

IN THE HIGH COURT OF KARNATAKA AT BANGALORE
WRIT PETITION NO. 8511/2020 (GM-RES) (PIL)

BETWEEN

SANGAMA AND NISHA GULUR

... PETITIONERS

AND

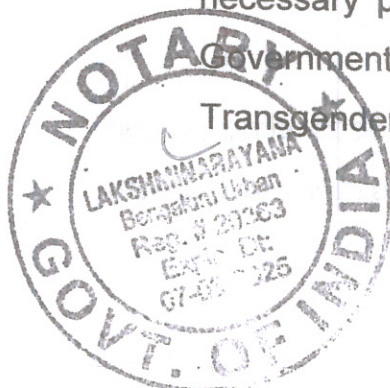
STATE OF KARNATAKA AND
OTHERS

... RESPONDENTS

AFFIDAVIT

I, Dr. Rajneesh Goel S/o Dr. S. L. Goel aged about 56 years, serving as Additional Chief Secretary, Home Department, Vidhana Soudha, Bangalore do hereby solemnly affirm and state on oath as follows:-

1. I am serving as Additional Chief Secretary, Home Department since 08.03.2018. I know the facts of the case and swear to the contents of this Affidavit.
2. I respectfully state that vide interim order dated 28.08.2020, Hon'ble Court has directed to file an affidavit reporting compliance and has directed the State Government to take immediate steps for implementation of the directions issued by the Apex Court in the case of National Legal Services Authority V/s Union of India and Others and in particular, the directions contained in paragraph 135.3. Further Hon'ble Court has directed to take steps to implement and enforce the provisions of the Transgender Persons (Protection of Rights) Act, 2019.
3. I respectfully state that State Government has already initiated necessary procedure to bring suitable amendment to the relevant Government Order to consider providing suitable reservation to Transgenders. Accordingly, a meeting was held on 29.07.2020

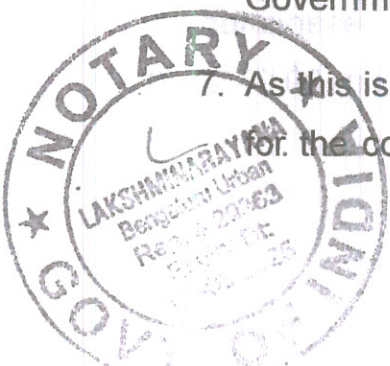


Rajneesh

under the chairmanship of Chief Secretary to Government of Karnataka, wherein the Department of Personnel and Administrative Reforms (DPAR) was instructed to prepare draft Cabinet Note on priority basis. The Translated copy of meeting proceedings is produced herewith as **Annexure-A**.

4. I respectfully submit that one more meeting was held on 11.09.2020, under the chairmanship of Secretary to Government, DPAR with the senior officers of Women and Child Welfare Department and Backward Classes Welfare Department.
5. I respectfully submit that it is proposed to consider the transgender persons under one of the categories of Other Backward Classes for the purpose of recruitment.
6. I respectfully submit that according to provisions of the Karnataka State Commission for Backward Classes Act, 1995 the Karnataka State Commission for Backward Classes has been constituted. Functions of the Commission is enumerated in Section 9 of the said Act and one of the functions is to examine requests for inclusion of any class of citizens as a Backward Class in the lists and hear complaints of over inclusion or under inclusion of any Backward Class in such lists and tender such advice to the State Government as it deems appropriate. The term of Office of the Chairman and members of the Commission has concluded on 21.09.2019 and new Office bearers have not been appointed. Though, Section 11 of the said Act has provision for periodic revision of the lists by the State Government it mandates for consultation with the Commission. Hence, only after obtaining opinion of the Commission, the State Government can take a decision in this regard.

7. As this is an important policy decision, the same needs to be placed for the consideration of the Cabinet to bring necessary amendment



Rajiv

to the relevant Government Order. Hence, the State Government may need further time to take necessary action in this regard.

8. I respectfully submit that Government of Karnataka has initiated required process to provide suitable reservation to the Transgenders as explained above.

The Statements made above are true and correct to the best of my knowledge, information and belief.

Rajinil
DEPONENT

VERIFICATION

I, the above named Deponent, do hereby verify that all the facts stated in the Affidavit are all true to my knowledge and that on part thereof is false and nothing material is concealed therefrom.

Verified at Bangalore, on this the *25th* day of September, 2020.

Rajinil
DEPONENT

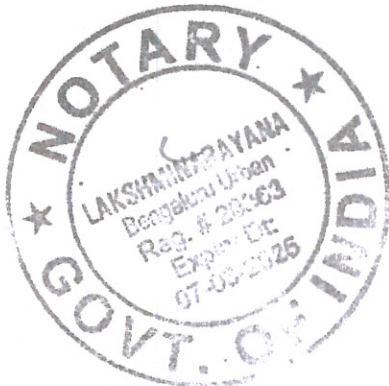
Bengaluru
Dated *25*.09.2020
Identified by:

Manjathin
Section Officer
O/o. Home Department,
Vidhana Soudha
Bengaluru-560 001.

SWORN TO BEFORE

Lakshminarayana 25/09/2020
LAKSHMINARAYANA, BA, LLB
Advocate & Notary Public
GOVT. OF INDIA
15, 1st Main, 2nd Cross,
Near Impact Colleds, Amco Layout, Kodgahalli,
Bengaluru Urban, Karanataka-560 092
S/No 602

No. of Corrections: *Two*



Annexure-A

- TRANSLATED COPY -

Proceedings of the Meeting held on 29.07.2020 at 12:30 pm, under the chairmanship of Chief Secretary to Government regarding the reservation of Tangender in Government Employment

Officers in attendance:

1. Chief Secretary to Government, Government of Karnataka
2. Additional Chief Secretary to Government, Home Department
3. Additional Chief Secretary to Government, Department of Women and Child Development, Empowerment of Differently Abled and Senior Citizens
4. Principle Secretary to Government, (PCAS), Home Department
5. Secretary to Government, Department of Parliamentary Affairs
6. Additional Director General of Police, Administration
7. Joint Secretary to Government-2, DPAR (Service Rules)

* * * * *

1. Officers in attendance were welcomed by the Chairperson. The Karnataka Police Department has invited applications for direct recruitment of 2420 Special Constables (Male and Female) and 252 Bandsman (Male) posts in the Karnataka State Special Gazette on 28.03.2020. An organization named 'Sangama' has filed public interest litigation before the Hon'ble High Court of Karnataka, saying that the transgender person's rights are violated because the above recruitment notification which does not allow transgender people to apply to the said posts. With respect to the said case, W.P. 8511/2020 has been filed requesting to direct the respondents to treat transgender persons as a separate category in the appointment of special reserve police constables and bandsman posts and to make a reservation policy for them.

2. Advocate General is present on behalf of the Government when the case comes up on 21.07.2020, before a bench headed by the Chief Justice of the Hon'ble Karnataka High Court. It was informed that, submission was made to Hon'ble High Court by the Advocate General that, the State Government has in principle agreed to make reservations for the transgender community which was based on the decision of the meeting held between Additional Chief Secretary to Government, Home Department and Additional Director General of Police. Based on the Transgender

Persons (Protection of Rights) Act, 2019 and Decision of Hon'ble Supreme Court of India in the case of the National Legal Service Authority V/s Government of India and others [(2014) 5 SCC 438], Hon'ble High Court directed to frame a policy and submit the same on or before 04.08.2020 and further it ordered to post the matter on 06.08.2020. In these circumstances Additional Government Advocate have been asked to provide information on government policy vide fax dated: 21.07.2020. Therefore, the present meeting was called.

3. After discussing the matter in detail, the committee took following decisions.

1. Ministry of Social Justice and Empowerment has framed the draft of the Transgender Persons (Protection of Rights) Rules, 2020 under the act, which has not yet been finalized.
2. The Ministry of Social Justice and Empowerment, Government of India has sent the draft Rules of Transgender Persons (Protection of Rights) Rules, 2020, for the union of State Government, accordingly, action in this regard has to be taken by Department of Women and Child Development, Empowerment of Differently Abled and Senior Citizens.
3. Provision for appointment of transgender persons is a matter of Government Policy and the Cabinet must make a decision in consultation with relevant departments. Therefore, this information should be brought to the notice of the Hon'ble High Court of Karnataka through Home Department and to seek necessary time.
4. Department of Personnel and Administrative Reform should place the draft cabinet note on priority basis.

The meeting was concluded with greetings.

DPAR 147 SeNeNi 2020

Sd/-
(TM Vijay Bhaskar)
Chief Secretary to Government

This is the document referred to as
Annexure.....in the affidavit

Mr./Mrs.....

Notary Public.