REPORTABLE

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

WP(C) No. 392 of 2024

Dr. Beoncy Laishram, aged about 32 years, D/o Laishram Nabachandra Singh R/o Kakwa Laiphrakpam Leikai, Maibam Leikai, Imphal West, Manipur-795008

... Petitioner

- Versus -

1. The State of Manipur, represented by the Commissioner (Education) (H&T), Govt. of Manipur, Secretariat, Imphal, Manipur-795001.
2. The Director, Directorate of Education (School), Govt. of Manipur, Lamphelpat, Imphal, Manipur-795004.
3. The Chairman, Board of Secondary Education Manipur, Babupara, Imphal West Pin code-795001
4. The Chairman, Council of Higher Secondary Education Manipur, Babupara, Imphal West Pin code-795001.
5. The Registrar, Manipur University, Indo-Myanmar Road, Canchipur-795003, Imphal, Manipur, India.
6. The Registrar, Manipur Medical Council, Medical Directorate complex, Lamphel, Imphal West, Manipur-795001.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioner	:	Ms. Jayna Kothari, Sr. Adv. & Md. Murad Sareef, Adv.
For the respondents	:	Mr. Th. Sukumar, G.A.; Mr. N. Khelemba, Adv. for Mr. I. Denning, Adv.; Mr. Y. Nirmolchand, Sr. Adv., Mr. U. Augusta, Adv. & Mr. Anjan Prasad Sahu, Adv.
Date of reserved	:	07.08.2025
Date of Judgement	:	**19.08.2025**

JUDGEMENT & ORDER
(CAV)

[1] The important issue involved in the present writ petition is:- ***"Whether a transgender person is entitled to update and correct his or her original name recorded in the educational qualification certificates and other official documents by the new name and gender in terms of the Sections 6 & 7 read with Sections 10 & 20 of the Transgender Persons (Protection of Rights) Act, 2019 (in short Transgender Act, 2019) and Rule 2(d) read with Annexure-I of the Transgender Persons (Protection of Rights) Rules, 2020 (in short Transgender Rules, 2020)?"***.

[2] Heard Ms. Jayna Kothari, learned sr. counsel appearing through video conferencing assisted by Md. Murad Sareef, learned counsel appearing physically on behalf of the petitioner; Mr. Th. Sukumar, learned G.A. appearing on behalf of the State respondent nos. 1, 2 & 6; Mr. N. Khelemba, learned counsel appearing on behalf of Mr. I. Denning, learned counsel for respondent no. 3; Mr. Y. Nirmolchand, learned sr. counsel assisted by Mr. U. Augusta, learned counsel for respondent no. 4 and Mr. Anjan Prasad Sahu, learned counsel for respondent no. 5. Respondent no. 1&2 are State authorities; and respondent nos. 3, 4, 5 & 6 are Board of Secondary Education Manipur, Council of Higher Secondary Education Manipur, Manipur University & Manipur Medical Council respectively which issue matriculation, Class XII, MBBS and medical registration certificates.

[3] It is the practice of some of the High Courts to mask the name of the transgender persons in the judgements delivered by them. The present case is also filed by a transgender person. However, this Court is of the opinion that it may not be necessary and appropriate to mask the name of the transgender person in the proceedings, as such person is approaching the court for enforcing the constitutional and legal rights enshrined under Articles 14, 15, 16 & 21 of the Constitution of India as well as under the provisions of the Transgender Act, 2019 and the Transgender Rules, 2020. Provisions of different statutes such as – (i) Section 72 of the BNS, 2023 [earlier, Section 228A of IPC], (ii) Section 24

of the POCSO Act, 2012, (iii) Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015, and etc. prohibit disclosure of the identity of victim (specially women & children) in certain offences as well as the child in any proceeding or reporting, etc. Such provisions are inserted in various statutes in order to protect the identity and rights of the victim. However, in the present case, the petitioner who is a transgender person, is not a victim of any crime and masking her name in the judgment will amount to treating her as a victim of crime. The petitioner (transgender person) has approached this Court for enforcement of her constitutional and legal rights and she, being a pioneer in this field and well-educated person holding an MBBS degree, will be a source of inspiration to other transgender persons to approach the court or any authority for their rights. In the circumstances, this Court is refrained from adopting the usual practice of concealing and masking the name of transgender person in this judgment and makes a well-considered departure by revealing the name of the transgender person so that this judgment becomes a torch to other transgender persons leading them to the path of access to justice.

The brief facts of the present petition are as follows:-

[4] The petitioner is a biological male and her name is recorded as 'Boboi Laishram' in all certificates and documents. In her matriculation certificate, Class-12 certificate, M.B.B.S. certificate, Medical Council registration certificate and other educational certificates, the petitioner's name is recorded as 'Boboi Laishram' and gender as 'male'. However, on 08.10.2019 the petitioner has undergone gender reassignment surgery. Thereafter, the gender of the petitioner has been changed from 'male' to 'female'. In terms of Section 6 of the Transgender Act, 2019 and Rule 5 of the Transgender Rules, 2020, the petitioner requested District Magistrate, Imphal West (in short D.M., IW) for issuing a transgender certificate and the D.M., IW issued a transgender certificate and 'Form-3' with the new name as 'Dr. Beoncy Laishram' and the birth name is 'Boiboi Laishram' in terms of Sections 6 & 7 of the Transgender Act, 2019. Thereafter, the D.M., IW issued a transgender identity card under the new name as 'Dr. Beoncy Laishram' with gender as 'female' and date of birth as 08.03.1991. Subsequently, the new name and gender of the petitioner has been updated in

her Aadhaar card, Voter ID card and PAN card respectively. The petitioner approached to (1) the Chairman, Board of Secondary Education Manipur (BOSEM), Babupara, Imphal West, vide application dated 16.02.2024, (2) the Chairman, Council of Higher Secondary Education Manipur (COHSEM), Babupara, Imphal West, vide application date 16.02.2024 and (3) the Registrar, Manipur University (MU), Canchipur, vide application dated 16.02.2024, requesting to change gender and name on the education certificate as 'Beoncy Laishram' and gender as 'female' in place of 'Boboi Laishram' and gender as 'male'. However, none of the authority have acceded to her request. In the circumstances, the petitioner approached this Court for issuing a direction to the respondents that her name be recorded as 'Beoncy Laishram' and gender as 'female' in the educational certificate and other official documents and the prayer of the petitioner is reproduced herein below:

A. *Issue a writ in the nature of mandamus directing the Respondents to issue a fresh certificates of High School Leaving Certificate Examination, Higher Secondary School Leaving Certificate Examination, M.B.B.S, Medical Council registration certificate and other educational certificates mentioned above in the list reflecting the change in her name as 'Beoncy Laishram' and gender as 'female';*
B. *To issue a writ of mandamus or any other writ or order directing the Respondent no. 1 & 2 to issue circular espousing the rights of the Trans person for change of name and gender in the educational certificates, in consonance with the directions of the Hon'ble Supreme Court without having to drive transgender persons to come to courts for having their name and gender changed;*
C. *To issue a writ of mandamus or any other writ or order directing Respondent No. 5 that they should update the degree certificates of transgender persons to reflect the change in their name and gender identity and to provide revised degree certificates to transgender persons based on applications made by them without having to approach the courts and*
D. *Grant any other relief, which the Hon'ble Court deems fit in the circumstances of the case in the interests of justice and equity.*

[5] The ground for challenge is mainly on the ground that as per the judgment of the Hon'ble Supreme Court in **National Legal Services Authority vs. Union of India: (2014) 5 SCC 438** (in short, **NALSA case**) the right to self-perceived identification of gender of a transgender has been recognized and transgender persons shall not be deprived of any right enshrined under Articles 14, 19 and 21 of the Constitution. It has also relied on the various judgments passed by Madras High Court, Karnataka High Court which recognized the right of a transgender person to get a new name and gender change in their documents. Some of the cited judgments of Hon'ble Madras High Court are (i) **S. Swapna (Transgender) v. The State of Tamil Nadu** in WP(MD) No. 10882 of 2014, (ii) **K. Gowtham Subramaniyam v. The Controller of Examination** in WP No. 7536 of 2017, (iii) **Shri Vinod H.N. v. State of Karnataka** in W.P. No. 54037 of 2017, (iv) **Poojitha B.P v. Karnataka Secondary Education Examination Board & Ors.** in WP No. 54037 of 2017, (v) **Christina Lobo v. State of Karnataka** in WP No. 8024 of 2020 & (vi) **Jeeva v. State of Karnataka** in WP No. 12113 of 2019.

[6] Ms. Jayna Kothari, learned sr. counsel for the petitioner draws the attention of this Court to the provisions of Sections 5, 6 & 7 of the Transgender Act, 2019. It is submitted that under Section 5 of the Act, a transgender person may make an application to the District Magistrate (in short D.M.) for issuing certificate identifying him or her as a transgender person and Section 6 empowers the D.M. to issue a certificate of identity as a transgender person and such gender shall be recorded in all official certificates/documents. Once the transgender person has undergone surgery to change gender, under Section 7 and on the basis of the certificate issued by the Medical Superintendent or Chief Medical Officer of the Institute where surgery has been performed, the D.M. shall issue a revised certificate with the new name and new gender of the transgender person i.e. either from male to female or female to male. Sub-Section (3) of the Section 7 of the Transgender Act, 2019 has stipulated that the certificate of identity issued by the D.M. under Section 6 or the revised certificate under Section 7(2) under the new name and new gender, shall also be recorded in the birth certificate and in all other official documents relating to the identity of such person.

[7] The learned sr. counsel for the petitioner further refers to the Annexure-I of the Transgender Rules, 2020 which provides a list of official documents and at Sl. no. (3) mentions any education certificate issued by a school, board, college, university or any such academic institution. The sum and the substances of the submission of the learned sr. counsel for the petitioner is that on conjoint reading of Sections 5, 6 & 7 of the Transgender Act, 2019 and Annexure-I of the Transgender Rules, 2020, a transgender person is entitled to get his or her new name and new gender be updated and corrected in all education certificates and other official documents which were recorded in the original name and gender. This is the mandate of the Act. Learned sr. counsel for the petitioner also refers to the judgment of Karnataka High Court in the case of **Jeeva M. vs. State of Karnataka and Ors. in WP(C) No. 12113/2019**, order dated 26.03.2019 that in terms of the judgment pronounced prior to the Transgender Act, 2019, a Single Bench of the Karnataka High Court relying on the judgment of the NALSA case held that it is mandatory for the State Authority to issue circular instructions to all authorities/institutions concerned to act in consonance with the directions issued by the Hon'ble Supreme Court for change of the name and gender of the transgender person and it was observed that the transgender person should not be forced to approach Court for this. In that judgment, the petitioner wants to change new name and gender as male in educational certificate.

[8] The learned sr. counsel for the petitioner submits that the plea of the respondent no. 3 (BOSEM) is that the regulations of the Board does not have any provision for change of the name and gender upon gender reassignment surgery and the same cannot be sustained as it is in violation of the mandatory provision of Sections 6 & 7 of the Transgender Act, 2019. It is also submitted that due to the refusal by the Authority to change the name and gender of the petitioner in the education certificate, the petitioner is unable to pursue further studies and in the last NEET-PG she could not appear due to inconsistency in the education certificates and her transgender certificate under the new name and gender issued in terms of the Sections 6 & 7 of the Transgender Act, 2019.

[9] It is prayed that the respondents be directed to change the name and gender of the petitioner in the education certificates in place of 'Boboi Laishram', 'male' to 'Beoncy Laishram', 'female' and also for a direction to the State respondents to issue direction to all Institutes/establishments to carry out necessary amendments in their bye-laws/rules/regulations in terms of the Transgender Act, 2019 and Rules, 2020.

[10] Mr. Th. Sukumar, learned GA for the State respondents submits that the main prayer is mainly directed to the respondent nos. 3, 4, 5 & 6 in terms of the direction of the Hon'ble Supreme Court as well as the provisions of the Transgender Act, 2019 and State Govt. has already complied with the provisions of Sections 6 & 7 by issuing transgender certificate to the petitioner. Nothing is left on the part of the State Govt. and this Court may pass appropriate order in the facts of the present case.

[11] Mr. N. Khelemba, learned counsel for the respondent no. 3 (BOSEM) refers to the contents of the counter affidavit stating that the writ petition is not maintainable in the present form, as the petitioner has concealed certain material facts and non-impleadment of the Deputy Collector, Imphal West and Rangini Memorial Charitable Clinic, Yumnam Huidrom (where the petitioner is working as a Doctor) and also absence of provision in bye-laws/rules/regulations of the Board for change of name and gender in the education certificate. It is also submitted that the decision of other High Courts are not binding on this Court. Hence, the petitioner has no right to change gender and name in the education certificate issued in her original name and gender and the present writ petition be dismissed on this ground.

[12] Mr. Y. Nirmolchand, learned sr. counsel for the respondent no. 4 (COHSEM) submits that the Council has not filed any counter affidavit but it is stated that the correction and updating of the name and gender of the petitioner should start from the matriculation certificate and only then, the new particular of the petitioner can be updated in the Class-12 certificate issued by COHSEM.

[13] Mr. Anjan Prasad Sahu, learned counsel for the respondent no. 5 (MU) submits that the refusal to change name and gender is by BOSEM which

issued the matriculation certificate under the original name and gender of the petitioner. It is clarified that any correction in the education certificate has to be initiated from the initial stage i.e. matriculation stage and correction cannot be undertaken at the intermediate stage. If the BOSEM and COHSEM corrected the name and gender of the petitioner in the matriculation and Class-12 certificates issued by them, M.U. has no objection in correcting the name and gender of the petitioner in MBBS certificate issued by M.U. It is also pointed out that in the new transgender identity card issued by D.M., IW, the original name is wrongly written as 'Boiboi Laishram' whereas, the original name recorded in the matriculation certificate as 'Boboi Laishram'. There is inconsistency in the certificate issued by D.M., IW and unless, if the same is not corrected, it may not be appropriate to give direction to the M.U. to correct name of the petitioner as 'Beoncy Laishram'.

[14] This Court has perused the materials on record, the provisions of the Act and case laws cited by all the parties.

OBJECTS OF THE TRANSGENDER ACT, 2019 & RULES, 2020

[15] Since, the present case involves the interpretation of Sections 6, 7, 10 & 20 of the Transgender Act, 2019 and Rule 2(d) read with Annexure-I of the Transgender Rules, 2020, it would be appropriate to reproduce the relevant provision of the statutes and its objects and the same are reproduced below:

STATEMENT OF OBJECTS AND REASONS IN THE BILL

The transgender community is one of the most marginalised communities in the country because they do not fit into the general categories of gender—male or female. Consequently, they face problems ranging from social exclusion to discrimination, lack of educational facilities, unemployment, lack of medical facilities, and more.

2. Though Article 14 of the Constitution guarantees equality before the law to all persons, clauses (1) and (2) of Article 15 and clause (2) of Article 16 expressly prohibit discrimination solely on the ground of sex. Additionally, sub-clause (a) of clause (1) of Article 19 ensures freedom of speech and expression to all citizens. Yet, discrimination and atrocities against transgender persons continue to persist.

3. The Hon'ble Supreme Court, in its order dated 15th April 2014 in the case of National Legal Services Authority vs. Union of India, directed the Central and

State Governments to take various steps for the welfare of the transgender community and to treat them as a third gender for the purpose of safeguarding their rights under Part III of the Constitution and other laws enacted by Parliament and State Legislatures.

4. The Transgender Persons (Protection of Rights) Bill, 2019 seeks to:

- *(a) Define the expression "transgender person";*
- *(b) Prohibit discrimination against transgender persons;*
- *(c) Confer the right upon transgender persons to be recognised as such, and the right to self-perceived gender identity;*
- *(d) Make provisions for the issue of a certificate of identity to transgender persons;*
- *(e) Ensure that no establishment discriminates against transgender persons in matters relating to employment, recruitment, promotion, and other related issues;*
- *(f) Provide for a grievance redressal mechanism in each establishment;*
- *(g) Establish a National Council for Transgender Persons;*
- *(h) Provide punishment for contraventions of the provisions of the proposed legislation.*

5. The Transgender Persons (Protection of Rights) Bill, 2016, which was passed by the Lok Sabha and was pending consideration in the Rajya Sabha, lapsed upon the dissolution of the Sixteenth Lok Sabha. Hence, the introduction of the Transgender Persons (Protection of Rights) Bill, 2019.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 11th July, 2019 *THAAWARCHAND GEHLOT"*

Relevant Provisions of the Act & Rules

<u>Sections</u>:

> *"2.*
>
> *(b) "establishment" means-*
>
> > *(i) any body or authority established by or under a Central Act or a State Act or an authority or a body owned or controlled or aided by the Government of a local authority, or a Government company as defined in Section 2 of the Companies Act, 2013, and includes a Department of the Government; or*

(ii) any company or body corporate or association or body of individuals, firm, cooperative or other society, association, trust, agency, institution.

(i) "person with intersex variations" means a person who at birth shows variation in his or her primary sexual characteristics, external genitalia, chromosomes or hormones from normative standard of male or female body;

(k) "transgender person" means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-women (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.

4. (1) A transgender person shall have a right to be recognised as such, in accordance with the provisions of this Act.

(2) A person recognised as transgender under sub-section (1) shall have a right to self-perceived gender identity.

5. A transgender person may make an application to the District Magistrate for issuing a certificate of identity as a transgender person, in such form and manner, and accompanied with such documents, as may be prescribed:

Provided that in the case of a minor child, such application shall be made by a parent or guardian of such child.

6. (1) The District Magistrate shall issue to the applicant under section 5, a certificate of identity as transgender person after following such procedure and in such form and manner, within such time, as may be prescribed indicating the gender of such person as transgender.

(2) The gender of transgender person shall be recorded in all official documents in accordance with certificate issued under sub-section (1).

(3) A certificate issued to a person under sub-section (1) shall confer rights and be a proof of recognition of his identity as a transgender person.

7. (1) After the issue of a certificate under sub-section (1) of section 6, if a transgender person undergoes surgery to change gender either as a male or female, such person may make an application, along with a certificate issued to that effect by the Medical Superintendent or Chief Medical Officer of the medical institution in which that person has undergone surgery, to the District Magistrate for revised certificate, in such form and manner as may be prescribed.

(2) The District Magistrate shall, on receipt of an application along with the certificate issued by the Medical Superintendent or Chief Medical Officer, and on being satisfied with the correctness of such certificate, issue a certificate indicating change in gender in such form and manner and within such time, as may be prescribed.

(3) The person who has been issued a certificate of identity under section 6 or a revised certificate under sub-section (2) shall be entitled to change the first name in the birth certificate and all other official documents relating to the identity of such person:

Provided that such change in gender and the issue of revised certificate under sub-section (2) shall not affect the rights and entitlements of such person under this Act.

10. Every establishment shall ensure compliance with the provisions of this Act and provide such facilities to transgender persons as may be prescribed.

20. The provision of this Act shall be in addition to, and not in derogation of, any other law for the time being in force."

"Rule 2. (d) "any official documents" include all documents listed in Annexure 1, which the appropriate Government may revise, by notification in the Official Gazette.

*Illustrative list of official documents referred to in _____ (**Annexure-I**)*

Sl. No.	*Name of the official document*
(1)	*Birth certificate*
(2)	*Caste/ Tribe certificate*
(3)	***Any education certificate issued by a school, board, college, university or any such academic institution***
(4)	*Election Photo Identity Card*
(5)	*Aadhaar Card*
(6)	*Permanent Account Number (PAN)*
(7)	*Driving Licence*
(8)	*BPL ration card*
(9)	*Post Office bank/ Bank Pass book with photo*
(10)	*Pass port*
(11)	*Kisan Pass book*
(12)	*Marriage certificate*
(13)	*Electricity/ water/ gas connection paper*
(14)	*Property papers*
(15)	*Vehicle registration*
(16)	*Service book, employment papers*
(17)	*Identity card related to bar*
(18)	*Policy papers*

[16] The Transgender Persons (Protection of Rights) Act, 2019 was enacted by Act of Parliament and got assent of the President of India on 05.12.2019 and published on the same day of extraordinary official gazette of India. The object of the Act is to provide and protection of rights of transgender persons and their welfare and for matters connected and incidental thereto. The Act is enacted with several key objecting aim at addressing systematic discrimination and promoting dignity, equality and inclusion of transgender individual in India. The Act is inspired by the judgment of Hon'ble Supreme Court in **National Legal Services Authority vs. Union of India (Supra)** which recognized transgender as a third gender affirming their right to self-identification and directed the Govt. to ensure their social and legal protection guaranteed under Articles 14, 15, 16, 19 and 21 of the Constitution of India. As inspired from the NALSA judgement, the Act recognizes a self-perceived gender as third gender apart from the ordinary binary gender of male and female including a diverse identity including hijras, kinner and intersex person. The Act prohibits discrimination in areas such as education, employment, healthcare, housing and access to public furniture and ensure equal opportunity and treatment under the law. The Act mandates the government to implement the welfare scheme including Skill Development Programme, Scholarship, Healthcare Services, Rehabilitation Programme and also guaranteed with parenting support.

Section 2(b) of the Transgender Act, 2019 defines an "establishment" as any body or authority established by or under a Central Act or a State Act or an authority or a body owned or controlled or aided by the Govt. or a local authority or a Govt. company. Section 2(k) of the act defines a "transgender person" whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-women (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta and Section 2 (i) defines person with intersex variations who at birth shows variation in his or her primary sexual characteristics, external genitalia, chromosomes or hormones from normative standard of male or female body. Section 3 prohibits any discrimination against a transgender person including in the field of

education, employment, occupation, healthcare, altercation right to movement, reside and from enjoying various welfare programme. In consonance with the NALSA judgment, Section 4 of the Act provides a transgender person right to be recognized as such and right to have a self-perceived gender identity as opposed to the normal binary gender of male and female. Section 5 provides that a transgender person may apply to the D.M. for a certificate of identity as a transgender person and Section 6 empowers the D.M. to issue a transgender certificate and the gender recorded in certificate issued under Section 6 of the Act shall be recorded in all official documents and such certificate will be proof of identity of a transgender person. If a transgender person has undergone surgery to change gender either as a male or female, such transgender person may apply for a certificate to the D.M. with the changed gender on the basis of the certificate issued by the Medical Superintendent or Chief Medical Officer of the Medical Institute in which such person has undergone surgery. Sub-Section 3 of Section 7 provides that any certificate under Section 6 or revised certificate under Section 7(2), a transgender person shall be entitled to change the first name in the birth certificate and all official documents relating to the identity of such transgender person.

Section 10 of the Act provides that every establishment shall ensure compliance with the provision of this Act and shall provide such facility to the transgender person as may be prescribed. Section 20 of the Act stipulates that the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force. The Central Govt. has also notified the Transgender Rules, 2020 and Rule 2(d) defines "any official documents" include all documents listed in Annexure-I which the appropriate government may revise by notification in the official gazette. Annexure-I of the Rules lists 18 (eighteen) types of documents as official document and at Sl. No. 3 provides "any education certificate issued by a school, board, college, university or any such academic institution".

[17] In view of the above provisions of the Act and Rule and the object of the Act, the rights and privileges conferred to a transgender person have to be analyzed and interpreted so as to uphold the beneficial provisions of the Act

and Rules, even if some of them are new rights not contained in the earlier legislations.

[18] From a conjoint reading of the provisions of Sections 4, 5, 6 & 7 of the Act, transgender person has a right to choose a self-perceived gender identity apart from the binary division of male and female. These provisions are in consonance with the judgment passed by Hon'ble Supreme Court in the **NALSA Case (supra)** where a transgender person is recognized as third gender and also transgender person has right to self-perceived gender identity. Upon an application to the D.M. under Section 5 of the Act, D.M. has to issue a transgender certificate with the gender as transgender and such certificate shall be recorded in all official documents. If a transgender person has undergone gender reassignment surgery and on the basis of the certificate issued by the concerned hospital where the surgery has been performed, a transgender person has a right to apply for a revised certificate incorporating the new gender self-adopted post-surgery. Sub-Section 3 of Section 7 stipulates that the transgender certificate issued under Section 6 and revised certificate under Sub-section (2) of Section 7 with the new gender post-surgery, shall be entitled to change the first name of the transgender person with the new gender (male or female) in the birth certificate and in all official documents relating to the identity of such transgender person. As per Rule 2(d) read with Annexure-I, the education certificates are also required to be changed with the new name and new gender.

[19] Rule 2(d) read with Annexure-I of the Transgender Rules, 2020 provides 18 (eighteen) official documents and at Sl. No. (3) mentions the education certificate issued by a school, board, college, university or any such academic institution. Section 20 of the Transgender Act, 2019 stipulates that the provision of this Act will be in addition to and not in derogation of any other law for the time being in force. In other words, the mandate of Section 20 of the Transgender Act, 2019 is that the provisions of this Act, especially of Sections 6 & 7 have to be read into any existing act/rules/bye-laws/regulations with respect to the new identity of the transgender person under the new name and new gender. This being a special statute and in absence of any similar provision in the existing act and rules, the provision of Transgender Act, 2019 especially

those of Section 6 & 7 have to be read into the existing act/rule/regulation/bye-laws with the help of Section 20 of the Act. Harmonious construction has to be resorted to subserve the main object of the new statute vis-à-vis the old statute. Only in case of irreconcilable inconsistency, it is the basic rule in the interpretation of statute that the special law shall impliedly overrule any other existing general law subject to the extent of the inconsistency with the special law. Few case laws may be relevant for discussions.

(i) Department of Customs vs. Sharad Gandhi : MANU/SC/0295/2019@ Para 38: (2020) 13 SCC 521 @Para 39

> "…….38. We would think that though the words 'any other law for the time being in force' has been used, the context for the use of the provision is not to be overlooked. We have referred to the relevant provisions of the two specific enactments which show that the said legislation also deals with antiquities as it deals with cognate subjects namely ancient monuments and archaeological sites. The common genus is manifest. The legislative intention was to declare that the Antiquities Act should not result in the provision contained in allied or cognate laws being overridden upon passing of the Antiquity Act. Full play was intended for the provisions contained in relation to antiquities contained in the two engagements. Despite the passage of the Antiquity Act, a prosecution for instance would be maintainable if a case is otherwise made out under the two enactments in relation to antiquity. The Antiquities Act in other words is not to be in derogation of those provisions. They were to supplement the existing laws. It is therefore in the same context that we should understand the words 'any other law for the time being in force'. For instance, there may be laws made by the State legislatures which relate to antiquity. There may be any other law which deal with a subject with a common genus of which the specific law would be an integral part. It is all such laws which legislature intended to comprehend within the expression 'any other law for the time being in force'. Take for example, a case where there is a theft of an antiquity. Can it be said that the prosecution Under Section 379 of the Indian Penal Code would not be maintainable. The answer will be an emphatic No. Certainly, the prosecution will lie. The Sale of Goods Act which relate to movable items generally will be applicable, to the extent that it is not covered by any provision in the Acts in question. The Contract Act may continue to applicable. But it is not the question of applying general laws that engage the attention of the legislature. The intention behind Section 30 was as noted is to provide for any other law which deal with antiquity to continue to have force and declare its enforceability even after passing of the Antiquity Act. In that view of the matter we are of the view that the words 'any other law for the time being in force' must be construed as ejusdem generis."

(ii) Mohd. Abdul Samad vs. The State of Telangana and Ors. MANU/SC/0604/2024 @ Para 71: 2024 INSC 506: (2025) 2 SCC 49 @ Para 91, Justice B. V. Nagarathana in her supplementing view explains the concept of 'in addition to existing law' as

Relevant Para No. 71

"……71. In my view, the rights created under the provisions of the 1986 Act are in addition to and not in derogation of the right created Under Section 125 of the Code of Criminal Procedure, and the same is the basis for this Court's conclusion in Danial Latifi to save the 1986 Act from the vice of unconstitutionality. This is because nowhere in the judgment of this Court in the aforesaid case is there a reference to any bar under the provisions of the 1986 Act and neither has this Court created any such bar in the aforesaid judgment for a divorced Muslim woman to approach the Court Under Section 125 of the Code of Criminal Procedure for maintenance. Thus, the non-obstante Clause in Sub-section (1) of Section 3 cannot result in Sections 3 and 4 of the 1986 Act whittling down the application of Section 125 of the Code of Criminal Procedure and other allied provisions of the Code of Criminal Procedure to a divorced Muslim woman. Therefore, if a divorced Muslim woman approaches the Magistrate for enforcement of her rights Under Section 125 of the Code of Criminal Procedure, she cannot be turned away to seek relief only Under Sections 3 and 4 of the 1986 Act as is sought to be contended by the Appellant herein. In other words, such a divorced Muslim woman is entitled to seek recourse to either or both the provisions. The option lies with such a woman. The Court would have to ultimately balance between the amount awarded under the 1986 Act and the one to be awarded Under Section 125 of the Code of Criminal Procedure."

(iii) Independent Thought vs. Union of India (UOI) and Ors. : MANU/SC/1298/2017@Para 93,94: (2017) 10 SCC 800 @ Para 95,96 where it deals with the interpretation of general and special laws and with respect to inconsistency, the special law shall prevails.

Relevant paragraph 93/94/

"……..93. Whatever be the explanation, given the context and purpose of their enactment, primacy must be given to pro-child statutes over the Indian Penal Code as provided for in Sections 5 and 41 of the Indian Penal Code. There are several reasons for this including the absence of any rationale in creating an artificial distinction, in relation to sexual offences, between a married girl child and an unmarried girl child.

Statutes concerning the rights of children are special laws concerning a special subject of legislation and therefore the provisions of such subject-specific legislations must prevail and take precedence over the provisions of a general law such as the Indian Penal Code. It must also be remembered that the provisions of the JJ Act as well as the provisions of the POCSO Act are traceable to Article 15(3) of the Constitution which enables Parliament to make special provisions for the benefit of children. We have already adverted to some decisions relating to the interpretation of Article 15(3) of the Constitution in a manner that is affirmative, in favour of children and for children and we have also adverted to the discussion in the Constituent Assembly in this regard. There can therefore be no other opinion regarding the pro-child slant of the JJ Act as well as the POCSO Act.

94. A rather lengthy but useful discussion on this subject of special laws is to be found in Life Insurance Corporation of India v. D.J. Bahadur MANU/SC/0305/1980 : (1981) 1 SCC 315 in paragraphs 52 and 53 of the Report. Briefly, it was held that the subject-matter and the perspective of the statute are determinative of the question whether a statute is a general law or a special law. Therefore, for certain purposes a statute might be a special law but for other purposes, as compared to another statute, it might be a general law. In respect of a dispute between the Life Insurance Corporation and its workmen qua workmen, the Industrial Disputes Act, 1947 would be a special law vis-a-vis the Life Insurance Corporation Act, 1956; but, "when compensation on nationalisation is the question, the LIC Act is the special statute". It was held as follows:

> In determining whether a statute is a special or a general one, the focus must be on the principal subject-matter plus the particular perspective. For certain purposes, an Act may be general and for certain other purposes it may be special and we cannot blur distinctions when dealing with finer points of law. In law, we have a cosmos of relativity, not absolutes--so too in life. The ID Act is a special statute devoted wholly to investigation and settlement of industrial disputes which provides definitionally for the nature of industrial disputes coming within its ambit. It creates an infrastructure for investigation into, solution of and adjudication upon industrial disputes. It also provides the necessary machinery for enforcement of awards and settlements. From alpha to omega the ID Act has one special mission--the resolution of industrial disputes through specialised agencies according to specialised procedures and with special reference to the weaker categories of employees coming within the definition of workmen. Therefore, with reference to industrial disputes between employers and workmen, the ID Act is a special statute, and the LIC Act does not speak at all with specific reference to workmen. On the other hand, its powers relate to the general aspects of nationalisation, of management when private businesses are nationalised and a

plurality of problems which, incidentally, involve transfer of service of existing employees of insurers. The workmen qua workmen and industrial disputes between workmen and the employer as such, are beyond the orbit of and have no specific or special place in the scheme of the LIC Act. And whenever there was a dispute between workmen and management the ID Act mechanism was resorted to.

What are we confronted with in the present case, so that I may determine as between the two enactments which is the special? The only subject which has led to this litigation and which is the bone of contention between the parties is an industrial dispute between the Corporation and its workmen qua workmen. If we refuse to be obfuscated by legal abracadabra and see plainly what is so obvious, the conclusion that flows, in the wake of the study I have made, is that vis-a-vis "industrial disputes" at the termination of the settlement as between the workmen and the Corporation, the ID Act is a special legislation and the LIC Act a general legislation. Likewise, when compensation on nationalisation is the question, the LIC Act is the special statute. An application of the generalia maxim as expounded by English textbooks and decisions leaves us in no doubt that the ID Act being special law, prevails over the LIC Act which is but general law……"

(iv) Jose Paulo Coutinho –Versus- Maria Luiza Valentina Pereira : MANU/SC/1257/2019 @ Para 29: (2019) 20 SCC 85 @ Para 35

It was held that the Portuguese Civil Code, in matters of succession for Goan domiciles, is a special law and also a local law. Applying the principle generalia specialibus non derogant (general laws do not derogate from special ones), this special and local law prevails over general laws of succession like the Indian Succession Act, Hindu Succession Act, or Muslim Personal Law (Shariat) Application Act with respect to all properties of Goan domiciles, wherever situated in India.

Relevant Para 29

"……..29. <u>It is a well settled principle of statutory interpretation that when there is a conflict between the general law and the special law then the special law shall prevail. This principle will apply with greater force to special law which is also additionally a local law. This judicial principle is based on the latin maxim generalia specialibus non derogant, i.e., general law yields to special law should they operate in the same field on the same subject</u>. Reference may be made to the decision of this Court in R.S. Raghunath v. State of Karnataka and Ors. MANU/SC/0012/1992 : (1992) 1 SCC 335, Commercial Tax Officer, Rajasthan v. Binani Cements Ltd. and Ors. MANU/SC/0121/2014 : (2014) 8 SCC 319 and Atma Ram Properties Pvt. Ltd. v. The Oriental Insurance Co. Ltd. MANU/SC/1539/2017 : (2018) 2 SCC 27……"

(v) Maya Mathew vs. State of Kerala and Ors.

MANU/SC/0172/2010: 2010 INSC 112: (2010) 4 SCC 498 @ Para 12, the basic rule of interpretation of general law and special law has been explained as below:

> "12. The rules of interpretation when a subject is governed by two sets of rules are well settled. They are:
> (*i*) When a provision of law regulates a particular subject and a subsequent law contains a provision regulating the same subject, there is no presumption that the latter law repeals the earlier law. The rule-making authority while making the later rule is deemed to know the existing law on the subject. If the subsequent law does not repeal the earlier rule, there can be no presumption of an intention to repeal the earlier rule;
> (*ii*) When two provisions of law—one being a general law and the other being a special law govern a matter, the court should endeavour to apply a harmonious construction to the said provisions. But where the intention of the rule-making authority is made clear either expressly or impliedly, as to which law should prevail, the same shall be given effect.
> (*iii*) If the repugnancy or inconsistency subsists in spite of an effort to read them harmoniously, the prior special law is not presumed to be repealed by the later general law. The prior special law will continue to apply and prevail in spite of the subsequent general law. But where a clear intention to make a rule of universal application by superseding the earlier special law is evident from the later general law, then the later general law, will prevail over the prior special law.
> (*iv*) Where a later special law is repugnant to or inconsistent with an earlier general law, the later special law will prevail over the earlier general law."

(vi) M.P. Sharma v. Satish Chandra, 1954 SCR 1077 : AIR 1954 SC 300 : 1954 Cri LJ 865: Hon'ble Supreme Court, applying the 'principle of non-derogation', has held that:

> A power of search and seizure is in any system of jurisprudence an overriding power of the State for the protection of social security and that power is necessarily regulated by law. When the Constitution makers have thought fit not to subject such regulation to constitutional limitations by recognition of a fundamental right to privacy, analogous to the Fourth Amendment, we have no justification to import it, into a totally different fundamental right, by some process of strained construction. Nor is it legitimate to assume that the constitutional protection under Article 20(3) would be defeated by the statutory provisions for searches. It is to be remembered that searches of the kind we are concerned with are under the authority of a Magistrate (excepting in the limited class of cases falling under Section 165 of the Criminal Procedure Code). Therefore, issue of a search warrant is normally the

> judicial function of the Magistrate. When such judicial function is interposed between the individual and the officer's authority for search, no circumvention thereby of the fundamental right is to be assumed. We are not unaware that in the present set up of the Magistracy in this country, it is not infrequently that the exercise of this judicial function is liable to serious error, as is alleged in the present case. But the existence of scope for such occasional error is no ground to assume circumvention of the constitutional guarantee.

NON-DEROGATION & IN-ADDITION CLAUSE

From the above referred decisions, it is ample clear that the basic rule of interpretation of the clause 'not in derogation, but in addition to the existing laws' is to give effect both to the existing laws as well as the new law. Even in case of a conflict, a harmonious construction has to be adopted to bring into effect both the laws. However, the conflict cannot be resolved by applying the harmonious construction, the special law prevails over the general law to the extent of such irreconcilable inconsistency. If the special law provides a new right which is silent in the general law, by inter-play of the clause of 'not in derogation, but in addition to the existing laws', such new right has to be read into the general law. If the new right is inconsistent with the general rule, by applying the principle of '*generalia specialibus non derogant*', the special law shall prevail over the general law with respect to the inconsistency between them.

REASONINGS & FINDINGS

[20] In the circumstances, this Court doesn't find any substances in the stand of the respondent no. 3 (BOSEM) that in absences of any provision in the rules/bye-laws/regulations of the Board enabling it to change name and gender in the education certificate issued earlier, the request of the petitioner for change of new name and new gender in terms of the Sections 6 & 7 of the Transgender Act, 2019 cannot be acceded. It is reiterated at the expenses of repetitions that the provisions of Sections 6 & 7 of the Act have to be read into the rules/bye-laws/regulations of the board in terms of the provision of Section 20 of the Act, read with Rule 2(d) Annexure-I of the Transgender Rules, 2020. The objection to non-impleadment of parties has no force and hence is rejected. It may be relevant to refer to a decision of the Division Bench of the Bombay High Court in the case of **X vs. The Dean and Anr. in WP(L) No. 9961 of 2023**, order dated 25.04.2023, wherein, it was held that a transgender person

has a right to change name and gender in their education qualification certificate and to reissue new certificate and make provisions in the online for the same and the relevant paras are reproduced herein below:

> *"5. The Petition points out that there is in fact no process on the 1st Respondent's website to deal with a situation such as this, i.e., for a change of name and gender and the re-issuance of documents. This is particularly true for cases of transgenders. Despite the decisions of the Supreme Court in National Legal Services Authority v. Union of India & Ors.,[1] the 1st Respondent and other institutes have not made the required arrangements.*
>
> *6. We do not believe that there is any possible answer to this Petition at all. This is not a case of there being any conceivable adversary. This is a case of a denial of a human being's self-identity and self-identification. That cannot be done and cannot be permitted. Nor can an institute be permitted to force upon the Petitioner a name, identity or a gender that the Petitioner has chosen to reject in preference to some other.*
>
> *9. We expressly find, acknowledge and record in this Petition that the Petitioner has voluntarily self-identified as transgender in a name other than that which was given at birth. We also acknowledge that at birth the gender of the Petitioner was noted as female. This is all that is required to be done and so far as the Petitioner's past is concerned. For the rest, we see no impediment to the grant of relief in terms of prayer clause (a), and we would be entirely remiss if we did not issue that mandamus. Clearly, the Petitioner has demanded justice in accordance with law but has not received it. The mandamus will issue. Rule will thus be absolute in terms of prayer clause (a).*
>
> *10. But we also must issue a mandamus in terms of prayer clause (b) for future cases. There is absolutely no reason why the online forms on the website of the 1st Respondent and indeed every other educational institution that is or are subject to our writ jurisdiction should not have a form for precisely such changes, i.e., noting a change in name and a change in gender. It is for the 1st Respondent to make this change on the 1st Respondent's website and for the 2nd*

Respondent State Government to issue the necessary instructions to all similar educational institutions across Maharashtra."

[21] This Court also does not find any force in the submissions of Mr. Y. Nirmolchand, learned sr. counsel for the respondent no. 4 (COHSEM) and also the submission of Mr. Anjan Prasad Sahu, learned counsel for the respondent no. 5 (Manipur University) to the extent that any correction in the educational certificates has to be started from the first institute. The provision of the Transgender Act, 2019 is silent on this aspect and it says that any other official documents including the education certificate have to be in consonance with the provisions of Sections 6 & 7 of the Act thereby, implying that any educational Institute or any Institute can, on its own and independently, make changes in the education certificate or otherwise of the transgender person upon an application made in terms of the mandate of Sections 6 & 7 of the Transgender Act, 2019. The last or intermediary 'establishment' does not require to wait for the first establishment to make the necessary correction. This Court is of the opinion that 'any establishment', as defined under Section 2(b) of the Act, has an obligation under Section 10 of the Act to make necessary correction for the new name and gender of the transgender person recorded in the certificates in terms of Sections 6 & 7 of the Act, without waiting for such correction by the initial institute.

[22] Mr. Anjan Prasad Sahu, learned counsel for the respondent no. 5 (MU) has pointed out that the error in the certificate issued by the D.M., IW, under Sections 6 & 7 of the Transgender Act, 2019. It is stated that the original name of the petitioner is recorded 'Boiboi Laishram' in the certificate issued by the D.M., whereas the certificate name of the petitioner is 'Boboi Laishram' and unless the discrepancy is corrected, no updation/correction can be made in the education certificate of the petitioner.

[23] This Court has minutely perused the certificates issued by the D.M., IW, under Sections 6 & 7 of the Transgender Act, 2019. In the transgender certificate and Form-3 issued by the D.M., IW, the original name of the petitioner is shown as 'Boiboi Laishram', while the certificates recorded as 'Boboi Laishram'.

However, this is a simple typographical mistake and the right of the transgender person to change her first name and gender cannot be denied on this technical issue and the same shall not be an impediment in getting certificate in terms of the Sections 6 & 7 of the Transgender Act, 2019. This Court clarifies that in the transgender certificate issued by the D.M., IW, the original name of the petitioner is to be read as 'Boboi Laishram'.

[24] Even though none of the parties herein has argued, this Court refers to the provisions of Sections 16 & 17 of the Act of 2019, where the Central Government is to constitute 'National Council for Transgender Persons' headed by the Union Minister of Social Justice and Empowerment mainly to advise the government in framing policies and programmes under the Act and monitor the implementation of the Act. Such Council can also redress the grievances of the transgender persons. It is clarified that the primary function of the Council is to advise the Central Government in the implementation of the Act and is basically a monitoring committee. Having power to redress the grievances of the transgender persons, it does not mean the Council to function as a primary adjudicating authority under the Act. The Council, comprising of many members across the country, will face difficulty in regular adjudication of the grievances.

DECISION & CONCLUSIONS:

[25] In the circumstances, the present writ petition is allowed and the respondent nos. 3 (BOSEM), 4 (COHSEM), 5 (Manipur University) & 6 (Manipur Medical Council) are directed -

I. To issue fresh education certificates under the new name and gender of the petitioner as 'Beoncy Laishram' & gender as 'female' in place of the original birth name 'Boboi Laishram' & gender as 'male', in terms of the provision of Sections 6, 7, 10 & 20 of the Transgender Act, 2019 and Rule 2(d) read with Annexure-I of the Transgender Rules, 2020 and on the basis of certificates issued by District Magistrate, Imphal West under the provision of Sections 6 & 7 of the Transgender Act, 2019 within a period of 1(one) month from the date of receipt of a copy of this order.

II. In all existing act/bye-laws/rules/regulations of any establishment within the meaning of Section 2(b) of the Act within the territory of State of Manipur, the provisions of Sections 6 & 7 of the Right of the Transgender Persons (Protection of Rights) Act, 2019 shall be incorporated.

III. Till the incorporation as directed in Para 25 (II) above is made by the establishments, the provisions of Sections 6 & 7 of the Right of the Transgender Persons (Protection of Rights) Act, 2019 shall be deemed to be read into and incorporated in all the existing act/bye-laws/rules/regulations in terms of the provision of the Section 20 of the Act.

IV. Chief Secretary, Government of Manipur shall issue necessary directions to all the establishments as directed in Para 25 [II].

[26] With these observations and directions, the present WP(C) No. 392 of 2024 is allowed and disposed of.

[27] Send a copy of this judgment to the respondent nos. 3, 4, 5 & 6 and also to the Chief Secretary Government of Manipur for information and necessary compliance.

[28] Before parting, this Court expresses its sincere appreciation of the assistance of all the appearing counsel, specially Ms. Jayna Kothari, senior counsel in evolving rights of the transgender person as enshrined in Transgender Persons (Protection of Rights) Act, 2019 and Rules of 2020 and the judgment of NALSA case.

OINAM THOIBA MEITEI

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JUDGE

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Thoiba