

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5627 of 2020

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Veera Yadav aged about 30 years, D/o Jhimi Lal Ray, resident of
Hatssarganj, Hajipur, Vaishali, Bihar.

Petitioner

Versus

1. The Chief Secretary, Government of Bihar, Main Secretariat,
Patna-800 015.
2. Principal Secretary, Food and Consumer Protection Department,
Government of Bihar, Old Secretariat, PO-Sachivalaya, Patna-
800015.
3. Additional Chief Secretary, Social Welfare Department,
Government of Bihar, Main Secretariat, Patna-800015.
4. Union of India through the Secretary, Ministry of Home Affairs,
Govt. of India, New Delhi.
5. Ministry of Social Justice and Empowerment, Govt. of India, New
Delhi through its Secretary.

.....Respondents.

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Appearance:

For the petitioner/s : Mr. Akash Keshav, Advocate

For the State (respondent Nos.1 to 3)

: Mr. Ajay, Government Advocate-5

For the Union of India (respondents 4 &5)

: Mr. S. D. Sanjay, ASG

Mr. Ratnesh Kumar, CGC

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**CORAM: HONOURABLE THE CHIEF JUSTICE
AND
HONOURABLE MR. JUSTICE S. KUMAR**

Oral Order

(Per: HONOURABLE THE CHIEF JUSTICE)

2. 01.05.2020

Considering the importance and significance of the matter, we deem it appropriate to implead the Union of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi and Ministry of Social Justice and Empowerment, Government of India, New Delhi through its Secretary as Party Respondents No.4 and 5.

Registrar (List) shall ensure that necessary correction is made in the memo of party.

Mr. S. D. Sanjay, learned Additional Solicitor General of India along with Shri Ratnesh Kumar, learned Central Government Counsel appears for the newly added respondents no.4 and 5.

Learned counsel for the petitioner is directed to serve a copy of the brief through E-mail upon Shri S.D. Sanjay, learned Additional Solicitor General of India, appearing for newly added respondent nos.4 and 5 during the course of the day.

Petitioner has prayed for the following relief(s):

“I. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to provide an immediate 25kg ration support & cash assistance of Rs. 5000/- per month for at least six months for people of transgender community in the State of Bihar as financial support to

enable them to make their both ends meet and for their survival.

- II. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to provide an additional cash assistance of Rs. 2000/- to the people of transgender community for the payment of the rent in their rented accommodation the rent for at least six months for people of transgender community in the State.
- III. To direct the Chief Secretary, Government of Bihar and the Principal Secretary, Food and Consumer Protection Department, Government of Bihar to provide ration, food and nutrition free of charge from ration shops for at least six months by implementing provisions of free ration by State Government and Central Government Schemes even without holding a ration card and to initiate the process for issuance of ration card to all the people of transgender community and to include all even if they are living on rented accommodation.
- IV. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to establish a facilitation centre at Sub-divisional or Block level, similar to the Anganwadi system, to be operated by transgender persons to provide nutritional and other support to the people of the transgender community.
- V. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to devise a monthly pension scheme with an appropriate amount which should not be

less than Rs. 3500/- per month to all the persons of the transgender community keeping in view of their poor and unstable financial condition for their survival.

VI. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to devise a speedy grievance redressal system to dispose of application made, if any, for grievance redressal within a time bound manner not more than of 20 days after receiving of such application.

VII. To pass any other order or direction for welfare of the people of the transgender community keeping in view of the poor and unstable financial condition specially during the current scenario.

Petitioner invites our attention to the alleged pitiable state of affairs of the transgender in the State of Bihar. Allegedly, the community is being ostracized, more so in the times of the current outbreak of Pandemic Corona Virus.

On the other hand, Sri Ajay, learned Government Advocate No.5, appearing for the State of Bihar (Respondent Nos.1 to 3) clarifies that the Government has made provision for providing ration to all the members of the community in the State of Bihar, irrespective of the fact as to whether they are possessing any ration card or not.

If that were so, we appreciate such concern of the State towards the members of the community.

Be that as it may be, it is a matter of record that as per the National Consensus of 2011, there are more than 40,000 (forty

thousand) members of the transgender community in the State of Bihar and perhaps, at this point in time, they may be facing certain problems, social and/or economic.

The Transgender Persons (Protection of Rights) Act, 2019 (hereinafter referred to as 'the Act') was enacted to provide for protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto.

As per the Act, no person or establishment shall discriminate against a transgender in the matter of education, employment, occupation, health, enjoyment of goods, accommodation, services, facilities etc. In fact, by virtue of the provisions contained in Chapter III thereof, identity of the transgender persons stands recognized with a right to have proper record maintained by the authorities. Section 8 mandates the appropriate authority, which in the instant case, as per definition (Section 2) would be the State, is required to take certain welfare measures. For ready reference Section 8 reads as under:-

“8. (1) The appropriate Government shall take steps to secure full and effective participation of transgender persons and their inclusion in society.

(2) The appropriate Government shall take such welfare measures as may be prescribed to protect the rights and interests of transgender persons, and facilitate their access to welfare schemes framed by that Government.

(3) The appropriate Government shall formulate welfare schemes and programmes which are transgender sensitive, non-stigmatising and non-discriminatory.

(4) The appropriate Government shall take steps for the rescue, protection and rehabilitation of transgender persons to address the needs of such persons.

(5) The appropriate Government shall take appropriate measures to promote and protect the right of transgender persons to participate in cultural and recreational activities.”

Before we issue any further direction, we issue notice and direct the State to positively file its response through an affidavit of the Chief Secretary, Government of Bihar dealing with each one of the averments made in the petition, and more specifically, with regard to the preparation of the Scheme for grant of monthly pension to the members of such community.

Also the State shall consider providing a Facilitation Centre- a one Point Centre dealing with all problems- for the members of the community at the grass root level, which can be similar to the Anganwari system prevalent in the State of Bihar.

As prayed for, response through an affidavit of the Chief Secretary, Government of Bihar be positively filed by 7th of May, 2020. Rejoinder, if any, to the same be filed before the next date of hearing.

List on 11th of May, 2020.

(Sanjay Karol, CJ)

(S. Kumar, J.)

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