2025:AHC:194936

AFR
Reserved on 03.11.2025
Delivered on 06.11.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 35406 of 2025

Sharad Roshan Singh

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s) : Ashwani Kumar Sharma
Counsel for Respondent(s) : C.S.C.

Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Petitioner before this Court is a Transgender person, as recognized under the provisions of Transgender Persons (Protection of Rights) Act, 2019 *(hereinafter referred to as "Act, 2019")* read with Transgender Persons (Protection of Rights) Rules, 2020 *(hereinafter referred to as "Rules, 2020").*

2. The District Magistrate concerned in terms of Section 6 of Act, 2019 has issued a Certificate of Identity. Subsequently, petitioner has undergone a surgery to change gender (Female to Male) and further in terms of Section 7 of Act, 2019 read with Rule 6 of Rules, 2020 a Certificate was issued by District Magistrate concerned in a prescribed format.

3. It is further case of petitioner that subsequently an application was filed to change the name in educational documents in terms of Rule 5(3) read with its Annexure-1. However, by means of impugned order dated 08.04.2025 passed by Regional Secretary, Madhyamik Shiksha Parishad, Bareilly, application of petitioner was rejected that relevant provisions and Government Order do not provide any procedure for correction of name in educational documents at a very belated stage and provisions of Act, 2019 read with Rules, 2020 were held to be not applicable.

4. Sri H.R. Mishra, learned Senior Advocate assisted by Sri Akshay Kumar Srivastava, Advocate and Mrs. Chitrangada Narain, Sri Ashwani Kumar Sharma, Akash Kumar Sharma and Rajesh Kumar Yadav, Advocates for petitioner and Sri Amit Saxena, learned Additional Advocate General assisted by Sri Santosh Kumar Mishra, learned Standing Counsel for State-Respondents, have made their respective submissions. Learned counsel for parties have also placed various judgments passed by Supreme Court as well as High Courts of other States in **Jane Kaushik vs. Union of India and others, 2025 INSC 1248; National Legal Services Authority vs. Union of India and others (2014)5 SCC 438; Dr. Beoncy Laishram vs. State of Manipur and others, 2025 SCC OnLine Mani 430; K. Prithika Yashini vs. TNUSRB, 2015 SCC OnLine Mad 11834; Arun Kumar vs. Inspector General of Registration, 2019 SCC OnLine Mad 8779; S. Swapna (Transgender) vs. The State of Tamil Nadu (WP (MD) No. 10882 of 2014); K. Gowtham Subramaniyam vs. The Controller of Examination (WP No. 7536 of 2017); Shri Vinod H.N. vs. State of Karnataka (WP No. 54037 of 2017); Poojitha B.P. vs. Karnataka Secondary Education Examination Board and others (WP No. 54037 of 2017); Christina Lobo vs. State of Karnataka (WP No. 8024 of 2020); Jeeva vs. State of Karnataka (WP No. 12113 of 2019); X. vs. State of Uttarakhand, 2020 SCC OnLine Utt 652;** and, **Vedant Maurya alias Kumari Soni vs. State of U.P. and others, 2024:AHC-LKO:69459.**

5. After going through the aforesaid judgments and perusal of records as well as after considering the submissions of learned counsel for parties, the Court is of the opinion that impugned order cannot sustain in the eyes of law and the reasons for such conclusion are as follows:

(I) Transgender Persons (Protection of Rights) Act, 2019 is a Special Act.

(II) Section 20 of Act, 2019 provisions that provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force. Therefore, concerned respondent has committed a legal error by not applying provisions of Act, 2019 in favour of petitioner.

(III) On basis of record, there is no dispute that petitioner was entitled to file application in terms of Rule 5(3) of Rules, 2019 read with its Annexure-1 to change gender, name and photographs in all official documents provided in its annexure which also include any educational certificate issued by a School, Board, College, University or any such academic Institution [Serial No. 1 to Annexure-1 of Rule 5(3)] .

(IV) The respondents-State have not brought on record any other judgment which could contradict application of provisions of Act, 2019 read with Rules, 2020.

(V) In similar circumstances in **Dr. Beoncy Laishram (supra)** a Single Bench of Manipur High Court has directed to issue all requisite certificates in terms of Act, 2019.

(VI) In **Jane Kaushik (supra)** Supreme Court has crystallized the object and importance of Act, 2019 and Rules, 2020 and for reference its paragraph No. 130 is reproduced hereinafter:

> "*130. Thus, this Court is mindful that constitutional guarantees do not attain their true meaning by mere textual inclusion in statute books but through their faithful realization in the lived experiences of individuals. Legislative omission, whether absolute or relative, strikes at the very root of this realization by creating voids that impede the enforcement of fundamental rights. The Constitution entrusts this Court with the solemn duty to act when such voids result in the denial of equality, dignity, and non-discrimination. The present case exemplifies how the silence of the legislature and the inaction of the executive in implementing the mandate of the 2019 Act and the 2020 Rules have perpetuated systemic exclusion of transgender persons. The failure of the appropriate Government to formulate inclusive policies, constitute redressal mechanisms, and ensure safe and equitable access to educational and employment opportunities, constitutes not a mere administrative lapse but a violation of the constitutional rights. It is, therefore, incumbent upon this Court to remind the State that the promise of equality under the Constitution is not a passive assurance but an active obligation, one that demands continuous vigilance and affirmative measures to translate the guarantees of the Constitution into tangible and transformative realities for all persons, including transgender individuals.*"

(VII) A Coordinate Bench of this Court at Lucknow has in similar circumstances directed the authorities to change the name in educational documents **Vedant Maurya alias Kumari Soni (supra)** and for reference relevant part of judgment is reproduced hereinafter:

> *" 4. याचिकाकर्ता के परिवर्तन लिंग के आधार पर उ०प्र० शासन द्वारा निवास प्रमाण–पत्र तथा जाति प्रमाण –पत्र निर्गत हो चुका है। याचिकाकर्ता ने विपक्षी सं० 2 तथा 3 को संशोधित अंक–पत्र तथा प्रमाण–पत्र प्रस्तुत करने के लिए प्रार्थना–पत्र दिया है, जिस पर अभी तक कोई कार्यवाही नहीं हुई है। याचिकाकर्ता की विद्वान अधिवक्ता ने शिवन्या पाण्डेय बनाम उ०प्र० राज्य (2022) 1 All LJ 276 के निर्णय का आश्रय लिया।*
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> *5. विद्वान अपर मुख्य स्थायी अधिवक्ता ने कहा कि ट्रांसजेण्डर व्यक्ति (अधिकारों का संरक्षण) अधिनियम, 2019 में ऐसी परिस्थितियों के*

संबंध में वैधानिक प्राविधान किये गये हैं। याचिकाकर्ता उपरोक्त अधिनियम की धारा 2 (ट) में दी गयी ट्रांसजेण्डर व्यक्ति की परिभाषा में आता है। अधिनियम की धारा 5 के अनुसार याचिकाकर्ता को जिला मजिस्ट्रेट को ट्रांसजेण्डर व्यक्ति का पहचान प्रमाण–पत्र निर्गत किये जाने के लिए प्रार्थना–पत्र देने का प्राविधान है किन्तु याचिकाकर्ता ने अभी तक उपरोक्त प्राविधान के अंतर्गत कोई प्रार्थना–पत्र प्रस्तुत नहीं किया है। अधिनियम की धारा 6 तथा 7 के अनुसार धारा 5 के अंतर्गत प्रार्थना–पत्र प्रस्तुत किये जाने के उपरान्त ही जिलाधिकारी ट्रांसजेण्डर व्यक्ति का प्रमाण–पत्र निर्गत करेंगे तथा उसी के आधार पर शैक्षिक परिषद अंक–पत्र तथा प्रमाण–पत्र में आवश्यक परिवर्तन करना सुनिश्चित कर सकते हैं।"

(VIII) Similarly in **K. Prithika Yashini (supra); Arun Kumar (supra); S. Swapna (Transgender) (supra); K. Gowtham Subramaniyam (supra); Shri Vinod H.N. (supra); Poojitha B.P. (supra); Christina Lobo (supra); Jeeva (supra);** and, **X. vs. State of Uttarakhand (supra)** different High Courts have passed directions for strict implementation of provisions of Act, 2019 and Rules, 2020 in the benefit of Transgenders to reduce the possibility of discrimination.

6. In view of above, the writ petition is allowed. Impugned order dated 08.04.2025 is hereby set aside. Concerned respondents are directed to act in accordance with law and on basis of application filed by petitioner, the required change shall be made in educational documents of petitioner and fresh educational marks sheet/ certificates be issued to petitioner within a period of eight weeks from today.

(Saurabh Shyam Shamshery,J.)

November 06.11.2025

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