

MANU/DE/3444/2024

Equivalent/Neutral Citation: 2024:DHC:3921-DB

IN THE HIGH COURT OF DELHI

W.P.(C) 2997/2021

Decided On: 13.05.2024

Jasmine Kaur Chhabra **Vs.** Union of India and Ors.

Hon'ble Judges/Coram:

Manmohan, Actg. C.J. and Manmeet Pritam Singh Arora, J.

Counsel:

For Appellant/Petitioner/Plaintiff: Rupinder Pal Singh, Advocate

For Respondents/Defendant: Hetu Arora Sethi, ASC, Kavita Nailwal, Advocate, Abhinav Bajaj, ASC, Saksham Ojha and Geetashi Chandna, Advocates

JUDGMENT

Manmohan, Actg. C.J.

1. Present public interest petition has been filed seeking appropriate writ, order or direction for building separate public toilets for Transgender/Third Gender persons.

2. Learned counsel for the Petitioner avers that the State is under an obligation to provide basic facilities, including separate public toilets for the use of Transgender persons in accordance with the judgment passed by the Supreme Court in National State Legal Authority vs. UOI, MANU/SC/0309/2014 : 2014:INSC:275 : (2014) 5 SCC 438.

3. Status report dated 19th January, 2024 has been filed on behalf of the Department of Social Welfare, Government of NCT of Delhi which is reproduced as under:-

"STATUS REPORT ON BEHALF OF RESPONDENT NO. 02/GNCTD

Most Respectfully Show with

1. The present status report is submitted in accordance with the directives issued by the Hon'ble Court on 08/11/2023. The court has directed the Respondent no. 02/ GNCTD to ensure the expeditious construction of toilets and further mandated the filing of a status report in this regard.

2. The status report filed earlier comprehensively outlined the developments up to 05.09.2023:

Sl. No.	Point 1: Creations of Separate Identified Public Toilet Facility for Transgender Person			Point 2: Toilet Meant for Persons with Disabilities Designated
	Yet to Start	In Process	Completed	
Total	21	194	102	1173

3. The current report from 06.09.2023 to 17.01.2024 (till date),

includes details from various departments, specifically addressing Point 1 and Point 2 of the court order related to the creation of separate identified public toilet facilities for transgender persons and toilets meant for persons with disabilities designated for the use of transgender persons.

Sl. No.	Name of the Department	Point 1: Creations of Separate Identified Public Toilet Facility for Transgender Person			Point 2: Toilet Meant for Persons with Disabilities Designated
		Yet to Start	In Process	Completed	
1.	Municipal Corporation of Delhi (MCD)	2	9	41	480
2.	Industries Department	1	0	0	1
3.	Public Works Department	6	20	0	30
	Total up to 17.01.2024	09	29	41	411
	Previous Total up to 05.09.2023	21	194	102	1173
	Grand Total.	30	223	143	1584

4. The undersigned is willing to abide with the order(s) of this Hon'ble Court.

Sd/-
Rajeev Kumar Saxena
Deputy Director (Social Defence/Transgender Cell)"

4. The NDMC has also filed three action taken reports. The last action taken report is dated 6th November, 2023. The relevant portion of the third action taken report dated 6th November, 2023 is reproduced hereinbelow:-

"3rd ACTION TAKEN REPORT ON BEHALF OF RESPONDENT NO. 3/NDMC.

1. That the present writ petition has been filed before this Hon'ble Court praying, inter alia, for a writ of mandamus directing the Respondents to take necessary actions for building separate washrooms for transgender / third genders.

2. That on 11.09.2023, this Hon'ble Court was pleased to direct the Respondents to file a status report informing about the recent development and progress with regard to the construction of Transgender toilets and the facilities extended to the Transgender Persons within 4 weeks.

3. That in light of the foregoing, it is submitted that in addition to the locations at which the washroom facility has been constructed for transgender persons as per the last status report filed vide Diary No. 1138178/2023, NDMC has also built toilets for transgender persons at 2 other locations namely:

- a. Inner Circle Connaught Place-D Block
- b. Inner Circle Connaught Place - F Block

4. That further, a tender was called on 13.06.2023 for the construction of 79 toilets in NDMC area for transgender persons at the cost of Rs. 2,50,34,761/- (Two Crore Fifty Lakhs Thirty-Four Thousand Seven Hundred and Sixty-One

Rupees Only).

5. That after the technical bid was opened, it was found that a single agency had participated in the tender and the case was submitted to Chief Engineer to open the bid. It is submitted that the papers were found in order and the agency was found to be technically eligible for opening the financial bid.

6. That after the financial bid was opened, the tender case was submitted to the finance department for concurrence. It is submitted that in last week of October, the case was received back from the Finance Department with observations and all the observations have been replied to and sent back to the Finance Department for concurrence.

7. That it is estimated that the works for consumption of these toilets shall be taken up in the third week of November 2023 and is expected to be completed by June, 2024.

8. That further as per the direction of the Competent Authority, provisions of transgender toilets has also been taken into account for construction of the new toilets and accordingly a proposed with a separate washroom facility for transgender persons is coming up at Ambedkar Vatika at Afrika Avenue, on which the work has already started, in addition to the new the proposed washroom facility at the Sri Lankan Embassy.

9. That in view of the above, Respondent No. 3 humbly submits that the Council is taking all suitable and timely measures to ensure that transgender persons in the NDMC area have access to sanitation facilities to enable them to live a dignified life as provided for under the Constitution of India.

10. That Respondent No. 3 shall abide by any order or directions that this Hon'ble Court may be pleased to pass in the facts and circumstances of the present case.

RESPONDENT No. 3/NDMC"

5. In view of the aforesaid status report and action taken report, learned counsel for the Petitioner has no objection, if the present writ petition is closed. He, however, prays that the Respondents be bound by undertakings/ statements given in the said status report and action taken report. Holding the Respondents bound by the statements/undertakings given in the status report and action taken report, the present writ petition is closed.

© Manupatra Information Solutions Pvt. Ltd.