

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY

: **PRESENT:**

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE B VIJAYSEN REDDY

WP(PIL). No. 74 OF 2020

Between:

Vyjayanti Vasanta Mogli Alias M.Vijay Kumar/Vijay Jagdish Mogli, D/o Mr. Mogli Jagdish Kumar. Occ. Social Activist. R/o 3-5-139/2/A, Shiva Nagar, Hyderguda, Attapur, Rajendra Nagar Mandal, Ranga Reddy District, Hyderabad - 500048 Mobile No.9885567958 Adhaar Card No. 868190852807 Pan Card No.AUNPM1646D Email Id. vyjayanti.vasanta.mogli@gmail.com

Petitioner

AND

1. The State of Telangana, Represented by its Principal Secretary, Room No.301 and 302. 3rd Floor, Telangana Secretariat, Hyderabad 500021.
2. The State of Telangana, Rep by its Principal Secretary, Department of Health Medical and 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

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated in the petition and affidavit filed in support thereof the High Court may be pleased to issue a Writ, Order of direction more particularly one in the nature of Writ of Mandamus 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 and late payment penalty fees and pass orders directing that landlords they should not evict transgender persons from existing rental premises for non-payment of rent during the present period:

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, 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, pending disposal of WP(PIL) 74 of 2020, on the file of the High Court.

IA NO:2 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, 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, pending disposal of WP(PIL) 74 of 2020, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and orders of the High Court dated 27.04.2020, 29.06.2020 & 07.07.2020 made herein and upon hearing the arguments of Sri R Sameer Ahmed Advocate for the Petitioner and of Sri B.S. Prasad, Advocate General, for the respondents, the Court made the following.

ORDER:

Mr. B.S. Prasad, the learned Advocate General, has furnished a Report submitted by Mr. V. Anil Kumar, Commissioner of Civil Supplies & Ex-officio Secretary to Government. According to the Report, dated 10.07.2020, the Commissioner has issued Circular Instructions dealing with supply of 10 kgs rice to each transgender, free of cost, as against the entitlement from July to November, 2020 under "Atmanirbhar Bharat Yojana". The said Report shall be taken on record.

A bare perusal of the said Report clearly reveals that the instructions issued by the learned Commissioner are rather unclear. Firstly, although it is stated that each transgender would be entitled to 10 kgs of rice from July to November, 2020, it is unclear whether the said 10 kgs of rice would be issued on monthly basis, or for complete duration from July to November, 2020.

Secondly, the instructions seem to be subject to the transgender either to medical examination by the medical doctor, or to a physical examination by the Revenue Tahsildar.

However, in the case of *National Legal Services Authority Vs. Union of India* (2014) 5 SCC 438, the Hon'ble Supreme Court has clearly pointed out that a transgender cannot and should not be subjected to physical examination as it not only demeans but also amounts to invasion of right of privacy.

The learned counsel for the petitioner submits that most of the transgenders do have either the Aadhaar card or other Government identification documents with them. These documents would clearly reveal that they are transgenders.

Therefore, it should be sufficient if the Government were to direct the Fair Price Shop owners to distribute 10 kgs of rice per month to the transgenders, who presents either the Aadhaar Card, or any other Governmental identification document.

The learned counsel further submits that, according to the instructions, a transgender is required to go to a Fair Price Shop having ePoS devices, but is not permitted to pick up 10 kgs of rice from manually operated Fair Price Shops. According to her, the inability of transgender to pick up the quantity of rice from manually operated fair price shop will create difficulties for the transgender community.

Once these factors have been pointed out to the learned Advocate General, he seeks time for getting further instructions from the Government.

This Court directs the respondents to clarify whether 10 kgs of rice would be available on a monthly basis or for the complete period of July to November, 2020. Secondly, the Government should consider if the transgender can receive the said quantity of rice on the basis of the Aadhaar card, or any other Government identification document. Thirdly, the Government should also consider if transgender community members can pick up the above mentioned quantities of rice from any of the Fair Price Shops rather than restricting it only to the shop having ePoS devices.

The learned Advocate General seeks time to address this Court on the above mentioned directions.

List this case on 23.07.2020

SD/- M MANJULA
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Principal Secretary, Room No.301 and 302, 3rd Floor, State of Telangana, Telangana Secretariat, Hyderabad 500021.
2. The Principal Secretary, Department of Health Medical and Family Welfare, State of Telangana, Telangana State Secretariat, Hyderabad.
3. The Principal Secretary, Department of Civil Supplies, State of Telangana, Telangana Secretariat, Hyderabad.
4. The Principal Secretary, Department of Home, State of Telangana, Telangana Secretariat, Hyderabad.
5. The Principal Secretary Department of Finance, State of Telangana, Telangana Secretariat, Hyderabad.
6. The Principal Secretary, Department of Panchayat Raj and Rural Development, State of Telangana, Telangana Secretariat, Hyderabad.
(Addressees 1 to 6 by RPAD)
7. One CC to Sri R Sameer Ahmed Advocate [OPUC]
8. Two CC to Advocate General, High Court, Hyderabad(OUT)
9. Two spare copies

HIGH COURT

HCJ
&
BVRJ

DATED: 14.07.2020

NOTE: LIST ON 23.07.2020

ORDER

WP(PIL).No.74 of 2020

DIRECTION

