

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL WRIT JURISDICTION

Writ Petition (C) No. _____ of 2020

(Under Article 226 of the Constitution of India)

(In the matter of Public Interest Litigation)

IN THE MATTER OF:

...Petitioner

Versus

Department of Delhi Transport Corporation & Anr. ...Respondents

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Filed by:

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NOTICE OF MOTION

Sir/Madam,

Please find enclosed a writ petition along with its annexure(s) and accompanying application(s) filed on behalf of the Petitioner(s) herein before the Hon'ble Delhi High Court which is likely to be listed on _____ or on any other day as per the convenience of this Hon'ble Court. Kindly take notice accordingly.

Place: New Delhi

Date:

Filed by:

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MEMO OF PARTIES

...Petitioner

Versus

1. Department of Delhi Transport Corporation.

(Through its Chairperson)

Govt. of NCT of Delhi,

8th Floor, Delhi Secretariat, I.P. Estate,

New Delhi- 110002.

...Respondent No. 1

2. Delhi Metro Rail Corporation

(Through its Managing Director)

Metro Bhawan, Fire Brigade Lane,

Barakhamba Road, New Delhi- 110001. ...Respondent No. 2

Place: New Delhi

Date:

Filed by:

Siddharth Seem

(Advocate for Petitioner)

576, Masjid Road, Jangpura,

New Delhi- 110014.

Mob. 9999019270

IN THE HIGH COURT OF DELHI AT NEW DELHI
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APPLICATION FOR URGENT LISTING

Sir,

Please treat the accompanying Writ Petition and application as urgent, because transgender persons in Delhi are being unable to safely access public transport such as buses and Delhi Metro and face harassment, abuse and violence on a daily basis due to persisting social stigma and lack of reserved seats for transgender persons in the various modes of public transport.

Place: New Delhi

Date:

Filed by:

IN THE HIGH COURT OF DELHI AT NEW DELHI
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COURT FEE

Place: New Delhi

Date:

Filed by:

SYNOPSIS

1. This present writ petition is being filed in public interest under Article 226 of the Constitution of India seeking reservation of seats and free-of-cost transport for transgender persons in public transport operated by the Respondents, namely the Delhi Transport Corporation ("DTC") buses and Delhi Metro.
2. The Petitioner is a trans-woman and an activist based in New Delhi. She accesses DTC buses and the Delhi Metro on a regular basis, and faces the constant threat of abuse—sexual, physical and mental, that she is subjected to when she travels in public transport.
3. It is well known that transgender persons have to face social stigma, exclusion, ridicule, abuses and harassment on a daily basis while asserting their self-identified gender. These experiences are commonplace for transgender persons especially while accessing public spaces such as the streets, markets, public transport, and so on. This exclusion, harassment and humiliation on a daily basis and the threat of such experience acts as a serious barrier for transgender persons to access DTC buses and the Delhi Metro, infringing on their fundamental rights under Articles 14, 19 and 21 of

the Constitution of India to free movement and right to life with dignity.

4. Further, because of the above threats to their safety and dignity while travelling in public transport, transgender persons are compelled to use private modes of transports such as cabs and autos. This is a completely unnecessary and unwanted expense, and is particularly burdensome in light of the general lack of employment opportunities available to transgender persons.

5. The Hon'ble Supreme Court of India in *NALSA v. Union of India*, 2014 (5) SCC 438, noted the problems faced by transgender persons in accessing public spaces and public transport in the following words:

"1... Our society often ridicules and abuses the transgender community and in public places like railway stations, bus-stands, schools, workplaces, malls, theatres, hospitals, they are side-lined and treated as untouchables, forgetting the fact that the moral failure lies in the society's unwillingness to contain or embrace different gender identities and expressions, a mindset which we have to change."

6. The Hon'ble Supreme Court further gave the following directions to the Government of India and to the various State Governments, instructing them to undertake welfare measures for transgender persons:

“135.3 Centre and the State Governments to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments. ...

135.7 Centre and State Governments to also take steps for framing various social welfare schemes for their betterment.

135.8 Centre and State Governments to take steps to create public awareness so that TGs will feel that they are also part and parcel of the social life and be not treated as untouchables.

135.9 Centre and the State Governments to also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life.”

7. However, the Respondents have unfortunately failed to provide reserved seats and free-of-cost travel for

transgender persons in DTC buses and Delhi Metro. Such measures would enable more transgender persons to access these modes of public transport, which would in-turn make these spaces safer and further accessible for transgender persons.

8. Therefore, the Petitioner has filed this writ petition in public interest seeking reservation of seats and free-of-cost travel for transgender persons in public transport such as DTC buses and Delhi Metro in the NCT of Delhi.

LIST OF DATES

Date	Particulars
October 2010	Decision taken by Respondent No. 2 to reserve first coach of every Delhi Metro train for women passengers exclusively.
January 2013	Decision taken by Respondent No. 1 to reserve 25% seats in DTC, cluster, feeder and mini buses reserved for women.
October 2019	Decision taken by Respondent No. 1 to provide free-of-cost travel to women in DTC and cluster buses.
25.1.2020	Representation letters written by the Petitioner to the Respondents regarding reserving seats

	and providing free-of-cost travel to transgender persons in Delhi Metro and DTC, cluster, feeder and mini buses.
February 2020	The Respondents have failed to provide reserved seats and free-of-cost travel for transgender persons in DTC buses and Delhi Metro. Such measures would enable more transgender persons to access these modes of public transport, which would in-turn make these spaces safer and further accessible for transgender persons.
	Hence this petition.

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PUBLIC INTEREST LITIGATION UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA SEEKING FOR A WRIT OF
MANDAMUS OR ANY OTHER WRIT, ORDER OF DIRECTION
AGAINST THE RESPONDENTS FOR PROVIDING RESERVED
SEATS FOR TRANSGENDER PERSONS IN DTC BUSES AND
THE DELHI METRO, AND FURTHER FOR PROVIDING FREE-
OF-COST TRAVE TO TRANSGENDER PASSENGERS IN DTC
BUSES.

TO

THE HON'BLE CHIEF JUSTICE AND HIS COMPANION JUSTICES

HON'BLE HIGH COURT OF DELHI

NEW DELHI

HUMBLE PETITION OF THE
PETITIONER ABOVENAMED

Most Respectfully Showeth:

1. This present writ petition is being filed in public interest under Article 226 of the Constitution of India seeking reservation of seats for transgender persons in public transport operated by the Respondents, namely the Delhi Transport Corporation ("DTC") buses and Delhi Metro.
2. That the petitioner has no personal interest in filing the instant petition and does not stand to gain anything through the adjudication of the instant petition other than public interest in filing this petition. The documents and information which are relied upon in this instant petition are in the public domain and the Petitioner has obtained the same through public sources, including the internet.
3. That the Petitioner has based the instant writ petition on authentic information received by the Petitioner from other affected transgender persons.
4. That the current petition is being filed by the Petitioner on behalf of transgender persons living in the locality of NCT Delhi. Transgender persons have to routinely face stigma, harassment and ridicule while accessing public transport such as DTC buses and the Delhi Metro. They have been denied their fundamental right to freedom of movement and right to

life with dignity because of these barriers to accessing public transport. Thus, the Petitioner is filing this petition.

5. That apart from the Respondents in the present petition, no other persons/bodies/institutions are likely to be affected by the orders sought in the present Writ Petition and that no other persons/ bodies/ institutions are likely to be affected by the orders sought in the Writ Petition.
6. That the Petitioner, aged ___ years old, resident _____, is a _____, is a trans-woman and an activist based in New Delhi and is a public-spirited person. The Petitioner is a. She accesses DTC buses and the Delhi Metro on a regular basis, and faces the constant threat of abuse—sexual, physical and mental, that she is subjected to when she travels in public transport.
7. It is further stated that the Petitioner is filing this petition in bona fide interest of the transgender persons residing in Delhi. The Petitioner has the means to pay the cost, if any, imposed by the Court, and is making an undertaking to the Court in that respect.
8. With reference to this matter, the Petitioner has written representation letters to both the Respondents.

True copy of representation letter dated 25.1.2020 sent by the Petitioner to Respondent No. 1 is attached herewith as **Annexure P-1 at page no. _____ to _____.**

True copy of representation letter dated 25.1.2020 sent by the Petitioner to Respondent No. 2 is attached herewith as **Annexure P-2 at page no. _____ to _____.**

9. That the Respondents in this petition are the Department of Delhi Transport Corporation (DTC), Government of NCT of Delhi, and the Delhi Metro Rail Corporation ("DMRC"), who are the agencies responsible for plying public transport in the manner of DTC buses and the Delhi Metro, respectively. The Respondents have failed to fulfil their obligations under the Constitution of India and have also infringed upon the fundamental rights guaranteed under Articles 14,19 and 21 of the Constitution of India.

FACTS

10. It is well known that transgender persons have to face social stigma, exclusion, ridicule, abuses and harassment on a daily basis while asserting their self-identified gender. These experiences are commonplace for transgender persons especially while accessing public spaces such as the streets, markets, public transport, and so on. This exclusion, harassment and humiliation on a daily basis and the threat of

such experience acts as a serious barrier for transgender persons to access DTC buses and the Delhi Metro, infringing on their fundamental rights under Articles 14, 19 and 21 of the Constitution of India to free movement and right to life with dignity.

11. Further, because of the above threats to their safety and dignity while travelling in public transport, transgender persons are compelled to use private modes of transports such as cabs and autos. This is a completely unnecessary and unwanted expense, and is particularly burdensome in light of the general lack of employment opportunities available to transgender persons.

Supreme Court judgment in *NALSA v. UOI*

12. The Hon'ble Supreme Court of India in *NALSA v. Union of India*, 2014 (5) SCC 438, noted the problems faced by transgender persons in accessing public spaces and public transport in the following words:

"1... Our society often ridicules and abuses the transgender community and in public places like railway stations, bus-stands, schools, workplaces, malls, theatres, hospitals, they are side-lined and treated as untouchables, forgetting the fact that the moral failure lies in the society's unwillingness to

contain or embrace different gender identities and expressions, a mindset which we have to change.”

...

“62. The petitioners have asserted as well as demonstrated on facts and figures supported by relevant materials that despite constitutional guarantee of equality, hijras/transgender persons have been facing extreme discrimination in all spheres of the society. Non-recognition of the identity of hijras/transgender persons denies them equal protection of law, thereby leaving them extremely vulnerable to harassment, violence and sexual assault in public spaces, at home and in jail, also by the police. Sexual assault, including molestation, rape, forced anal and oral sex, gang rape and stripping is being committed with impunity and there are reliable statistics and materials to support such activities. Further, non-recognition of identity of hijras/transgender persons results in them facing extreme discrimination in all spheres of society, especially in the field of employment, education, healthcare, etc. Hijras/transgender persons face huge discrimination in access to public spaces like restaurants, cinemas, shops, malls, etc. Further, access to public toilets is also a serious problem they face quite often. Since, there are no separate toilet

facilities for hijras/transgender persons, they have to use male toilets where they are prone to sexual assault and harassment. Discrimination on the ground of sexual orientation or gender identity, therefore, impairs equality before law and equal protection of law and violates Article 14 of the Constitution of India.”

13. The Hon’ble Supreme Court further gave the following directions to the Government of India and to the various State Governments, instructing them to undertake welfare measures for transgender persons:

“135.3 Centre and the State Governments to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments. ...

135.7 Centre and State Governments to also take steps for framing various social welfare schemes for their betterment.

135.8 Centre and State Governments to take steps to create public awareness so that TGs will feel that they are also part and parcel of the social life and be not treated as untouchables.

135.9 Centre and the State Governments to also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life.”

True copy of the Supreme Court’s judgment in *NALSA v. Union of India*, 2014 (5) SCC 438, is attached herewith as **Annexure P-3 at page no. _____ to _____.**

Report of the International Commission of Jurists

14. In a report titled “Living with Dignity: Sexual Orientation and Gender Identity- Based Human Rights Violations in Housing, Work, and Public Spaces in India” dated July 2019, the International Commission of Jurists has made the following observations:

“Safe and accessible public spaces are crucial to enjoying one’s human rights to life, liberty, dignity, freedom of expression, freedom of assembly, right to political participation, freedom of movement, rights to health, water and sanitation. Public spaces connect places of work, housing, and recreational spaces. They are where communities’ gather, socialize, form alliances, voice concerns and engage in cultural activities. Without safe and equal access to such

places, LGBTQ persons cannot fully enjoy equality and equal protection as individuals and members of their communities. For many LGBTQ persons, public spaces like parks and streets also operate as temporary shelters and places of work.

LGBTQ persons frequently face discrimination in accessing public spaces and are subject to violence and harassment from police and others in such spaces. When attempting to use public transport, they risk harassment and mis-gendering in security queues and are often unable to access transport because of lack of gender identity documents that conform to their gender expression. Moreover, LGBTQ persons typically experience significant challenges in using public toilets – whether in parks, malls or on public transport. Finally, at public cultural and religious events LGBTQ persons’ risk denial of entry as well as sexual and other forms of harassment.

...

Non-discriminatory access to public transport may in certain circumstances be necessary for the enjoyment of human rights. The CRPD provides that accessibility to the physical environment, transportation, and to facilities open to and provided

to the public is essential for leading an independent life and to fully participate in all aspects of life. Indeed the Convention includes a right to access the physical environment, including public spaces, as a separate legally enforceable right.

The CRPD has clarified that:

“It is important that accessibility is addressed in all its complexity, encompassing the physical environment, transportation, information and communication, and services. The focus is no longer on legal personality and the public or private nature of those who own buildings, transport infrastructure, vehicles, information and communication, and services. As long as goods, products and services are open or provided to the public, they must be accessible to all, regardless of whether they are owned and/or provided by a public authority or a private enterprise.”

In addition to a broad right to access public spaces without discrimination, inaccessibility of particular public spaces directly violates certain human rights. For example, inaccessibility of toilets in public spaces might violate the rights to adequate sanitation, water

and health. Similarly, inaccessibility of transport might violate the right to freedom of movement, work, education and health. Inaccessibility of restaurants, cinema halls, malls, and shopping centers can violate the right to take part in cultural life. This section further elaborates briefly on each of these rights.

...

LGBTQ persons face discrimination in accessing public spaces and services based on their SOGIE. Discrimination may manifest in a variety of forms including:

- Denial of entry to certain public spaces;
- Denial of or inaccessibility of services provided in public spaces due to deficiencies in infrastructure that do not take into account the special needs of LGBTQ persons;
- Exposure to harassment and violence from public and private officials policing access in public spaces; and
- Exposure to harassment and violence from members of the public.

...

Public Transport

State owned and regulated public transport is a primary mode of travel in India. This includes railways, inter and intra-city buses, and intra-city trains. In addition, the State also constructs and administers airports. Access to public transport is compromised because of discrimination against persons with real or perceived non- normative gender identity and expression. This is because access points for travel by public transport are gendered. These include ticket booking forms, security screening at train stations and airports and toilets at railway stations and at the airport. Further, public transport is also a site of gender-based violence and harassment, which contributes to a general feeling of insecurity in accessing it.

...

LGBTQ persons often deal with verbal abuse and harassment from co-passengers in public transport. Sometimes co-passengers ask transgender and gender non-binary persons uncomfortable private questions about their gender identity, and at other times, mock and jeer at transgender and gender non-binary persons.

L, a transgender woman and activist from Bangalore, said of the sexual harassment experienced by her in public transport:

“Even on the trains there are no reserved seats for transgenders. If we sit in [seats reserved for] women, then they get uncomfortable and if we sit in men’s coach then they keep their hands on us or sit very close [to us].”

Interviewees also reported being spoken to in a derogatory sexual tone, as if to proposition sex, with the assumption that all transgender persons are sex workers. N1, a transgender woman and activist from Delhi, described her experience:

“People comment in a very different tone like *kaisi hai janemam, kaha rahti ho* [how are you darling, where do you live?]. While giving money they end up touching my body, that happens a lot. I handle that in a calm manner. Two days ago, when I was begging, a man grabbed both of my hands, he said *madam sacchi aaj kuch nahi hai mere paas* [I don’t have any money to give to you today]. I got my hand free and told him to not touch me again.”

N, a transgender woman from Bangalore spoke of the stigma associated with transgender identities that creates barriers in accessing public transport:

“Our trans community does not use the public transport usually as we face a lot of stigma and discrimination there. If we sit next to men, they look at us in a sexual manner and it is very uncomfortable, and we feel unsafe. If we sit next to women, they also mistreat us, they tell us to sit on the last seat and they also assume that we are thieves.”

...

Access to and enjoyment of other rights, such as the right to decent work, is also often dependent on one’s ability to access public transport to travel to their place of work. LGBTQ persons’ inability to safely access public transport therefore violates other rights as well and contributes to their marginalization.

The State is under an obligation to protect the right to access public transport, which is essential to realize the right to freedom of movement. The failure of the State to address barriers to LGBTQ persons’ access to transport amounts to a failure of the State to respect the rights of LGBTQ persons, protect them from private interference, and fulfill their right to

freedom of movement by ensuring access to public transport.

The right to freedom of movement also includes the right to leave the country. The State's failure to issue a passport in the name and gender of one's choice thus arbitrarily interferes with the right to freedom of movement.

The State also has constitutional obligations. In the case of *Rajive Raturi v. Union of India*, the Supreme Court held that the lack of accessible public transport resulted in an infringement of the rights to live with dignity, equal opportunity, freedom of movement, and non-discrimination. While the decision was made in the context of rights of visually impaired persons, the Court recognized that the inaccessibility of built environment for a certain class of persons violates their human rights.

...

Systemic barriers that deprive transgender persons of access to public transport violate their rights to live with dignity, freedom of movement, equal opportunity, and non-discrimination."

True copy of the Supreme Court's judgment in *Rajive Raturi v. Union of India*, (2018) 2 SCC 413, is attached herewith as **Annexure P-4 at page no. _____ to _____.**

True copy of relevant portions of the report titled "Living with Dignity: Sexual Orientation and Gender Identity- Based Human Rights Violations in Housing, Work, and Public Spaces in India" dated July 2019 published by the International Commission of Jurists is attached herewith as **Annexure P-5 at page no. _____ to _____.**

**Reports on experiences of transgenders persons
in public transport**

15. As stated earlier, transgender persons face the brunt of bias, discrimination and transphobia persisting in society at large on a daily basis. This becomes increasingly acute when transgender persons access public transport, which prevents them from exercising their right to travel without discrimination as and where they would want to. These experiences of transgender persons accessing public transport in other countries is recorded in the reports reproduced below.

16. The report titled "From Blues to Rainbows: The mental health and well-being of gender diverse and transgender

young people in Australia” dated September 2014 published by La Trobe University, Australia, notes as under:

“Abuse, harassment, and discrimination

Almost two thirds of the young people had experienced verbal abuse in response to their gender presentation or non-conformity, and one h had experienced physical abuse. This abuse occurred in all types of places, but especially at school and in public sites such as the street and on public transport. Over 90% of young people who experienced physical abuse had thought about suicide in response to their experience.

...

The most common place to experience verbal or physical abuse was on the street (40%, n=73), closely followed by at school (38%, n=64), and on public transport (31%, n=55). One in five young people told us that they avoided public transport due to feeling unsafe from abuse and harassment.

...

Addressing Abuse

Much of the physical, emotional, verbal, sexual and other types of abuse that gender diverse and transgender young people experience results from rigid stereotypes about gender. Broad-level public health campaigns designed to positively represent gender diversity may begin to address these issues. Local councils may include action plans to decrease violence and discrimination against gender diverse and transgender people in their communities. Actions may include auditing promotional materials to ensure that there is fair representation of gender diverse and transgender people or organising awareness raising activities. Previous research has shown that policy protection in schools can and does make an impact on abuse rates (Jones & Hillier, 2013); similar top-down policy approaches can be applied to the various public spaces (the street, public transport) where abuse occurs.”

True copy of relevant portions of the report titled “From Blues to Rainbows: The mental health and well-being of gender diverse and transgender young people in Australia” dated September 2014 published by La Trobe University, Australia, is attached herewith as **Annexure P-6 at page no. _____**
to _____.

17. The report titled "Trans on Trains: Lived Experiences of Transgender Women on the MRT" dated 2016 published in the Philippine Journal of Psychology, states as under:

"On Transportation Spaces

One dimension where these trans-negative attitudes may be manifested is public transportation. Transportation, both public and private, is a largely gendered issue (Transportation Research Board, 2004). Transit systems play a distinctive role in urban transportation. However, being highly crowded and having a particular mix of social (weary passengers, potentially anonymous lurkers) and physical variables (concealed areas, environmental layout, possible low surveillance) it affords a setting of incivilities and crime (Loukaitou- Sideris, Liggett & Iseki, 2002).

In one western study, a majority of transgender participants report experiencing discrimination in public spaces, of which transportation (including buses, trains and terminals among others) was the most common setting in which discrimination occurs (Reisner et al., 2015). In an autoethnographic study by Doan (2010), the author recounted a distressing

encounter at an airport where a man hurled derogatory remarks at her and another inside an elevator where she was sexually assaulted. Both instances occurred after the aggressor realized she was a transwoman. These experiences of being singled out in transportation spaces and general public spaces highlight transwomen's vulnerability to incidents of discrimination.

...

Conclusion

Gender minorities are prone to negative experiences in gendered spaces. How they experience these are influenced by other people present in the situation and the structural policies set in place. Through the triangulated exploratory design, we found that transwomen were not included in the MRT official segregation scheme which made the guards and personnel (who vary in attitudes and conduct) the main determiners of whether the transwomen will be excluded in female-assigned spaces.... While many declared that the reactions of fellow passengers are one mainly of indifference, they also still reported of being blatantly stared at. Significantly, all participants narrated experiences of sexual harassment in one

form or another, which is noteworthy as one rationale for the segregation scheme was to protect women from unwanted sexual advances in the first place.”

True copy of report titled “Trans on Trains: Lived Experiences of Transgender Women on the MRT” dated 2016 published in the Philippine Journal of Psychology, is attached herewith as **Annexure P-7 at page no. _____ to _____.**

18. The report titled “Transmobilities: mobility, harassment, and violence experienced by transgender and gender nonconforming public transit riders in Portland, Oregon” dated 11.6.2017 published in Gender, Place & Culture, a Journal of Feminist Geography, states as follows:

“Conclusion: transmobilities and public transit

Despite the reputation of Portland, Oregon as a tolerant environment for queer and transgender people, we find that gender minorities report heightened experiences of harassment and violence when accessing transit. Trans women, trans-feminine, and visibly gender nonconforming riders reported higher incidence of violence overall, with trans riders of color and disabled individuals being

especially vulnerable to harassment from other riders and even TriMet staff.

...

Scholars have noted that while all transgender and gender nonconforming people are potentially affected by cissexism, there are unique dimensions to transmisogyny. Our findings about the transmisogyny faced by trans women on public transit echo previous studies about harassment, discrimination, and violence experienced in other public settings (Jauk 2013; Miller and Grollman 2015; Stotzer 2009). Previous research has suggested that transgender women face more frequent harassment than transgender men due, in part, to trans women's greater challenges in attaining recognition as well as broader cultural scripts that continue to frame transgender women as sexual predators (Bettcher 2007; Serano 2007; Westbrook and Schilt 2014). In this study, we find that the spaces that make up the public transit system (bus stops, train platforms, and the inner spaces of buses and trains), despite being spaces in which individuals pay fares and which are supported by government resources, are not markedly different from other non-institutional public spaces such as the street. This study adds yet

another layer to our understanding of how cissexism and transmisogyny function in ways that may impede the free and open movement of gender minorities in and across urban spaces.”

True copy of report titled “Transmobilities: mobility, harassment, and violence experienced by transgender and gender nonconforming public transit riders in Portland, Oregon” dated 11.6.2017 published in Gender, Place & Culture, a Journal of Feminist Geography, is attached herewith as **Annexure P-8 at page no. _____ to _____.**

19. However, the Respondents have unfortunately failed to provide reserved seats and free-of-cost travel for transgender persons in DTC buses and Delhi Metro. Such measures would enable more transgender persons to access these modes of public transport, which would in-turn make these spaces safer and further accessible for transgender persons.

GROUND

20. The Petitioners herein is filing this Petition before the Hon’ble Court, inter alia, on the following grounds:

A. BECAUSE transgender persons have to face social stigma, exclusion, ridicule, abuses and harassment on a daily basis while asserting their self-identified gender;

B. BECAUSE These experiences are commonplace for transgender persons especially while accessing public spaces such as the streets, markets, public transport, and so on;

C. BECAUSE this exclusion, harassment and humiliation on a daily basis and the threat of such experience acts as a serious barrier for transgender persons to access DTC buses and the Delhi Metro, infringing on their fundamental rights under Articles 14, 19 and 21 of the Constitution of India to free movement and right to life with dignity.

D. BECAUSE transgender persons are compelled to use private modes of transports such as cabs and autos. This is a completely unnecessary and unwanted expense, and is particularly burdensome in light of the general lack of employment opportunities available to transgender persons.

E. BECAUSE the Hon'ble Supreme Court of India in *NALSA v. Union of India*, 2014 (5) SCC 438, noted the problems faced by transgender persons in accessing public spaces and public transport in the following words:

"1... Our society often ridicules and abuses the transgender community and in public places like railway stations, bus-stands, schools, workplaces, malls, theatres, hospitals, they are side-lined and treated as untouchables, forgetting the fact that the moral failure lies in the society's unwillingness to contain or embrace different gender identities and expressions, a mindset which we have to change."

F. BECAUE the Hon'ble Supreme Court further gave the following directions to the Government of India and to the various State Governments, instructing them to undertake welfare measures for transgender persons:

"135.3 Centre and the State Governments to take steps to treat them as socially and educationally backward classes of citizens

and extend all kinds of reservation in cases of admission in educational institutions and for public appointments. ...

135.7 Centre and State Governments to also take steps for framing various social welfare schemes for their betterment.

135.8 Centre and State Governments to take steps to create public awareness so that TGs will feel that they are also part and parcel of the social life and be not treated as untouchables.

135.9 Centre and the State Governments to also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life.”

G. BECAUSE the Respondents have unfortunately failed to provide reserved seats and free-of-cost travel for transgender persons in DTC buses and Delhi Metro. Such measures would enable more transgender persons to access these modes of public transport, which would in-turn make these spaces safer and further accessible for transgender persons;

H. BECAUSE Respondent No. 1 has reserved seats for women in the DTC buses and also provides free-of-cost travel to women passengers;

I. BECAUSE Respondent No. 2 has reserved seats for women in Delhi Metro;

J. BECAUSE for ensuring safe travel of transgender persons in public transport, it is necessary to reserve seats for transgender persons in buses of DTC and in Delhi Metro, and it is further necessary to provide free-of-cost travel to transgender persons in buses of DTC.

21. That the petitioner has not moved this Hon'ble Court on any earlier occasion for the relief as prayed for in this writ petition.

22. That the present Petitioner has not filed any other petition in any High Court or the Supreme Court of India on the subject matters of the present petition.

23. That this petition is made bona fide and for the ends of justice.

PRAYERS

24. In view of the facts and circumstances of this petition, the Petitioner prays before this Hon'ble Court for the following:

- a. For a writ of mandamus or any other writ, order or direction to the Respondent No. 1 to reserve seats for transgender persons in the DTC, cluster, feeder and mini buses plied by Respondent No. 1;
- b. For a writ of mandamus or any other writ, order or direction to Respondent No. 1 to provide free-of-cost travel to transgender passengers in the DTC, cluster, feeder and mini buses plied by Respondent No. 1;
- c. For a writ of mandamus or any other writ, order or direction to the Respondent No. 2 to reserve seats for transgender persons in the Delhi Metro trains plied by Respondent No. 2;

d. For any such other and suitable order/orders as this Hon'ble Court may deem fit and necessary in the facts and circumstances of the case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND EVER PRAY.

Place: New Delhi

Date:

Filed by:

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL WRIT JURISDICTION

Writ Petition (C) No. _____ of 2020

(Under Article 226 of the Constitution of India)

(In the matter of Public Interest Litigation)

IN THE MATTER OF:

Sowmya T. Gupta ...Petitioner

Versus

Department of Delhi Transport Corporation & Anr. ...Respondents

Affidavit

I, _____, aged about _____ years of age, D/o _____ R/o, _____, presently at Delhi, hereby solemnly affirm and declare as under:

1. That I am Petitioner in the abovementioned matter and as such I am well conversant with the facts and circumstances of this case, and hence, am competent to swear this affidavit.
2. I have read the contents of the accompanying List of Dates & Synopsis from page no. _____ to _____, Writ Petition from paragraph no. _____ to _____ at page no. _____ to _____, and the accompanying applications have been shown and explained to me in vernacular, and that I have understood the contents thereof, which are true and correct to the best of my knowledge and belief.
3. I have filed the present petition as a Public Interest Litigation.

4. I have gone through the Delhi High Court (Public Interest Litigation) Rules, 2010 and do hereby affirm that the present Public Interest Litigation is in conformity thereof.

5. I have no personal interest in the litigation and neither myself nor anybody in whom I am interested would in any manner benefit from the relief sought in the present litigation save as a member of the General Public.

6. This petition is not guided by self-gain or gain of any person, institution, body and there is no motive other than of public interest in filing this petition.

7. I have done whatsoever inquiry/investigation which was in my power to do, to collect all data/material which was available and which was relevant for this court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material/information which may have enabled this court to form an opinion whether to entertain this petition or not and/or whether to grant any relief or not.

8. That the annexures annexed with the petition/ application are true and correct copies of the respective originals.

DEPONENT

Verification

Verified at _____ on this _____ day of the Month of _____,
2020 that the contents of this affidavit are true and correct to the
best of my knowledge and belief and nothing material has been
concealed therefrom.

DEPONENT