

IN THE HIGH COURT OF BIHAR AT PATNA

(CIVIL WRIT JURISDICTION)

C.W.J.C No. 5627 OF 2020

Veera Yadav

Petitioners

Versus

The State of Bihar and others

Respondents

Counter Affidavit on behalf of Respondent No. 5 i.e Ministry of Social Justice and Empowerment

I, Rajeev Kumar, S/o Shri Rama Shankar Prasad Singh, aged 46 years, posted as Under Secretary in Ministry of Social Justice & Empowerment, do hereby solemnly affirm and state as under:

(i) That I am well versed and fully conversant with the facts and circumstances of the aforesaid case as derived from official records and I am duly competent and authorized to swear on this affidavit on behalf of Respondent.

(ii) I say that I have read and understood the abovementioned Writ Petition and in response to the same I am filing present affidavit. The contents which were derived by the official records are drafted by my counsel upon my instructions. Further, the said affidavit is read and understood by me, which is to be

Filed through
Rajesh Kumar
Central Government Counsel
BR/1365/2010 25/8/2020

Para-wise reply of Respondent No. 5:-

Para 1 and 2 Not related to Respondent No. 5, hence no reply.

i. to (iii) Not related to Respondent No. 5

Para 3 & 4 Matter of record.

Para 5 to 7 The Ministry of Social Justice and Empowerment is the nodal Ministry for the welfare of Transgender persons and is looking after the welfare of Transgender Persons and matters related thereof. The Ministry, on 05.12.2019 has enacted an Act titled "The Transgender Persons (Protection of Rights) Act, 2019" for the welfare of Transgender persons. The provisions of the said Act have come into force from 10.01.2020 vide this Ministry's Gazette Notification dated 10.01.2020. The Ministry has forwarded the copy of Act to the State Governments and UT Administrations. As per chapter 8(3) &(4) of the Act,

- i. The appropriate Government shall formulate welfare schemes and programmes which are Transgender sensitive, non-stigmatising and non-discriminatory.
- ii. The appropriate Government shall take steps for the rescue, protection and rehabilitation of Transgender persons to address the needs of such persons.

2. Further As per Clause 3 of the Act, there shall be no discrimination with Transgender persons

- i. in access to health care services,
- ii. 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, and
- iii. with regard to the right to reside, purchase, rent, or otherwise occupy any property.

3. The Ministry has also drafted the Rules for implementation of the provisions of the Act and has pre-published the same in Gazzette of India for the comments/feedback of the public.

4. The Ministry has also released funds to National Backward Classes Finance And Development Corporation (NBCFDC) of the Ministry for conducting health camps and skill development training for Transgender persons.

5. During COVID-19, the Ministry was in receipt of representations from the members of the Transgender Community, wherein, they have requested Ministry to support them during lockdown as most of them have lost their means of livelihood and facing challenges of survival. In immediate response to these representations/emails, the Ministry,

through NBCFDC provided subsistence allowance of Rs. 1500 per Transgender Person, who were having bank accounts and sought help from the Ministry. About Rs.92.64 Lakhs have been released to around 6176 transgender persons throughout the country through Direct Benefit Transfer (DBT). Out of which an amount of Rs. 2,41,500/- has been released to 161 Transgender Persons through Direct Benefit Transfer of Bihar from March 2020 to till date.

6. Further some Transgender Persons who do not have bank accounts have also requested for support. The details of such Transgender persons were forwarded by the Ministry vide email to the concerned DM/DCs for extending support to the tune of Rs 1500/-(per person) to those needy Transgender people. The number of Transgender Persons from Bihar who do not have bank accounts and requested for support is 181. Ministry requested DM/DCs to forward the details for reimbursement from Ministry, if any, for the support extended.

7. A 'COVID Helpline' was also launched by the Ministry through NBCFDC from 14.04.2020 for providing daily psychological counselling on the issues of mental stress and anxiety faced by Transgender persons due to social isolation or

other reasons during COVID-19 lockdown. The details of Covid-19 helpline for Transgender persons are as under:-

- (i) 7016139648 (Tuesday & Wednesday)
- (ii) 7678687819 (Thursday & Friday)
- (iii) 8882133897 (Saturday & Monday)

8. Further, keeping in view the problems being faced by the Transgender community in the wake of COVID-19 lockdown, and their request for a package to be announced for their community, the Ministry has requested Secretary, Department of Economic Affairs, (Head of Empowered Group for Economic & Welfare Measures) for considering a special Corona Relief Package including subsistence allowance, monthly ration kits and medical assistance for the Transgender community. The DO letter to Secretary, Department of Expenditure Affairs is attached at Annexure-I.

9. In view of above, it is evident that the Ministry is taking various steps for the welfare of Transgender community (one of its target group) including during the COVID-19 situation and the resulting lockdown.

Para 8 & 9 These paras do not pertain to this Ministry, hence need no reply.

24/8
राजीव कुमार / RAJEEV KUMAR
अवर सचिव / Under Secretary
निराकरण / Noted

Para 10 to 13 The averments made in these paras have been suitably replied in para 5 to 7 above.

Para 14 to 22 The averments made in these paras do not pertain to this Ministry, hence need no reply.

Para 23 Matter of record.

[Redacted content with handwritten marks]

VERIFICATION-

Verified at New Delhi on this 24th day of August 2020 and state that the contents of the above affidavit are true and correct to the best of my knowledge and believe that nothing material has been concealed therefrom.

Respondent
राजीव कुमार / RAJEEV KUMAR
अवर सचिव / Under Secretary
सामाजिक न्याय और अधिकार
Department of Social Justice and Empowerment
सामाजिक न्याय और अधिकार
Ministry of Social Justice and Empowerment
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

Respondent

राजीव कुमार / RAJEEV KUMAR
अवर सचिव / Under Secretary
सामाजिक न्याय और अधिकार विभाग
Department of Social Justice and Empowerment
सामाजिक न्याय और अधिकार
Ministry of Social Justice and Empowerment
भारत सरकार
Govt. of India

R. Subrahmanyam, IAS
Secretary



Ministry of Social Justice and Empowerment
Department of Social Justice & Empowerment
Government of India

D.O. No. 17-3/2020-DP-III
Dated: 04 May, 2020

Dear Tarun,

Ministry of Social Justice & Empowerment is the nodal Ministry for the matters related to the welfare of Transgender Persons. For the protection of Rights of Transgender Persons and their welfare, the Ministry has enacted "The Transgender Persons (Protection of Rights), Act, 2020".


2. In the current circumstances facing the Country in the wake of COVID19 outbreak, and the resulting lockdown all over the country, it is feared that most of transgenders live in conditions of poverty and dependent for their livelihood on begging and bahdai. In this lockdown period they are facing serious difficulties resulting in starvation and medical issues. This Ministry is in receipt of several references and representations from transgender community requesting for facilitating relief measures and help.

3. Transgender community has also requested for a Special Corona relief Package of subsistence allowance and food security, comprising of Rs 3000 per month per Transgender person, monthly ration kits, medical expenses (As Annexure-I). The monthly expenditure on subsistence allowance would be Rs 146.34 Crore, which may be provided either from PM CARES fund or through other budgetary allocation.

4. I will be grateful, for placing this before the "Committee on Welfare" and for an immediate intervention for the protection of marginalized transgender community and their protection in prevailing situations in the Country.

Wam sign

Yours sincerely,


(R. Subrahmanyam)

Shri Tarun Bajaj,
Secretary,
Department of Economic Affairs,
Ministry of Finance,
(Head-Empowered Group for Economic & Welfare Measures)
North Block, New Delhi.
(Email id : secy-dea@nic.in)

ANNEXURE-I

Special Package for Transgender Community in the Country to help them fight the battle against Corona Virus

1. Subsistence Allowance

| Number of Transgender Persons in the Country (as 2011 census) | Monthly Subsistence Allowance per person (Rs.) | Total Monthly Expenditure (Rs. in Cr) | Remarks |
|--|---|--|---|
| 487803 | 3000 | 146.34 | i) Allowance may be distributed through DBT and District Administrations. ii) May be extended till lock down is lifted |

2. Food Security

Distribution of Ration kits including (7 kgs rice /atta, 3 kgs dal, 1 ltr cooking oil, 1 kg salt, 1 kg sugar, 200 gm etc) to each transgender persons through existing PDS , irrespective of availability of ration cards with them.