

IN THE HIGH COURT OF MADHYA PRADESH

PRINCIPAL SEAT AT JABALPUR BENCH

Writ Petition (PIL) No. /2020

Petitioner: Sandhya (Sandeep Kumar Ghavri)

Versus

Respondents:

- 1.State of MP Through, Chief Secretary,
Government of Madhya Pradesh,
Main Secretariat,
Arera Hills Bhopal-M.P.,
cs@mp.gov.in
2. Secretary
Department of Health and Family Welfare
Satpura Bhawan Bhopal MP
mdnhm@mp.gov.in
3. Additional Chief Secretary
Social Justice Welfare Department
Bhopal M.P.
dir.socialjustice@mp.gov.in

4. Chief Secretary

MP State Disaster Management Authority

Paryavaran Parisar E-5 Arera Colony Bhopal MP

mpstatecoord.sdma@mp.gov.in

5. Collector Jabalpur

Collector Office Jabalpur

Madhya Pradesh

dmjabalpur@nic.in

6. Collector Indore

Collector Office Moti Tabela

District Indore, M.P.

dmindore@nic.in

7. Collector Bhopal

Collector Office

District Bhopal, M.P

dmbhopal@mp.gov.in

8. Collector Gwalior

Collector Office

District Gwalior, M.P

dmgwalior@nic.in, dmgwalior@mp.gov.in

9. Commissioner

Nagar Nigam Indore, M.P.

Jail Road Netaji Subhash

Marg Nagar Nagam Indore

nn.indore@mpurban.gov.in

WRIT PETITION UNDER ARTICLE 226 OF THE

CONSTITUTION OF INDIA (PIL)

R/w under Article 21 of the Constitution of India.

1.Particulars of the cause/order against which the petition is made:.

1.1. Date of Order: Nil

1.2 Passed in (Case or File Number): Nil

1.3 Passed by: Nil

1.4. Subject-matter in brief:

A. Petitioner working for the welfare of the people of the transgender community in Indore. , has filed the instant petition praying for appropriate direction to the respondents to exercise their powers under various legal provisions and take immediate measures especially social security, welfare measures in the interest of the various vulnerable sections of Transgender that are being affected by the COVID-19 shutdown.

B. This is in reference to the current outbreak of COVID 19. As this general epidemic has impacted thousands of lives in country. This PIL is specifically with regard to the dire situation of transgender persons in the light of Covid-19 & Lockdown, calling for immediate intervention, with monetary and material support by the state government /respondents.

C. In the present scenario of lockdown in the state due to COVID- 19 pandemic which has impacted the most to the various vulnerable groups in the state of Madhya Pradesh in getting access to food, basic essentials and other requirements.

D. Petitioner like to draw Hon'ble Court kind attention towards the miserable condition of the people of transgender community in the state of Madhya Pradesh. As per the National Census of 2011, 29597 (SC 4361 and ST 5260) persons from transgender community reside in the state of Madhya Pradesh, who are dependent on their daily earnings for their living and to make both ends meet. Due to the outbreak of CoronaVirus and subsequent lockdown across the state, the people from the transgender community are socially ostracised and their lives have been badly affected so much so that they are not able to feed themselves even twice a day, owing to their poor and unstable financial condition.

E. That In Indore about 2500-3000 Transgnder are living in Indore, they have noting to eat and starving from hunger. Petitioner along with her 30 companions went to Collector, Parshad and other administrative authorities but she did not got any help from anyone till date. Petitioner and list of transgender who went to government authorities for ration.

The antecedents of the petitioners :

2.1 The petitioner is a Transgender Social worker in Indore and work for the welfare of Transgender , petitioner is Secretary of Transgender welfare Samity Indore MP, is also a member of Urja help desk and also counseling women in 17 different Police Stations of Indore.

2.2 That, the present petition under article 226 of the constitution of India are being filed by way of PIL and the petitioner have no personal interest.

2.3 That, the petitioner is filing the present petition on her own and not at the instant of someone as the litigation cost including the advocate fee and the travelling expenses of the lawyers are being borne by the petitioners himself.

3. Facts of the case:

3.1 That, in reference to the current outbreak of COVID 19. As this general epidemic has impacted thousands of lives in country. This petition is specifically with regard to the dire situation of transgender persons in the light of Covid-19 & Lockdown, calling for immediate intervention, with monetary and material support by the state government. In the present scenario of lockdown in the state due to COVID- 19 pandemic which has impacted the most to the various vulnerable groups in which transgender group is also included in the state of Madhya Pradesh in getting access to food, basic essentials and other requirements? This pandemic has equally affected the lives of people of transgender community who resides in the state of Madhya Pradesh.

3.2 That, the miserable condition of the people of transgender community in the state of Madhya Pradesh. As per the National Census of 2011, 29597 (SC 4361 and ST 5260) persons from transgender community reside in the state of Madhya Pradesh, who are dependent on their daily earnings for their living and to make both ends meet. Due to the outbreak of CoronaVirus and subsequent lockdown across the state, the people from the transgender community are socially ostracised and their lives have been badly affected so much so that they are not able to feed themselves even twice a day, owing to their poor and unstable financial condition

3.3 That, Transgender persons are further vulnerable because of lack of food & nutritional security, housing, steady income, access to healthcare, sanitation facilities etc. Often driven away from homes, the practise of community living in poor hygienic conditions exposes many to greater health risk, at such times. There is acute stigma and discrimination towards the transgender persons, rendering proper health care in government facilities very difficult. The people of the transgender community are deprived of the ration facility through PDS because they have not been issued any ration card by the government, making the situation even harder for them to survive in this pandemic. Due to this, no ration shop owner or PDS dealer is giving them any ration.

3.4 Further, the Government of Madhya Pradesh has not launched any kind of monthly pension scheme for the people of the transgender community to enable them to fulfill even their basic financial necessities. Neither, the government has so far established any kind of employment opportunity for the people of the transgender community.

3.5 That, Most of the transgender persons are abandoned by their families forcing them to search for rented accommodations. They have to face financial hardships in paying the rent owing to their unstable financial conditions. Due to non-payment of rent the home owners / building owners are threatening them to evict their house/ building.

3.6 That, these are the ones most affected socially & financially and most neglected at crucial changes in contemporary circumstances. They are the ones, who are facing the utmost financial hardships. While the whole world combats one on one against Covid-19, once again they lay ghettoed and ignored. During this crucial time of lockdown, the government needs to pay heed to its transgender population. This is a community that has never been given its due with dedicated policies and advisories that are meant especially for them.

3.7. That, That In Indore about 2500-3000 Transgender are living in Indore, they have nothing to eat and starving from hunger. Petitioner along with her 30 companions went to Collector, Parshad and other administrative authorities but she did not get any help from anyone till date. Petitioner's letter and list of transgender who went to government authorities for ration. Annexed herewith **Annexure P-1 and list of 30 transgender is Annexure P-2 Petitioner's Adhar Card Annexure P-3**

3.8. Respondents had to provide an immediate 25 kg ration support along with medicines and vegetables & cash assistance of Rs. 5000/- per month for at least six months for people of transgender community in the state of Madhya Pradesh as financial support to enable them to make their both ends meet and for their survival which has not been provided till date. That transgender society will not be able to work in the lock down and

after the release of lock down for 6 months there for it is important to provide them with the pension for their survival.

4. Source of information

The information has been provided by the petitioner and Transgender committee.

5. Nature and intent of injury caused.

During the Lock down period the transgender community is facing problems as there is no source of Income as well as No government authorities are providing Food and Medical facilities to them.

6. Issue was neither dealt nor decided .

The issue was neither raised nor decided in any petition filed by the petitioner.

7. Any representation made .

A representation was made to the respondent by e-mail on date 08/05/2020 & 11/05/2020. Representation annexed herewith **Annexure P-4** Receipt of Sent email annexed herewith **Annexure P-5** .

8. Grounds urged

That in the abovementioned facts and circumstances, the present petition is being filed on the basis of the following, amongst other, grounds:

8.1 The State Government/Respondents has been gravely negligent with regard to the plight of the persons of the transgender community during the COVID-19 and subsequent national lockdown.

8.2 The State Government/Respondents has failed to take necessary steps for the welfare of the people of the transgender community residing in the state.

8.3 The negligence of the State Government/Respondents towards the miserable condition of the people of the transgender community in the state is in violation with the provisions of Article 14 of the Constitution of India.

8.4. Government/Respondents 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 Madhya Pradesh as financial support to enable them to make their both ends meet and for their survival which has not been provided till date.

8.5. Government/Respondents 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 which has not been provided till date.

8.6. Governmen/Respondents 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/Respondents 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. which has not been provided till date.

8.7. Government of Madhya Pradesh/Respondents 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, which has not been provided till date.

8.8. Government of Madhya Pradesh/Respondents 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, which has not been provided till date.

8.9. Government of Madhya Pradesh/Respondents 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 in view of the poor and unstable financial condition specially during the current scenario which has not been provided till date..

Case Laws

The Hon'ble Supreme Court and Karnataka and Jharkhand Hon'ble High Court has passed Orders in the favour of Transgender.

8.10 In the case of **National Legal Services Authority Vs. Union of India**, WP (C) No. 400 of 2012, the Hon'ble Supreme Court has held that,

“...Centre and State Governments should also take steps for framing various social welfare schemes for their betterment”

Till now there is no welfare scheme which provides pension to the people of the transgender community in the state of Madhya Pradesh, unlike other states.

It is high time that the state government of Madhya Pradesh should take all necessary steps to ensure that the people of transgender are getting all essential items including ration even without holding a ration card and cash assistance for their sustenance. There are examples where the various state governments have implemented cash assistance through pension and other welfare schemes.

8.11 On **17.04.2020**, in the case of **Amarjeet Singh Vs. Chief Secretary of Jharkhand, State of Jharkhand & Ors. W.P. (PIL) No. 1305 of 2020**, the Hon'ble Jharkhand High Court directed the State of Jharkhand to provide meal & other facilities to Transgenders as they are feeling helpless due to lockdown situation. **Order Page No. 8 and 9. Order Annexed herewith Annexure P-6 also Order date 25/04/2020 Para – 22 of Page No.7 and Para-23 of Page No.8** Order Annexed herewith **Annexure P-7**.

8.12 The state of Karnataka initiated the 'Mythri Scheme' in August 2013, to help people from Transgender community and bring them to the main stream of the society. Under this scheme, members of sexual minorities aged above 25 years are eligible for a monthly pension of Rs. 600.

8.13 On **09.04.2020**, the Hon'ble Karnataka High Court in **Md. Arif Jameel Vs. Union of India WP (C) No. 6435 of 2020** and others directed the state to immediately dispose of applications made by transgender persons for grant of social security benefits under the Mythri Scheme.

The order reads as:

"...If the transgenders who are covered by Mythri Scheme make an application for grant of the benefits under the Mythri Scheme, the State Government or the concerned Authorities will have to dispose of those applications immediately considering the prevailing situation and extend the benefits under the Mythri Scheme to all the eligible members of the transgender community." **Para -27 of Page No.14 and Para28-30 of Page No.15 Order** Annexed herewith as **Annexure P-8**.

8.14 Also, in the month of June, 2019 the state of Rajasthan launched the 'Mukhyamantri Yuva Sambal Yojana' with an objective to provide cash assistance to the unemployed youth in the state of Rajasthan. This scheme has included people of transgender community in its beneficiary and entitled them for a cash assistance of Rs. 3500/- per month. Similarly, the state of Kerala has announced for temporary housing and food facilities for people of transgender community in the state during the COVID-19 lockdown.

9. Details of remedies exhausted

No remedies exhausted except this petition.

10 Delay if any in filing the petition.

There is no delay in filing the petition.

11. RELIEFS PRAYED :

It is therefore prayed that your lordship may graciously be Pleased:

In the light of facts stated above, arguments advanced, grounds urged and authorities cited, this Hon'ble Court the Petitioner prays for the following Relief/s:-

For issuance of an appropriate writs /orders/ directions directing and commanding upon the respondents authority,

I. To direct the Respondents 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 Madhya Pradesh as financial support to enable them to make their both ends meet and for their survival. Also direct the collector of all the districts of MP to provide the medical facilities and Ration of free of cost to the transgender committee.

II. To direct the Respondents 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 Respondents 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 Respondents 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 Respondents 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 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.

12. **Interim Order/writ, if prayed for:**

(A) To allow this application and direct to provide an immediate 25kg ration support & cash assistance of Rs. 5000/- per month for at least six months for people of transgender community as financial support to enable them to make their both ends meet and for their survival. Ration and allowances immediately to transgender committee from Collectors of respective districts in the interest of justice urgently during lockdown period and there after;

13. **Caveat:**

That, no notice of lodging a caveat by the opposite party is received.

Submitted by

INDORE
DATE: 11/05/2020

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INDORE
DATE: 11/05/2020

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Chronology Date and Event

Sr.No.	Date	Events
1.	08/05/2020	Petitioner's Letter
2.	08/05/2020	30 Transgender people list
3.	---	Petitioner Adhar Card
4.	08/05/2020& 11/05/2020	Representation By email
5.	08/05/2020& 11/05/2020	Receipt of Sent representation by email
6	17/04/2020	Jharkhand Hon'ble High Court Date
7	25/04/2020	Jharkhand Hon'ble High Court Date
8	09/04/2020	Karnataka Hon'ble High Court Date

Submitted by

INDORE

DATE: 11/05/2020

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