

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2025

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Writ Petition No.7284 of 2021

1.Mrs. S.Sushma
D/o. Mr. V. Senthil Kumar G-11. Gaiety
Palace No.1
Blackers Road Chennai 600 002

2. MS. U. Semma Agarval
D/o. Mr. R.Udhayakumar G-11. Gaiety Palace
No.1 Blackers Road
Chennai 600 002

..Petitioners

. Vs.

1. Director General of Police
Tamil Nadu Police Department
Dr. Radhakrishnan Salai
Mylapore
Chennai 600004. and Others

..Respondents

(R1 DELETED VIDE ORDER DT 22/3/2021
MADE IN WP.7284/2021 BY NAVJ)

For Petitioner(s) : Ms.Vadhana Bhaskar
for Mr.S.Manuraj

For Respondent(s) : Mr.R.Muniyapparaj
Additional Public Prosecutor
for R1, R2, R3, R6, R7 & R30

Mr.Sriram Panchu
Senior Counsel for R27

Mr.G.Sankaran
Senior Counsel
for Mr.R.Ramasamy
for R26

Mr.V.Chandrasekaran
Senior Panel Counsel
for R10 to R12, R14 to R16
R19, R20,R22, R23 & R32

Mr..K.Chandrasekar for R8

for R4 & R5 – No appearance

Ms.Subharanjani for R13

Mr.R.Thirunavukarasu for R17

Mrs.B.S.Ajeetha
for R29 & R31

Mr.B.Rabu Manohar for R21

Mr.U.Baranidharan,
Standing Counsel for R26

Mr.Jayna Kothari
for Mr.Rajagopalan
for R28

ORDER

Draft Transgender Persons (Protection of Rights) Rules, Sensitisation of Teachers and the Transgender Persons Policy:

In what could be termed as a victory for the transgender and intersex persons, after their long struggle, the State Government has brought into effect the Tamil Nadu State Policy for Transgender Persons 2025. When translated to tamil, it is named as தமிழ்நாடு மாநில திருநங்கையர் கொள்கை 2025. At the outset, this Court has to commend and appreciate the Government of Tamil Nadu for implementing the policy for transgender persons which was made effective from 31.07.2025. Such policy has been brought out by six States and Tamil Nadu is the seventh State which has brought out the policy for transgender and intersex persons. Hence, this Court wants to place on record its appreciation to the Government of Tamil Nadu for coming up with the policy.

2.On a bird's-eye view, it is seen that the policy has touched upon the life, safety, health/well-being of transgender persons and intersex persons.

3.This Court heard Mr.Sriram Panchu, learned Senior Counsel for R27, Mr.Jayna Kothari, learned Senior Counsel for R28, Mrs.B.S.Ajeetha, learned counsel for R29 & R31, Dr.Ramakrishnan, Mr.U.Baranidharan, learned Standing Counsel for R26. This Court also carefully went through the written

submissions made on behalf of the 27th respondent regarding the transgender policy released by the Government of Tamil Nadu. Some important suggestions have been made in the written submissions and for proper appreciation, the same is extracted hereunder:

2. It is also noteworthy that the State will ensure the strict implementation of the penal provisions of the Central Act against people who endanger the life, safety, health or well-being, whether mental or physical, of transgender persons and intersex persons.

3. The Policy envisages formation of District level Committees which are to be established including members from the community. This is a welcome development. Please note that such committees should have at least one trans woman, one trans man, and if available, one intersex person represented.

4. Formation of a State-level review committee to monitor and review progress in implementation of the policy is a positive move. Please note that such a committee should have representation of trans women, trans men and intersex persons.

5. In the area of healthcare, the community welcomes the news that that State will ensure that medical, nursing and other health Courses have updated curricula that enable medical practitioners to understand the challenges and needs of Transgender and Intersex persons, and that sensitization efforts will be targets are medical and health personnel, as well as parents and family members. Such updated curricula, sensitization efforts and efforts to stop coercive conversion therapy should cover the entire spectrum of sexual orientation, gender-identity, gender expression and sex characteristics (SOGIESC).

6. The State's willingness to explore provision of Pre-exposure prophylaxis (PrEP) to transgender and

intersex persons is laudable. Please note that PrEP is also needed for gay and bisexual men.

7. To enable gender non-conforming persons to continue their education, the proposal of District Level Committee to identify gender-non-conforming persons) who discontinue their schooling and help them to complete their studies is appreciable.

8. The proposal to raise awareness among faculty, staff and students in their institutions and also address issues of violence, abuse and discrimination against students who have a diverse gender identity and sexual characteristics. Please note that students of diverse gender-expressions and sexual orientations also need to be included.

9. The inclusion of both public and private sectors in steps to ensure transgender and Intersex persons have equal access to employment is welcome, and a directive of the Central Act that needs to be implemented.

10. The commitment of the State to ensure that the institutional staff including counsellors of short-stay centres, shelter homes, hostels, orphanages, adoption and fostering services are sensitive to the needs and concerns of gender non-conforming children/persons must be appreciated.

II. General comments on the newly released Policy:

1. As is seen in the published Transgender Policy, many of the recommendations for training and sensitization as well as curriculum change are proposed to focus on transgender and intersex issues only. This would lead to confusion on the part of the trainees because of the intersection between gender identity, expression, and sexual orientation. It would also lead to wastage of time, effort and resources, if issues of sexual orientation are omitted and only transgender and intersex are focused on. Hence, both the (amended) Transgender and Intersex

Policy and the (awaited) LGBQA Policy should have common content on training, sensitization and curriculum change that encompasses Sexual Orientation, Gender Identity, Expression and Sex Characteristics (SOGIESC). Note: A unified LGBTQIA+ policy would save time and effort of ensuring uniformity in the recommendations for protection, training, sensitisation and curriculum changes.

2. There is a need to establish special shelters (or wings in existing shelters) for gender non-conforming and intersex children with technical support from organizations working for LGBTQIA+ people.

3. Basic concepts of SOGIESC (sexual orientation, gender identity, expression and sex characteristics) need to be included in school curricula. Awareness training on SOGIESC is needed for faculty (government, private, school, college) with the involvement of experts and groups from the community.

4. Domain-specific aspects of SOGIESC (not just transgender and intersex) need to be incorporated into curricula of medical, nursing, and other health fields, as well as legal, police, judiciary, legal services authorities, and teachers' training.

5. Protection from natal family violence and harassment, including corrective rape against transgender, intersex and LGBQA+ persons is needed.

6. Life partners of transgender and other sexual/gender minority individuals should be recognized for healthcare decision making including advanced directives.

7. Rights to heterosexual marriage of transgender and intersex persons are already recognized by the Supreme Court, but registration of such marriages is facing many challenges for such couples in TN. The state should issue directions to the Registrars about the legal sanction of these marriages.

8. Means to recognize same-gender unions such as the Deed of Familial Association or other types of domestic partnership/civil union need to be outline in the policy.

9. Rights to parenting, custody, adoption and surrogacy need to be ensured.

10. Advisories issued by the Union Government regarding ability of same-gender couples to open joint bank accounts (F. No. 6/8/2024-Welfare, Ministry of Finance), and have same-gender couples be recognized as a family for purpose of family ration card (F. No. 1(3)/2018-Comp.Cell(E-348552) Ministry of Consumer Affairs, Department of Food & Public Distribution), should be brought into state policy.

11. Advisory regarding treatment of and facilities for transgender persons in prisons (No. 17013/26/2021-PR Ministry of Home Affairs) should be brought into the state policy, as well as the advisory regarding visitation rights of partners in same-gender couples where one individual is incarcerated (No. 17013/33/2024-PR Ministry of Home Affairs).

12. All the directions of Madras High Court in Sushma need to be made part of the policy and implemented.

13. A quasi-judicial body (LGBTQIA+ Rights Commission is needed to determine, investigate and enforce laws, policies, schemes and programmes, in the state.

14. State Rules of Juvenile Justice Act need to be amended to include gender-nonconforming children and State Rules of Medical Terminal of Pregnancy Act to include trans men and other transmasculine persons.

4.Amongst all the above suggestions made one important suggestion that requires immediate consideration pertains to Clause 3.7 of the policy which uses the term "Right to Representation in Employment and Educational Institution". It is not clear as to whether the Government wants to provide horizontal reservation to the transgender and intersex persons which has always been the request made by the community and which has been reflected in many of the earlier orders passed by the various Courts including the judgment of this Court in *Rakshika Raj Vs. State of Tamil Nadu and Ors* reported in *2024 3 MLJ 684*, taking note of the judgment of the Apex Court in *NALSA v Union of India* reported in *(2014) 5 SCC 438*. Hence, the State Government is directed to take a decision in this regard so that the transgender and intersex persons need not knock the doors of this Court every time and seek for reservation in public employment and educational institutions.

5.The other issue which requires the immediate consideration of the State Government pertains to the District Level and State Level Committees which are going to be established to monitor and review the progress in the implementation of the policy. The State Government must ensure that there is representation of atleast one transwomen, transmen, and intersex person in the Committee for its effective functioning. Necessary notification should be

issued by appointing the Committees so that the implementation of the policy can be done in an effective manner.

6.Insofar as the marriage of transgender and intersex persons are concerned, the same has already been recognized by the Apex Court but however the real challenge is faced when they seek for registration of such marriages before the Registrar. Useful reference can be made to the judgment of this Court in *Arunkumar and Another .vs. The Inspector General of Registration* reported in *AIR 2019 Madras HC 265* reiterated in *Supriyo and Another .Vs. Union of India* reported in *2023 INS C920*, where this Court directed the registration of such marriage under the Hindu Marriages Act. Hence, the State Government must issue necessary directions to the Registrars about the legal sanction of these marriages.

7.The other suggestion which has to be taken note by the State Government is regarding the deed of familial Association or other types of domestic partnership/civil union which the parties may enter into to govern their rights. This issue has a lot of significance since for the present, none of the Succession Acts recognizes such rights and therefore, the parties must be able to atleast deal with their own rights by entering into such agreements.

8. There is a request from the persons belonging to the community to rename the policy as transgender and intersex persons policy and in Tamil as திருநர் மற்றும் இடைபால் இனத்தவர் கொள்கை. This request can also be considered since ultimately the policy has been brought about by the Government only to help these persons.

9. The suggestions that have been given by the community is not in the nature of finding fault with the State Government and they are only requesting the State Government to consider the same in order to effectively implement the policy. It must be kept in mind that the policy is not meant to satisfy the requirements from the perspective of a cisgender or a heterosexual and it must always be addressed from the perspective of those persons who fall within the ambit of LGBTQA community. Ultimately, such policies must benefit them and a Welfare State must ensure that their requirements are understood and they are fulfilled.

10. This Court expects the State Government to understand and appreciate the request that has been made by the community identifying themselves as transgender and intersex persons and wherever necessary consider making necessary changes in the policy. The learned Additional Public Prosecutor submitted that insofar as the policy for LGBTQA+, the same

is under process and sometime is required to finalise the same. Now that the State Government has come out with a policy for transgender and intersex persons, it is time that the Government comes up with the policy for LGBTQA+ persons also. This process should be expedited.

National Medical Commission

11.The learned Standing Counsel appearing on behalf of the National Medical Commission seeks for sometime to file a status report in this case based on the earlier order passed on 09.06.2025.

NCERT:

12.This Court had directed the stakeholders to go through the module prepared by the NCERT and make their submissions. They sought for sometime to file their response.

13.The learned Standing Counsel appearing on behalf of the Tamil Nadu State Medical Council (R26) sought for sometime to file a status report in this case.

14. Post this writ petition under the caption 'For Passing Further Orders' on 15.9.2025 at 2.15 p.m.

04.08.2025

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To

- 1.The Commissioner of Police
Greater Chennai Police, No. 132, Commissioner Office
Building, E.V.K. Sampath Road, Vepery , Chennai 600 007
2. Commissioner of Police
Madurai, Alagar Kovil Road, Madurai 625 002
3. The Inspector Of Police,
Thallakulam Police Station, Madurai.
4. The Inspector Of Police,
Avaniyapuram Police Station, Madurai.
5. Secretary To Government, Home Department,
Government Of Tamil Nadu, Fort St. George, Chennai 600009, Tamil Nadu,
India.
6. Member Secretary, Tamil Nadu State Legal Services
Authority, North Fort Road, High Court Campus, Chennai-600104.
7. Secretary To Government, Ministry Of Law,
Government Of Tamil Nadu, Fort St. George, Chennai 600009, Tamil Nadu,
India.
8. Secretary Government Of India, Ministry Of Social Justice And
Empowerment, Shastri Bhavan, Dr. Rajendraprasad Road, New Delhi-110001.

9. The Director,
Social Justice And Empowerment, Shastri Bhavan, Dr. Rajendra Prasad Road,
New Delhi 110 001.

10. Chairman , National Medical Commission,
Dwaraka, New Delhi-110077.

14. Indian Psychiatric Society,
Represented By Its Plot 43, Sector 55, Gurugram, Haryana, India, Pin 122003.

12. Member Secretary, Rehabilitation Council Of India,
B-22, Qutub Institutional Area, New Delhi-110 016.

13. Joint Secretary, Department Of Higher Education,
Government Of India, 122-c, Shastri Bhawan, New Delhi-110 001.

14. Joint Secretary, Department Of School Education
And Literacy, 217-c, Shastri Bhawan, New Delhi- 110001.

15. Secretary To Government, School Education Department,
Government Of Tamil Nadu,, Fort St. George, Chennai 600 009, Tamil Nadu,
India.

16. Secretary To Government, Higher Education Department,
Government Of Tamil Nadu, Fort St. George, Chennai 600 009, Tamil Nadu,
India.

17. The Secretary, University Grants Commission(UGC),
Bahadur Shah Zafar Marg, New Delhi.

18. Advisor-1 (approval) All India Council For
Technical Education, 7th Floor, Chandralok Building, Janpath, New Delhi.

19. The Director, National Council Of Educational
Research And Training(NCERT), Sri Aurbindo Marg, New Delhi.

20. Secretary To Government,
Union Of India, Ministry Of Health And Family Welfare, Nirman Bhavan, Near
Udyog Bhavan Metro Station, Moulana Azad Road, New Delhi-110001.

21. The Secretary, Ministry Of Women And Child Development,
Government Of India.

22. The Secretary, Ministry Of Home Affairs,
Ministry of Home Affairs, Connaught Place, New Delhi -110 001.

23. The Tamil Nadu State Medical Council,
914, Poonamalle High Road, Amaravathi Nagar, Arumbakkam, Chennai 600
106.

24. The Social Welfare And Women
Empowerment Department, Government Of Tamilnadu, Chennai.

25. The Secretary, Government Of India,
Ministry Of Education, New Delhi.

26. The Tamil Nadu State Medical Council
914, Poonamallee High Court
Amaravathi Nagar, Arumbakkam
Chennai 600 106.

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N.ANAND VENKATESH.,J

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