

विजय कुमार,
आई0पी0एस0



परिपत्र संख्या: 47/2023
पुलिस महानिदेशक,
उत्तर प्रदेश
पुलिस मुख्यालय, गोमतीनगर, विस्तार,
लखनऊ-226010
दिनांक: अक्टूबर १३ 2023.

विषय:- राष्ट्रीय मानवाधिकार आयोग, नई दिल्ली के निदेशानुसार प्रदेश के समस्त पुलिस थानों पर Transgender व्यक्तियों की शिकायतों/अपराधिक अभियोगों के निवारण हेतु एक अधिकारी को नामित किया जाना।

प्रिय महोदय/महोदया,

कृपया उपर्युक्त विषय में अवगत कराना है कि महासचिव राष्ट्रीय मानवाधिकार आयोग नई दिल्ली के पत्र संख्या:आर-51/2/2023-पीआरपीपी(आरयू-2), दिनांक-15.09.2023 के द्वारा Transgender व्यक्तियों के कल्याणार्थ Advisory जारी की गयी है। जिसमें Transgender व्यक्तियों की शिकायत/अपराधिक प्रकरणों के निवारण तथा Transgender Protection of Rights Act, 2019 एवं Transgender Persons Protection of Rights Act 2020, के अनुरूप कार्यवाही हेतु एक अधिकारी को नियुक्त किये जाने के निर्देश दिये गये हैं।

2. अतः निर्देशित किया जाता है, माननीय राष्ट्रीय मानवाधिकार आयोग नई दिल्ली के निर्देशों के अनुपालन में प्रत्येक जनपद के पुलिस थानों में Transgender व्यक्तियों की शिकायत के निवारण हेतु प्रत्येक पुलिस थाने पर एक पुलिस आफिसर को नियुक्त करते हुये अनुपालन आख्या अपर पुलिस महानिदेशक, अपराध, उत्तर प्रदेश को उपलब्ध कराने का कष्ट करें। सुलभ सन्दर्भ हेतु माननीय आयोग से प्राप्त पत्र दिनांकित-15.09.2023 की (छायाप्रति मय अनुलग्नक सहित) संलग्नकर प्रेषित की जा रही है।

संलग्नक:- यथोपरि।

भवदीय,

(विजय कुमार)

1. समस्त पुलिस आयुक्त, उत्तर प्रदेश।
2. समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक, प्रभारी जनपद उ0प्र0।
3. समस्त पुलिस अधीक्षक, रेलवेज, उत्तर प्रदेश।

प्रतिलिपि:- निम्नलिखित को उपरोक्तानुसार सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

- 1- विशेष पुलिस महानिदेशक, कानून एवं व्यवस्था उत्तर प्रदेश।
- 2- अपर पुलिस महानिदेशक, अपराध, उत्तर प्रदेश।
- 3- अपर पुलिस महानिदेशक, रेलवे उत्तर प्रदेश।
- 4- समस्त जोनल अपर पुलिस महानिदेशक, उत्तर प्रदेश।
- 5- समस्त परिक्षेत्रीय पुलिस महानिरीक्षक/उपमहानिरीक्षक, उत्तर प्रदेश।

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File No.6-20099/65/2023- (-1) -20-

93219/2023

उत्तर प्रदेश शासन
गृह (मानवाधिकार) अनु0-1
संख्या-9867/छ:-मा0-1-23
लखनऊ, दिनांक सितम्बर, 2023
25

अपर मुख्य सचिव /प्रमुख सचिव,
उच्च शिक्षा विभाग, माध्यमिक शिक्षा विभाग, वैसिक शिक्षा विभाग,
चिकित्सा स्वास्थ्य एवं परिवार कल्याण विभाग, चिकित्सा शिक्षा विभाग,
आयुष विभाग, श्रम विभाग, नगर विकास विभाग, संस्कृति विभाग,
समाज कल्याण विभाग
उत्तर प्रदेश शासन।

कृपया मा0 राष्ट्रीय मानव अधिकार आयोग, नई दिल्ली के पत्र संख्या-आर-51/2/2023-पीआरपीपी (आर यू-2) दिनांक 15 सितम्बर, 2023 (छायाप्रति संलग्न) का संदर्भ ग्रहण करने का कष्ट करें।

2- प्रकरण में मा0 आयोग द्वारा advisory for ensuring the welfare of transgenders persons पर एक्शन टेकन रिपोर्ट उपलब्ध कराये जाने के निर्देश दिये गये है।

3- अतएव उक्त advisory पर अपने विभाग से सम्बन्धित बिन्दुओं पर कार्यवाही कर, एक्शन टेकन रिपोर्ट मा0 आयोग को प्रेषित करते हुए, गृह (मानवाधिका) अनु0-1 को अवगत कराने का कष्ट करें।

संलग्नक-यथोक्त

Signed by आनन्द प्रकाश
(आनन्द प्रकाश)
Date: 22-09-2023 09:41:51
अनु सचिव
Reason: Approved

9867
संख्या- (1)/छ:-मा0-1-23 तददिनांक

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित—

- (1) पुलिस महानिदेशक, उ0 प्र0, लखनऊ को उक्तोंकित पत्र की प्रति सहित।
(2) महायुक्त निबंधक, (विधि), मा0 मा0 राष्ट्रीय मानव अधिकार आयोग नई दिल्ली

MP
SP(HR)/508

आज्ञा से,

(आनन्द प्रकाश)
अनु सचिव

पुलिस महानिदेशक
मानवाधिकार
उ०प्र०, लखनऊ
30/09/23

श्री अभिलेखा यादव
14/9/23

Advisory for ensuring the welfare of Transgender Persons

From : Monika Joon <dsr.nhrc@nic.in>

Fri, Sep 15, 2023 05:08 PM

Subject : Advisory for ensuring the welfare of Transgender Persons

3 attachments

To : Dr K. S. Jawahar Reddy, IAS <cs@ap.gov.in>, Dharmendra <cs-arunachal@nic.in>, PABAN KUMAR BORTHAKUR, IAS <cs-assam@nic.in>, Chief Secretary Bihar <cs-bihar@r.jc.in>, Chief Secretary Office <csoffice.cg@gov.in>, Puneet Kumar Goel IAS Chief Secretary <cs-goa@nic.in>, chiefsecretary@gujarat.gov.in, Sanjeev Kaushal, IAS <cs@hry.nic.in>, Prabodh Saxena <cs-hp@nic.in>, cs-jandk <cs-jandk@nic.in>, akmehta88@ias.nic.in, Shri Sukhdev Singh <cs-jharkhand@nic.in>, officeofcs@gmail.com, DR VENU V IAS <chiefsecy@kerala.gov.in>, Iqbal Singh Bains <cs@mp.nic.in>, cs@maharashtra.gov.in, chiefsecretary@maharashtra.gov.in, cs-manipur <cs-manipur@nic.in>, cso-meg <cso-meg@nic.in>, cs miz <cs_miz@rediffmail.com>, cs-mizoram <cs-mizoram@nic.in>, Daniel Krocha Deputy Director <nagaland.mygov@gov.in>, Jan e Alam, Chief Secretary Nagaland <csngl@nic.in>, Shri Pradeep Kumar Jena <csori@nic.in>, Chief Secretary Punjab <cs@punjab.gov.in>, csraj@rajasthan.gov.in, Vijay Bhushan Pathak <cs-skm@hub.nic.in>, cs@tn.gov.in, CS Telangana <cs@telangana.gov.in>, cs-tripura <cs-tripura@nic.in>, cstripura@gmail.com, CHIEF SECRETARY GoUP <csup@nic.in>, chiefsecyuk@gmail.com, chief secretary <cs-uttarakhand@nic.in>, Shri H K Dwivedi <cs-westbengal@nic.in>, Chief Secretary Andamans <cs-andaman@nic.in>, Administrator DNH DD <administrator-dd-dnh@nic.in>, Shri Naresh Kumar <csdelhi@nic.in>, Mr Rajeev Verma IAS <cs,pon@nic.in>, Advisor to LG <advisor-ig-ladakh@gov.in>, Praful Patel <lk-admin@nic.in>, ADMR CHD <admr-chd@nic.in>

Cc : Anita Sinha <jst.nhrc@nic.in>, Bharat Lal <sgnhrc@nic.in>, Justice Arun Kumar Mishra <chairnhrc@nic.in>, Rajiv Jain <member5-nhrc@gov.in>, Dr. D.M. Mulay <member4.nhrc@nic.in>

Respected Sir/ Madam,

Please find attached a DO letter dated 15th September, 2023 from Shri Bharat Lal, Secretary General, NHRC, addressed to you on the captioned subject.

With warm Regards

Regards

Monika Joon

Section Officer

PRP&P Division



National Human Rights Commission (India)
Manav Adhikar Bhawan, C-Block,
GPO Complex, INA, New Delhi - 110023
Phone : 011- 24663325/3273



→ Advisory for Ensuring the welfare of Transgender Persons.pdf
521 KB

→ All Chief Secretaries Administrators Advisory for ensuring the welfare of Transgender Persons.pdf
46 KB

Advisory for Ensuring the welfare of Transgender Persons

Education

- i. Necessary steps may be taken to ensure access to education to transgender persons. Authorities may consider formulating a policy to address the issues of violence, discrimination and their harassment at educational institutions. The Education Department of all States/ UTs as an interim measure to advise educational institutes in their respective jurisdictions to protect gender-nonconforming students from bullying, harassment or other forms of violence.
- ii. The State Governments/ UTs to ensure that in every district, an anti-discrimination cell is set up at the district level for transgenders, and also, to ensure the setting up of a monitoring committee/ cell at educational institutions to address the issues of prejudices, discrimination, sexual abuse and other violence against transgender persons.
- iii. The State Governments to take necessary steps to make all educational institutions "inclusive" for transgender students.
- iv. Transgender students are not to be discriminated against in higher studies, and suitable provision for providing financial assistance to Transgender students pursuing Degree/ Diploma/ PG courses may be ensured.
- v. Provision for scholarship and free education be formulated for transgender students.

Healthcare:

- i. Set up medical boards at the district level to assist transgenders.
- ii. In every district civil hospital, necessary provisions to be made for consultation, treatment, counseling for sex reassignment surgery, and, the following steps may also be considered;
 - a. A suitable amount may be provided to the members of the transgender community who want to opt for a sex change operation; or,

- b. Free sex reassignment surgery in government hospitals may be provided.

Employment:

- i. "Third Gender" as an identity category may be added for people of transgender community seeking civil service jobs to enable them to apply and appear in entrance examinations.
- ii. All the agencies involved in document verification may be advised to verify and accept the document even if the name or photo of the transgender person vary with the original documents on time bound manner, provided the candidate has obtained the Transgender Certificate.
- iii. Adequate steps may be taken to protect transgender persons from any form of violence or harassment at workplaces, and anti-discrimination policies be implemented at all levels.
- iv. Sensitization programmes for other employees on sexual orientation and gender identity may be organized regularly.
- v. A Grievance Redressal Cell be set up in the organization wherever they are employed to deal with the issues of transgender employees, in which at least one transgender person may be included, wherever possible.
- vi. State to prioritize skill development training and better occupational opportunities to transgender persons.
- vii. Wide publicity to the National Career Service Portal be given amongst transgender community.
- viii. Loan at interest subvention basis may be extended to transgender persons to help them set up their own businesses.
- ix. District administration to extend help to enable transgender persons to form Self Help Groups through which they can get bank loans to start livelihood activities.

Promoting Inclusivity:

- i. All forms for whatever purpose, which require candidates to indicate their sex, must provide 'third gender' as a category in the options.
- ii. All public places should have separate washrooms for transgenders.
- iii. Provide an exclusive platform for transgender persons to showcase their talent in cultural events.
- iv. Old age home facilities be considered for the transgender community.

Welfare

- i. Single trans child of a deceased government employee or pensioner, may be treated as an unmarried daughter for the family pension and other benefits.
- ii. Transgender persons should be allowed to inherit ancestral agricultural land.
- iii. Transgender welfare board may be established as mandated under the Section 10 (1) of the Transgender Persons (Protection of Rights) Rules, 2020, framed for implementing the Transgender Persons (Protection of Rights) Act, 2019.
- iv. The concerned Ministry should ensure the timely release of the funds allocated to Garima Greh. In addition, the queries considering the disbursement of funds may be dealt with by proper mechanisms and handholding support be given to complete the requisite formalities to resolve such grievances.
- v. The Insurance Companies may be advised to consider and accept the Transgender Certificate issued by the appropriate authority for document verification purposes.
- vi. The Ministry of Corporate Affairs may consider incorporating welfare activities of transgender persons explicitly in the Schedule VII of the Companies Act, 2013, which provides the list of activities that can be included for making expenditures for Corporate Social Responsibilities activities.
- vii. Adequate steps may be taken to deal with the complaints of sexual harassment of transgender persons.

- viii. Multi-purpose identity cards may be provided to the transgenders to help them access government schemes and other benefits.
- ix. Reach out to the family member of Transgenders through Anganwadi workers to sensitize them about trans-children.
- x. Public to be sensitized through educational campaigns.

Grievance Redressal

- i. Set up a Transgender Protection Cell under the Director General of Police or – his/her nominee in the State to monitor cases of offences against Transgender Persons in accordance with the provision of the Transgender Persons (Protection of Rights) Act, 2019 and the Transgender Persons (Protection of Rights) Rules, 2020.
- ii. One officer in every police station be designated as focal point for Transgenders.

THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019

ARRANGEMENT OF SECTIONS

SECTIONS

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PRELIMINARY

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2. Definitions.

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PROHIBITION AGAINST DISCRIMINATION

3. Prohibition against discrimination.

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RECOGNITION OF IDENTITY OF TRANSGENDER PERSONS

4. Recognition of identity of transgender person.
5. Application for certificate of identity.
6. Issue of certificate of identity.
7. Change in gender.

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8. Obligation of appropriate Government.

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OBLIGATION OF ESTABLISHMENTS AND OTHER PERSONS

9. Non-discrimination in employment.
10. Obligations of establishments.
11. Grievance redressal mechanism.
12. Right of residence.

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13. Obligation of educational institutions to provide inclusive education to transgender persons.
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NATIONAL COUNCIL FOR TRANSGENDER PERSONS

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17. Functions of Council.

CHAPTER VIII

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20. Act not in derogation of any other law.
21. Protection of action taken in good faith.
22. Power of appropriate Government to make rules.
23. Power to remove difficulties.

THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019

ACT NO. 40 OF 2019

[5th December, 2019.]

An Act to provide for protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Transgender Persons (Protection of Rights) Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means, —

(i) in relation to the Central Government or any establishment, wholly or substantially financed by that Government, the Central Government;

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, the State Government;

(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 or a local authority, or a Government company as defined in section 2 of the Companies Act, 2013 (18 of 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;

(c) “family” means a group of people related by blood or marriage or by adoption made in accordance with law;

(d) “inclusive education” means a system of education wherein transgender students learn together with other students without fear of discrimination, neglect, harassment or intimidation and the system of teaching and learning is suitably adapted to meet the learning needs of such students;

(e) “institution” means an institution, whether public or private, for the reception, care, protection, education, training or any other service of transgender persons;

(f) “local authority” means the municipal corporation or Municipality or Panchayat or any other local body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;

(g) “National Council” means the National Council for Transgender Persons established under section 16;

(h) “notification” means a notification published in the Official Gazette;

1. 10th January, 2020, vide notification No. S.O. 135(E), dated 10th January, 2020, see Gazette of India, Extraordinary, Part II, sec. 2(ii).

(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;

(j) "prescribed" means prescribed by rules made by the appropriate Government under this Act; and

(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-woman (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*.

CHAPTER II

PROHIBITION AGAINST DISCRIMINATION

3. Prohibition against discrimination.—No person or establishment shall discriminate against a transgender person on any of the following grounds, namely:—

(a) the denial, or discontinuation of, or unfair treatment in, educational establishments and services thereof;

(b) the unfair treatment in, or in relation to, employment or occupation;

(c) the denial of, or termination from, employment or occupation;

(d) the denial or discontinuation of, or unfair treatment in, healthcare services;

(e) the denial or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public;

(f) the denial or discontinuation of, or unfair treatment with regard to the right of movement;

(g) the denial or discontinuation of, or unfair treatment with regard to the right to reside, purchase, rent, or otherwise occupy any property;

(h) the denial or discontinuation of, or unfair treatment in, the opportunity to stand for or hold public or private office; and

(i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a transgender person may be.

CHAPTER III

RECOGNITION OF IDENTITY OF TRANSGENDER PERSONS

4. Recognition of identity of transgender person.—(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. Application for certificate of identity.—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. Issue of certificate of identity.—(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. Change in gender.—(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.

CHAPTER IV

WELFARE MEASURES BY GOVERNMENT

8. Obligation of appropriate Government.—(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.

CHAPTER V

OBLIGATION OF ESTABLISHMENTS AND OTHER PERSONS

9. Non-discrimination in employment.—No establishment shall discriminate against any transgender person in any matter relating to employment including, but not limited to, recruitment, promotion and other related issues.

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

11. Grievance redressal mechanism.—Every establishment shall designate a person to be a complaint officer to deal with the complaints relating to violation of the provisions of this Act.

12. Right of residence.—(1) No child shall be separated from parents or immediate family on the ground of being a transgender, except on an order of a competent court, in the interest of such child.

(2) Every transgender person shall have—

(a) a right to reside in the household where parent or immediate family members reside;

(b) a right not to be excluded from such household or any part thereof; and

(c) a right to enjoy and use the facilities of such household in a non-discriminatory manner.

(3) Where any parent or a member of his immediate family is unable to take care of a transgender, the competent court shall by an order direct such person to be placed in rehabilitation centre.

CHAPTER VI

EDUCATION, SOCIAL SECURITY AND HEALTH OF TRANSGENDER PERSONS

13. Obligation of educational institutions to provide inclusive education to transgender persons.—Every educational institution funded or recognised by the appropriate Government shall provide inclusive education and opportunities for sports, recreation and leisure activities to transgender persons without discrimination on an equal basis with others.

14. Vocational training and self-employment.—The appropriate Government shall formulate welfare schemes and programmes to facilitate and support livelihood for transgender persons including their vocational training and self-employment.

15. Healthcare facilities.—The appropriate Government shall take the following measures in relation to transgender persons, namely:—

(a) to set up separate human immunodeficiency virus Sero-surveillance Centres to conduct sero-surveillance for such persons in accordance with the guidelines issued by the National AIDS Control Organisation in this behalf;

(b) to provide for medical care facility including sex reassignment surgery and hormonal therapy;

(c) before and after sex reassignment surgery and hormonal therapy counselling;

(d) bring out a Health Manual related to sex reassignment surgery in accordance with the World Profession Association for Transgender Health guidelines;

(e) review of medical curriculum and research for doctors to address their specific health issues;

(f) to facilitate access to transgender persons in hospitals and other healthcare institutions and centres;

(g) provision for coverage of medical expenses by a comprehensive insurance scheme for Sex Reassignment Surgery, hormonal therapy, laser therapy or any other health issues of transgender persons.

CHAPTER VII

NATIONAL COUNCIL FOR TRANSGENDER PERSONS

16. National Council for Transgender Persons.—(1) The Central Government shall by notification constitute a National Council for Transgender Persons to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The National Council shall consist of—

(a) the Union Minister in-charge of the Ministry of Social Justice and Empowerment, Chairperson, *ex officio*;

(b) the Minister of State, in-charge of the Ministry of Social Justice and Empowerment in the Government, Vice-Chairperson, *ex officio*;

(c) Secretary to the Government of India in-charge of the Ministry of Social Justice and Empowerment, Member, *ex officio*;

(d) one representative each from the Ministries of Health and Family Welfare, Home Affairs, Housing and Urban Affairs, Minority Affairs, Human Resources Development, Rural Development, Labour and Employment and Departments of Legal Affairs, Pensions and Pensioners Welfare and National Institute for Transforming India Aayog, not below the rank of Joint Secretaries to the Government of India, Members, *ex officio*;

(e) one representative each from the National Human Rights Commission and National Commission for Women, not below the rank of Joint Secretaries to the Government of India, Members, *ex officio*;

(f) representatives of the State Governments and Union territories by rotation, one each from the North, South, East, West and North-East regions, to be nominated by the Central Government, Members, *ex officio*;

(g) five representatives of transgender community, by rotation, from the State Governments and Union territories, one each from the North, South, East, West and North-East regions, to be nominated by the Central Government, Members;

(h) five experts, to represent non-governmental organisations or associations, working for the welfare of transgender persons, to be nominated by the Central Government, Members; and

(i) Joint Secretary to the Government of India in the Ministry of Social Justice and Empowerment dealing with the welfare of the transgender persons, Member Secretary, *ex officio*.

(3) A Member of National Council, other than *ex officio* member, shall hold office for a term of three years from the date of his nomination.

17. Functions of Council.—The National Council shall perform the following functions, namely:—

(a) to advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to transgender persons;

(b) to monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of transgender persons;

(c) to review and coordinate the activities of all the departments of Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to transgender persons;

(d) to redress the grievances of transgender persons; and

(e) to perform such other functions as may be prescribed by the Central Government.

CHAPTER VIII

OFFENCES AND PENALTIES

18. Offences and penalties.—Whoever,—

(a) compels or entices a transgender person to indulge in the act of forced or bonded labour other than any compulsory service for public purposes imposed by Government;

(b) denies a transgender person the right of passage to a public place or obstructs such person from using or having access to a public place to which other members have access to or a right to use;

(c) forces or causes a transgender person to leave household, village or other place of residence; and

(d) harms or injures or endangers the life, safety, health or well-being, whether mental or physical, of a transgender person or tends to do acts including causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine.

CHAPTER IX

MISCELLANEOUS

19. Grants by Central Government.—The Central Government shall, from time to time, after due appropriation made by Parliament by law in this behalf, credit such sums to the National Council as may be necessary for carrying out the purposes of this Act.

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

21. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the appropriate Government or any local authority or any officer of the Government in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act and any rules made there under.

22. Power of appropriate Government to make rules.—(1) The appropriate Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form and manner in which an application shall be made under section 5;
- (b) the procedure, form and manner and the period within which a certificate of identity is issued under sub-section (1) of section 6;
- (c) the form and manner in which an application shall be made under sub-section (1) of section 7;
- (d) the form, period and manner for issuing revised certificate under sub-section (2) of section 7;
- (e) welfare measures to be provided under sub-section (2) of section 8;
- (f) facilities to be provided under section 10;
- (g) other functions of the National Council under clause (e) of section 17; and
- (h) any other matter which is required to be or may be prescribed.

(3) Every rule made by the Central Government under sub-section (1), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under sub-section (1), shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such legislature consists of one House, before that House.

23. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Government of India
Ministry of Social Justice and Empowerment
Notification

New Delhi, dated the

G.S.R No ____ In exercise of the powers conferred by sub-section (1) and (2) of Section 22 the Transgender Persons (Protection of Rights) Act, 2019, the Central Government hereby makes the following rules, namely:

1. Short title and commencement: - (1) These rules may be called the Transgender Persons (Protection of Rights) Rules, 2020.

(2) They shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definition: - In these rules, unless the context otherwise requires, -

- (a) 'Act' means the Transgender Persons (Protection of Rights) Act, 2019;
- (b) 'affidavit' means affidavit in **form – 2** to be submitted by an applicant seeking certificate of identity;
- (c) 'applicant' means a transgender person who submits application as defined in rule 2 (d).
- (d) 'application' means application-cum-enumeration form as in **form – 1** of these rules.
- (e) 'certificate of identity' means a certificate issued by the District Magistrate under section 6 or 7 of the Act as in **form – 3** or **form – 4** of these rules;
- (f) 'identity card' means a photo identity card in **form – 5** issued to a transgender person under section 6 or in **form – 6** issued to a transgender person on change of gender under section 7 on the basis of 'certificate of identity' issued by the District Magistrate or an identity card to a transgender person issued by a State authority prior to the coming into force of these rules;
- (g) 'procedure' means procedure laid in **annexure – 1** to be adopted by District Magistrate for issue of certificate of identity under section 6 or 7;
- (h) 'rule' means a rule under these rules;
- (i) 'section' means section of the Act;
- (j) All other words and expressions used herein but not defined herein or/and defined in the Act shall have the same meaning assigned to them in the Act.

3. Application for issue of certificate of identity under section 6 or 7:

(1) A transgender person desirous of obtaining a certificate of identity shall make an application-cum-enumeration, hereinafter called application, as in **form – 1** of this rule.

(2) The application shall be submitted to the District Magistrate in person or by post till online facilities are developed by the State Government concerned, thereafter application may also be made online.

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

4. Procedure for issue of certificate of identity under section 6:

(1) The District Magistrate shall based on the application, the affidavit and the report of a psychologist of a hospital of appropriate Government attached therewith, verify the correctness of the said report of psychologist and the place of residence of the applicant, but without any medical examination, except for issue of certificate of identity under Section 7 of the Act, the procedure for which is prescribed in rule 6.

(2) For the purpose of determination of the District Magistrate concerned, the applicant must have been a resident of the area under the jurisdiction of the District Magistrate for a continuous period of one completed year as on the date of the application, so as to protect the interests and facilitate inclusive development of transgender persons.

5. Issue of certificate of identity for transgender person under section 6:

(1) The District Magistrate shall issue to the applicant, following the procedure under rule 4, a certificate of identity in form – 3 of these rules, indicating the gender of such person as transgender.

(2) The said certificate of identity shall be issued within 60 days of receipt of duly filled in application along with the affidavit and the report of psychologist by the District Magistrate.

(3) The certificate of identity issued under sub-rule (1) shall entitle the applicant to record or change the gender as well as name, if so necessitated, of transgender person in all such official documents an illustrative list of which is provided in annexure – 1 to these rules, in accordance with the gender specified in the said certificate of identity.

(4) The District Magistrate shall concurrently issue a transgender identity card in form – 5 to the applicant.

(5) Issue of the said certificate of identity and the said identity card shall be included in the Right to Public Services Act by appropriate Governments.

(6) The authority that issued the official document, on an application made by such an applicant, shall change the name or / and the gender of the applicant in the official documents within 15 days of making such an application.

(7) Any official document wherein gender of transgender is revised based on the said certificate of identity shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name and/or the gender in the official documents.

Provided that all benefits that a transgender person was entitled to on the basis of an identity card, if any, issued by a State authority shall continue to be enjoyed by that transgender person based on the certificate of identity issued under these rules.

6. Procedure for issue of certificate of identity for change of gender under section 7:

(1) If a transgender person undergoes surgery to change gender either as a male or female, such a person may apply in the **form – 1** of these rules, 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 the said surgery, to the District Magistrate for issue of a revised certificate of identity under section 7.

(2) The District Magistrate shall, on receipt of an application referred to in sub-rule (1) shall verify the correctness of the said medical certificate.

(3) For the purpose of determination of the District Magistrate concerned, the applicant must have been a resident of the area under the jurisdiction of the District Magistrate for a continuous period of one completed year as on the date of the application, so as to protect the interests and facilitate inclusive development of transgender persons,

7. Issue of certificate of identity under section 7:

(1) The District Magistrate shall issue to the applicant seeking change in gender under Section 7, a revised certificate of identity in **form – 4** of these rules indicating the gender of such a person as male or female, as the case may be.

(2) The District Magistrate shall issue the revised certificate under sub-rule (1) within 15 days of its receipt.

(3) The certificate of identity issued under sub-rule (1) shall entitle the applicant to record or change the gender as well as name, if so necessitated, of transgender person in all such official documents an illustrative list of which is provided in **annexure – 1** to these rules, in accordance with the gender specified in the said certificate of identity as male or female, as the case may be.

(4) The District Magistrate while issuing the certificate of identity for change of gender shall concurrently issue an identity card in **form – 6** of these rules to the applicant.

(5) Issue of the said certificate of identity and the said identity card shall be included in the Right to Public Services Act by appropriate Governments.

(6) The authority that issued the official document, on an application made by such an applicant, shall change the name or / and the gender of the applicant in the official documents within 15 days of making such an application.

(7) Any official document wherein gender of transgender is revised based on the said certificate of identity shall bear the same serial or reference number as in the original official document of

such transgender person who seeks change in the name and/or the gender in the official documents:

Provided that any official document wherein gender of the applicant is revised based on the said certificate of identity shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the gender and the name in the official documents.

8. Communication of rejection of application: In case of rejection of application rule 4 (1) or under rule 6 (1), as the case may be, the District Magistrate shall inform the applicant the reason or reasons for such rejection.

9. Right to appeal: The applicant shall have a right to appeal, within 30 days from the date of intimation of rejection of the application, to the appellate authority as designated by the appropriate Government for a final order.

10. Welfare measures, education, social security and health of transgender persons by appropriate Government under sections 8, 13, 14 and 15 of the Act

(1) Ministry or Department concerned under the appropriate Government shall review all existing educational, social security, health schemes, welfare measures and vocational training and self-employment to include transgender persons so as to protect their rights and interests and facilitate their access to such schemes and welfare measures framed by that Government.

(2) The appropriate Government shall formulate educational, social security and health schemes and welfare schemes and programmes in a manner so as to be transgender sensitive, non-stigmatising and non-discriminatory to transgender persons.

(3) The appropriate Government shall review Acts, rules, regulations, codes, bye-laws, and such statutes to obviate discrimination of any kind to the transgender persons and to promote their well-being and dignity.

(4) The appropriate Government shall also take adequate steps to prohibit discrimination in any Government or private organisation or establishment.

(5) The appropriate Government shall create institutional and infrastructure facilities, including but not limited to, rehabilitation centre referred to in sub-section (3) of section 12, separate human immuno deficiency virus sero surveillance centre, separate wards in hospitals, wash rooms in establishment within two years from the date of coming into force of these rules to protect the rights of transgender persons.

(6) The appropriate Government shall carry out awareness campaign to educate, communicate and train transgender persons to avail themselves of the benefits of welfare schemes.

(7) The appropriate Government shall also provide training and education to other stakeholders in developing appropriate change in behavior towards transgender persons

11. National Council: (1) National Institute of Social Defence shall act as the secretariat to the National Council to facilitate it in discharge of its functions

(2) The Central Government shall provide grant-in-aid to National Institute of Social Defence to provide such a secretariat assistance.

12. Penalty: In case an applicant makes an application under rule 3 with an intention falsely to obtain status of a transgender person such an applicant shall be liable for prosecution under penal laws of the country.

[F No _____]

(Joint Secretary to the Government of India)

Form - 1

Application – cum – enumeration form for issue of transgender certificate of identity under Rule ____ Transgender Persons (Protection of Rights) Rules, 2020 read with Section 6* / 7* of the Transgender Persons (Protection of Rights) Act, 2019

* Strike out whichever is not applicable

<p style="text-align: center;">State Emblem State Government of (name of the State) Office of the District Magistrate</p>		
<p>Application – cum – enumeration form for issue of transgender certificate of identity under Rule ____ Transgender Persons (Protection of Rights) Rules, 2020 read with Section 6* / 7* of the Transgender Persons (Protection of Rights) Act, 2019</p> <p>* Strike out whichever is not applicable</p> <p>Note:</p> <ol style="list-style-type: none"> 1. Furnishing false information would result in cancellation of the identity card as stipulated under Rule __ of ____ Rules, apart from making you liable for penal action under the relevant Act(s) or/ and Code(s). 2. Information provided by you in this application will be treated as confidential and shall not to be shared with any person or organisation save the Central and / or State security agencies 		
1	Name	
(i)	Birth name (in capital letters)	
(ii)	Transgender name (in capital letters)	
(iii)	Out of (i) and (ii), name to be printed in the certificate of identity and in the identity card	
2	Mother's name	
3	Father's name	
4	Guardian's name	
5	Gender	
(i)	Assigned at birth	
(ii)	Requested in the application	Transgender
6	Date of birth or Age as on the date of application	dd/mm/yyyy __ years
7	Educational qualification	
8	Name of the School or College or University with complete address	
9	Present address	
10	Permanent address	

11	Mother tongue	
12	Place of birth	
13	Domicile (for the last 12 months prior to the date of application)	
14	Whom do you stay or live with?	
(i)	Mother	YES / NO
(ii)	Father	YES / NO
(iii)	Both Mother & Father	YES / NO
(iv)	Guardian	YES / NO
(v)	Alone	YES / NO
(vi)	Anyone else (Please specify)	
15	Source of income	
(i)	Self-employed	YES/ NO
(ii)	Please specify the nature of employment	
(iii)	Employed with	Non-Government Organisation*/ Self-Help Group*/ Other Private organisation*/ Central* or State* Government or Union Territory Administration* office/ Any other* (Please specify: _____) _____)
		* Strike out whichever is not applicable
16	If you have a source of income, state your annual income:	
(i)	Under Rs 1,00,000	YES / NO
(ii)	Between Rs 1,00,001 and 3,00,000	YES / NO
(iv)	Above Rs 3,00,000	Please specify the amount:
17	Do you have any of the following documents?	
(i)	Date of birth certificate	YES / NO
(ii)	Aadhaar card	YES / NO
(iii)	PAN card	YES / NO
(iv)	Election Voter Identity Card	YES / NO
(v)	Ration card	YES / NO
(vii)	Passport	YES / NO
(viii)	Bank passbook	YES / NO
(ix)	MNREGA Card	YES / NO
(x)	Any other (Please specify)	YES / NO

18	Medical history (for those applying under section 7 of the Transgender Persons (Protection of Rights) Act, 2019)	
(i)	Have you undergone any medical surgery in the context of transgender transition?	YES / NO
(ii)	Please give details of 18(i)	
(iii)	Name and complete address of the hospital or medical institute	
	Name of the issuing authority along with date	
(iv)	Any other medical status you would like to share	
(v)	Is the certificate of identity issued earlier under section 6 of the Act, or under any other Act or rule of any Government, enclosed?	YES Can DM ask for this?
19	Any other information you would like to give	
20	Have you attached affidavit prescribed in Form – 2 of the Transgender Persons (Protection of Rights) Act, 2019 under Rule ____ Transgender Persons (Protection of Rights) Rules, 2020	Yes
21	Your signature or your left hand thumb impression	

Enclosed: ____ documents as mentioned in the application

Station:	
Date:	Signature or left hand thumb impression of the applicant

Form - 2

Format of affidavit to be submitted by a person applying for certificate of identity for transgender persons under Rule ____ Transgender Persons (Protection of Rights) Rules, 2020 read with Section 6 of the Transgender Persons (Protection of Rights) Act, 2019

(Affidavit should be on Non-judicial stamp paper of Rs.10/-)

Competent Notary Civil, District (Name of the District), (Name of the State)

I, (Name) , son/daughter/ward/spouse of (name of the parent/guardian/husband) , aged ____ (in completed years) , residing at (address) , (Tehsil), (District), (State) (Pin code) do hereby solemnly affirm and declare as under:

1. I am a resident of the above address.
2. I perceive myself as a transgender person whose gender does not match with the gender assigned at birth.
3. I declare myself as a transgender.
4. I am executing this affidavit to be submitted to the District Magistrate for issue of certificate of identity as transgender person under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019 under Rule ____ Transgender Persons (Protection of Rights) Rules, 2020.
5. I am aware that in case of false declaration to obtain certificate of identity I shall be liable to be punished under the relevant penal code of the appropriate Government mentioned under the Transgender Persons (Protection of Rights) Act, 2019.

. * strike out whichever is not applicable.

Deponent
(Signature of the Applicant)

Verification

I, (Name), hereby state that whatever is stated here in above serial Nos. 1 to 4 are true to the best of my knowledge and that I fully understand the meaning and impact of the statement at No 5.

Deponent
(Signature of the Applicant)

Tehsil
Date

Identified by me
Advocate

Before Me
Notary Public

Signature of witness

Form – 3

Form of certificate of identity to be issued by District Magistrate under Rule 5 Transgender Persons (Protection of Rights) Rules, 2020 read with section 6 of the Transgender Persons (Protection of Rights) Act, 2019

Photograph of
the certificate
holder
District
Magistrate to
attest the
photograph

1. On the basis of the application dated dd/mm/yyyy to the undersigned it is certified that Shri / Smt / Km/ Mx (name) son / daughter / ward of Shri/ Smt (name of the parent or Guardian) of (complete residential address of the applicant) is a transgender person.
2. His / her birth name is _____.
3. This certificate is issued in terms of the provisions contained under Rule 5 Transgender Persons (Protection of Rights) Rules, 2020 read with section 6 of the Transgender Persons (Protection of Rights) Act, 2019.
4. It is also certified that Shri / Smt / Km/ Mx _____ is ordinarily a resident at the address given above.
5. This certificate entitles the holder to change name and gender in all official documents of the holder.

Date

Signature of the District

Magistrate:

Place

Seal

Form of certificate of identity for change of gender to be issued by District Magistrate under Rule 6 of the Transgender Persons (Protection of Rights) Rules, 2020 read with section 7 of the Transgender Persons (Protection of Rights) Act, 2019

Photograph of
the certificate
holder
District
Magistrate to
attest the
photograph

1. On the basis of the application submitted to the undersigned along with a medical certificate from the Medical Superintendent or Chief Medical Officer (name of the Hospital and complete address), it is to certified that Shri / Smt / Km/ Mx (name) _____ son / daughter / ward of Shri/ Smt (name of the parent or Guardian) of (complete residential address of the applicant) has undergone surgery to change gender.
2. His/ Her birth name is _____.
3. This certificate is issued in terms of the provisions contained under Rule 6 of the Transgender Persons (Protection of Rights) Rules, 2020_read with section 7 of the Transgender Persons (Protection of Rights) Act, 2019.
4. It is also certified that Shri / Smt / Km/ Mx is ordinarily a resident at the address given above.
5. This certificate entitles the holder to change name and gender in all official documents of the holder.
6. Such change in name and gender and the issue of this certificate shall not adversely affect the rights and entitlements of the holder of this certificate.

Date

Signature of the District
Magistrate:
Seal

Place

Form of Identity Card

Front side of identity card

State Emblem
State Government of (name of the State)
Office of the District Magistrate
Transgender Identity Card

Identity card number

Photograph
Of the
Card holder

Name

Mother's name@

Father's or Guardian's name @

Gender

Transgender

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of
identity card

__ years

Reference number of certificate of authority
on the basis of which this card is issued

Back side of the identity card

Present address

Permanent address

Card issue date

Signature of the issuing authority

Designation

Seal of the issuing authority

**Issued under Section 6*/ 7* of the Transgender Persons (Protection of Rights) Act, 2019
and under Rule __ of Transgender Persons (Protection of Rights) Rules, 2020**

*** Strike out whichever is not applicable**

@ only in case the applicant is a minor child

Form of Identity Card

Front side of identity card

State Emblem
State Government of (name of the State)
Office of the District Magistrate
Identity Card

Identity card number

Photograph
of the
Card holder

Name

Mother's name@

Father's / Guardian's name@

Gender

Male / Female

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of
identity card

__ years

Reference number of certificate of authority

on the basis of which this card is issued

Back side of the identity card

Present address

Permanent address

Card issue date

Signature of the issuing authority

Designation

Seal of the issuing authority

@ only in case of a minor child

Illustrative list of official documents referred to in _____

S 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