

GAHC010255252018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : PIL/74/2018

SWATI BIDHAN BARUAH
D/O- SUPTI RANJAN BARUAH, R/O- PANDU CABIN (NEAR RAILWAY B G
OFFICE), P.O- PANDU, GUWAHATI- 781012, DIST-KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM, DISPUR,
GUWAHATI- 06, DIST- KAMRUP(M), ASSAM

2:THE PRINCIPAL SECRETARY
TO THE GOVT OF ASSAM
HEALTH AND FAMILY WELFARE DEPTT
DISPUR
GUWAHATI- 06
DIST- KAMRUP(M)
ASSAM

3:THE UNION OF INDIA
REP. BY THE SECRETARY TO THE GOVT OF INDIA
MIN OF HEALTH AND FAMILY WELFARE
NEW DELH

Advocate for the Petitioner : PETITIONER IN PERSON

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE N. KOTISWAR SINGH
HON'BLE MR. JUSTICE MANISH CHOUDHURY

:: O R D E R ::

07.10.2021

[N. Kotiswar Singh, J]

Heard Ms. Swati Bidhan Baruah, petitioner-in-person. Also heard Mr. D.P. Borah, learned Standing Counsel, Health and Family Welfare Department appearing for respondent Nos. 1 & 2 and Mr. R.K.D. Choudhury, learned Assistant Solicitor General of India representing Union of India/respondent No. 3 and.

This PIL involves certain grievances of the Transgender Community in the State of Assam.

On 25.03.2019, this Court on the basis of the decision of the Hon'ble Supreme Court in the case of ***National Legal Services Authority Vs. Union of India and Ors.***, reported in (2014) 5 SCC 438 dealing with various issues related to the hardships faced by the Transgender Community in which a number of directions were issued, also desired to know from the State as well as the Central Governments as to what steps have been taken by them in the light of the direction of the Hon'ble Supreme Court.

Subsequently, during the pendency of this PIL, the Transgender Persons (Protection of Rights) Act, 2019 came to be enacted by the Parliament.

The aforesaid Act comprehensively deals with many of the issues and to meet the challenges and difficulties faced by the Transgender Community. The Parliament in its wisdom by enacting the said Act has provided for taking various steps by the appropriate authorities, both the Central as well as State Governments.

We may not go into the detail into various provisions of the Act but it will suffice for our purpose to refer to Chapter VI which consists of Sections 13, 14 and 15, which is reproduced hereinbelow,

“ CHAPTER VI

EDUCATION, SOCIAL SECURITY AND HEALTH OF TRANSGENDER PERSONS

13. Every educational institution funded or recognised by the appropriate Government shall provide inclusive education and opportunities for sports, recreation and leisure activities to transgender persons without discrimination on an equal basis with others.

14. The appropriate Government shall formulate welfare schemes and programmes to facilitate and support livelihood for transgender persons including their vocational training and self-employment.

15. The appropriate Government shall take the following measures in relation to transgender persons, namely:—

(a) to set up separate human immunodeficiency virus Sero-surveillance Centres to conduct sero-surveillance for such persons in accordance with the guidelines issued by the National AIDS Control Organisation in this behalf;

(b) to provide for medical care facility including sex reassignment surgery and hormonal therapy;

(c) before and after sex reassignment surgery and hormonal therapy counselling;

(d) bring out a Health Manual related to sex reassignment surgery in accordance with the World Profession Association for Transgender Health guidelines;

(e) review of medical curriculum and research for doctors to address their specific health issues;

(f) to facilitate access to transgender persons in hospitals and other healthcare institutions and centres;

(g) provision for coverage of medical expenses by a comprehensive insurance scheme for Sex Reassignment Surgery, hormonal therapy, laser therapy or any other health issues of transgender persons.”

If the State as well as the Central Government take appropriate measures in terms of the provision of the Sections 13, 14 and 15 of Chapter VI of the aforesaid Act, the many difficulties faced by the Transgender Community in various situations could be addressed.

Therefore, before we go into the various issues raised in this PIL, we would like the State as well as the Central Government to apprise this Court as to the steps taken in terms of the aforesaid provisions of the Act, which they may do so by filing affidavits.

Hearing will continue on 11.11.2021.

JUDGE

JUDGE

Comparing Assistant