, the Petitioner is left with no other alternative and efficacious remedy, other than to approach this Hon'ble High Court under Article 226 of the Constitution of India, for necessary relief. It is submitted that Petitioner has not filed any other suit nor any other matter relating to this case is pending in any other court of law, except this writ petition.

6. SOURCE OF INFORMATION

I submit that the source of information for filing of the said Writ Petition (PIL) have been acquired by the Petitioner from the facts on the ground and also by referring to the 2014 decision of the Hon'ble Supreme Court in *NALSA v. Union of India, and Swaraj Abhiyan v. Union of India (2016) 7 SCC 498*. The source of information for the present petition is also obtained also from the government schemes, media reports and the Annexure(s) produced.

7. NATURE OF EXTENT OF INJURY CAUSED/APPREHENDED:

I submit that the inaction of the Respondents herein will cause irreparable and irretrievable loss to the very existence of the people belonging to Transgender Community. The intervention of this Hon'ble court is a sheer necessity to protect the lives of Transgender persons, who are living in dismal conditions, without proper aid from the state machinery for their survival.

8. ANY REPRESENTATION ETC., MADE:

Presently, due to the dire urgency of the situation involving the COVID-19 lockdown, the Petitioner herein has not made any formal representations to the respective state officials.

9. DELAY IF ANY:

I submit that the inaction of the state during the prevailing lockdown is constantly affecting the Right to life of persons belonging to Transgender community. Therefore, this is a case of continuous cause of action and there is no delay in filing this petition.

Therefore, in the event of this Hon'ble Court coming to a conclusion that there is any delay in approaching this Hon'ble High Court, the same may be condoned.

10. DOCUMENTS RELIED UPON ARE:

All Annexures are shown as: Material Papers below

	<u>Material Papers</u>	
P-1	A copy of the Abstract of the Aasara scheme	05.11.2014
P-2	Order of the Karnataka High Court in W.P. No. 6435/2020	09.04.2020
P-3	Copy of Newspaper report of Telangana CM announcing financial aid and ration for migrants	30.03.2020
P-4	Copy of Posters displayed in Public places along with neat Translated copy	N/A
P-5	Various News Paper Reports Describing the plight of Transgender Persons.	

It is submitted that, in the above circumstances, the Petitioner is left with no other alternative and efficacious remedy, other than to approach this Hon'ble High Court under Article 226 of the Constitution of India, for necessary relief. It is submitted that Petitioner has not filed any other suit nor any other matter relating to this case is pending in any other court of law, except this writ petition.

11. RELIEF PRAYED IS AS FOLLOWS:

In the circumstances, stated above, the Petitioner herein prays that this Hon'ble Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of "Writ of Mandamus" and therefore in light of the above facts and circumstances, it is prayed that this Hon'ble Court be pleased to:

- A. Direct the Respondents herein to provide free of cost rations, food and nutrition and provisions including vegetables and fruit to members of the transgender community from ration shops and also from other outlets without insisting for the production of Ration card;
- B. Direct the Respondents herein to provide Free of cost medicines to transgender persons including HIV medications, hormone therapy medicines, diabetes and other medications to be made available to transgender persons from primary health centres and from government and public hospitals;
- C. Direct the Respondents herein to allow transgender persons to apply for and provide the payment of three months social security pension to transgender persons under the Aasara scheme;
- D. Direct the Respondents herein to provide free LPG cylinders and waive electricity bill for 6 months to transgender persons in the lines of the similar assurance for 3 months under the PM Garib Kalyan Yojana.
- E. Direct the Respondents herein to extend the Aarogyashri government medical insurance to transgender persons and Direct that the Aarogyashri include the health challenges of COVID-19;
- F. Direct the Respondents herein to take appropriate action against those who are targeting the Transgender Persons by falsely labelling them in public as the potential carriers of HIV positive and Corona-Virus and consequently direct the Respondents herein to protect the life by providing appropriate security to the Transgender persons in all public places.
- G. Direct the Respondents to place moratorium on the collection of rents till the end of June free of interest & late payment penalty fees and pass orders directing that landlords the they should not evict transgender persons from existing rental premises for non-payment of rent during the present period;

H. Pass any such further orders as this Hon'ble Court deems fit in the interest of justice and equity

Pending disposal of the present case, as a interim relief, it is prayed that this Hon'ble court may be pleased to direct the Respondents herein to immediately ensure the supply of all basic essential rations, food and nutrition and provisions including vegetables, fruits and medicines for free of cost to all Transgender persons and consequently direct the Respondents herein to provide proper health care for free of cost to all Transgender persons diagnosed with HIV positive and those Transgender persons undergoing sex re-assignment and pass such other order or orders may deem fit and proper in the circumstances of the case.

12. CAVEAT:

I submit that no notice has been received of lodging a Caveat by the Respondents.

Hyderabad
17.04.2020

Petitioner

Before me
Advocate, Hyderabad

VERIFICATION STATEMENT

I, Vyjayanti Vasanta Mogli, Alias [REDACTED]
[REDACTED]
[REDACTED] being the petitioner/person acquainted with the facts do hereby verify and state that the contents of above paras are true to my personal knowledge, based on records and believed to be correct.

Hence, Verified at Hyderabad, on this the 17th day of April, 2020.

Hyderabad
17.4.2020

Petitioner