

IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION)

C.W.J.C. No. _____ of 2020

Veera Yadav

...Petitioner

Versus

The State of Bihar and Ors.

...Respondents

Subject: - Public Interest Litigation (PIL)

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ama shall be submitted after court reopens.

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SYNOPSIS

This instance writ petition is being preferred in public interest for the grant of following reliefs:

- I. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to provide an immediate 25kg ration support & cash assistance of Rs. 5000/- per month for atleast six months for people of transgender community in the state of Bihar as financial support to enable them to make their both ends meet and for their survival.
- II. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social

welfare Department, Government of Bihar to provide an additional cash assistance of Rs. 2000/- to the people of transgender community for the payment of the rent in their rented accommodation the rent for at least six months for people of transgender community in the state.

III. To direct the Chief Secretary, Government of Bihar and the Principal Secretary, Food and Consumer Protection Department, Government of Bihar to provide ration, food and nutrition free of charge from ration shops for at least six months by implementing provisions of free ration by State Government and Central Government Schemes even without holding a ration card and to initiate the process for issuance of ration card to all the people of transgender community and to include all even if they are living on rented accommodation.

IV. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to establish a facilitation centre at Sub-divisional or Block level, similar to the Anganwadi system, to

be operated by transgender persons to provide nutritional and other support to the people of the transgender community.

V. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to devise a monthly pension scheme with an appropriate amount which should not be less than Rs. 3500/- per month to all the persons of the transgender community keeping in view of their poor and unstable financial condition for their survival.

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

AND/OR

VII. To pass any other order or direction for welfare of the people of the transgender community keeping

in view of the poor and unstable financial condition specially during the current scenario.

LIST OF DATES & EVENTS

Date	Event
22.04.2020	Representation Letter sent to the Chief Secretary via email requesting for the grant of immediate cash assistance and ration free of charge in view of lockdown due to COVID-19 pandemic and to devise a monthly pension scheme for the people of transgender community in the state of Bihar.

No action taken, hence this writ application.

IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION)

C.W.J.C. No. _____ of 2020

In the matter of an application under
Article 226 of the Constitution of India;

And

In the matter of:

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

...Petitioner

Versus

1. The Chief Secretary, Government of Bihar, Main Secretariat,
Patna- 800015
2. Principal Secretary, Food and Consumer Protection Department,
Government of Bihar, Old Secretariat, PO - Sachivalaya, Patna -
800015
3. Additional Chief Secretary, Social welfare Department,
Government of Bihar, Main Secretariat, Patna - 800015

...Respondents

To,

The Hon'ble Mr. Justice Sanjay Karol, the Chief Justice of the High Court of Judicature at Patna and his companion Justices of the said Hon'ble Court.

The humble petition on behalf
of the petitioner above named.

MOST RESPECTFULLY SHEWETH :

1. This instance writ petition is being preferred in public interest for the grant of following reliefs:

- I. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to provide an immediate 25kg ration support & cash assistance of Rs. 5000/- per month for at least six months for people of transgender community in the state of Bihar as financial support to enable them to make their both ends meet and for their survival.
- II. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to

provide an additional cash assistance of Rs. 2000/- to the people of transgender community for the payment of the rent in their rented accommodation the rent for at least six months for people of transgender community in the state.

III. To direct the Chief Secretary, Government of Bihar and the Principal Secretary, Food and Consumer Protection Department, Government of Bihar to provide ration, food and nutrition free of charge from ration shops for at least six months by implementing provisions of free ration by State Government and Central Government Schemes even without holding a ration card and to initiate the process for issuance of ration card to all the people of transgender community and to include all even if they are living on rented accommodation.

IV. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to establish a facilitation centre at Sub-divisional or Block level, similar to the Anganwadi system, to be operated by transgender persons to provide

nutritional and other support to the people of the transgender community.

V. To direct the Chief Secretary, Government of Bihar and Additional Chief Secretary, Social welfare Department, Government of Bihar to devise a monthly pension scheme with an appropriate amount which should not be less than Rs. 3500/- per month to all the persons of the transgender community keeping in view of their poor and unstable financial condition for their survival.

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

AND/OR

VII. To pass any other order or direction for welfare of the people of the transgender community keeping

in view of the poor and unstable financial condition specially during the current scenario.

2. That the instant petition is being preferred, among others to be urged at the bar, on the following:

Grounds:

- i. Whether the State Government has been gravely negligent with regard to the plight of the persons of the transgender community during the COVID-19 and subsequent national lockdown?
 - ii. Whether the State Government has failed to take necessary steps for the welfare of the people of the transgender community residing in the state?
 - iii. Whether the negligence of the State Government 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?
3. That the Petitioner is a citizen of India and resides within the territorial jurisdiction of this Hon'ble Court. She holds a Masters degree in Social Work from Patna

University and is working for the welfare of the people of the transgender community in the state of Bihar. The Petitioner and the respondents are amenable to the writ jurisdiction of this Hon'ble Court.

4. That the instant writ is being filed as Public Interest Litigation by the petitioner who is a public spirited person and as such she has no vested interest in the instant writ application.

Facts:

5. That the present scenario of lockdown in the state due to COVID- 19 pandemic and this has impacted the most to the various vulnerable groups in the state of Bihar 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 Bihar.
6. That the Petitioner seeks to draw the attention of this Hon'ble Court towards the miserable condition of the people of transgender community in the state of Bihar. As per the National Census of 2011, 40,827 persons from transgender community reside in the state of Bihar, who are dependent on their daily earnings for their living and to make both ends meet. Due to the

outbreak of Corona Virus 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.

7. That the 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.
8. That 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.
9. That the Government of Bihar has not launched any kind of monthly pension scheme for the people of the

transgender community to enable them to fulfil even their basic financial necessities. Neither, the government has so far established any kind of employment opportunity for the people of the transgender community.

10. 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.
11. That people from the transgender community 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 ghettoes and ignored.
12. That 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.

Case Laws:

13. 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”

14. That till now there is no welfare scheme which provides pension to the people of the transgender community in the state of Bihar, unlike other states.

15. That is high time that the state government of Bihar 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.

16. That 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.

A true web copy of the order of the Hon'ble Jharkhand High Court in the case of Amarjeet Singh Vs. Chief Secretary of Jharkhand, State of Jharkhand &Ors. W.P. (PIL) No. 1305 of 2020 has been annexed here as **ANNEXURE-1**.

17. That 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.

18. That 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."

A true web copy of the order of the Hon'ble Karnataka High Court in the case of Md. Arif Jameel Vs. Union of India WP (C) No. 6435 of 2020 has been annexed here as

ANNEXURE-2.

19. That in the month of June, 2019 the state of Rajasthan launched '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.

20. That People of transgender community face a much more daunting, tedious and uphill battle. Their fight for access to food, education and health, legal recognition, increased awareness, access to social welfare scheme and end to harassment requires social mobilization of the community.
21. That the Government of Bihar should take appropriate measures to mitigate the serious impact of the lockdown on the livelihoods, food security and health of thousands of transgender people across the state.
22. That on 22.04.2020 the petitioner sent a Representation Letter to the Chief Secretary via email requesting for the grant of immediate cash assistance and ration free of charge in view of lockdown due to COVID-19 pandemic and to devise a monthly pension scheme for the people of transgender community in the state of Bihar.

A true copy of the Representation Letter sent to the Chief Secretary via email requesting for the grant of immediate cash assistance and

ration free of charge in view of lockdown due to COVID-19 pandemic and to devise a monthly pension scheme for the people of transgender community in the state of Bihar has been annexed as

ANNEXURE-3.

23. That the petitioner has no other effective and efficacious remedy than to move to your lordships by way of filing this writ petition for redressal of the grievances.

24. That the petitioner has not moved earlier before this Hon'ble court in this matter.

It is, therefore, prayed that your Lordship may graciously be pleased to admit this application and issue RULE NISI calling upon the respondents to show cause as to why the relief sought for in paragraph 1 of this writ application may not be granted to the petitioners and after hearing the parties considering of the show

Cause if any and allow this writ
petition

AND/OR

Be pleased to pass such other order
or orders writ or its direction or
directions as this Hon'ble Court may
deem fit and proper in the facts and
circumstances of the case for the
ends of Justice.

And for this the petitioner shall ever pray.