

11.02.2021

Ct. No.13

Sl. No.58

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W.P.A. 3962 of 2021 [via video conference]

[Pallabi Chakraborty -Vs- The State of West Bengal & Ors.]

Mr. Indrajeet Dey

Mr. Kushal Das

... .. for the petitioner

Mr. Tapan Kr. Mukherjee .. Sr. Advocate, AGP

Ms. Tuli Sinha

... .. for the State

Affidavit-of-service filed in court today be kept with the record.

The writ petitioner has made a variety of prayers in the writ application. Petitioner claims to be a transgender and has sought mandamus against the police authorities to enable participation in the selection process of police constables instituted by the West Bengal Police Directorate.

It appears from the annexure to the writ application that the petitioner has originally being designated as male at the time of birth. He subsequently by sworn affidavit before the Judicial Magistrate declared herself as a transgender. However, thereafter [after the enactment of the Transgender Persons (Protection of Rights) came into force] the petitioner obtained employment with the State as a Lady called Pallabi Chakraborty and was attached to the Maidan Police Station.

Counsel for the petitioner would rely upon the provisions of the Transgender Persons (Protection of Rights) Act, 2019 to claim that a third gender is required to be provided for and permitted to participate in the recruitment process of Constables with the State.

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This Court notes that the petitioner has been approbating and reprobating. Having joined public employment albeit on a contractual basis as a lady civic volunteer, the petitioner cannot be permitted to turn around and now claim the status of a transgender. The principal reliefs in the writ petition, therefore, cannot be allowed.

However, the learned counsel for the petitioner refers to Section 11 of the aforesaid Act of 2019 and submits that there is no grievance redressal mechanism in the State or in the police force to redress grievances of transgender. Section 11 of the Transgender Act, 2019 is set out hereunder :-

“11. Grievance redressal mechanism

Every establishment shall designate a person to be a complaint officer to deal with the complaints relating to violation of the provisions of this Act.”

This Court directs the respondent nos.4 & 5 to immediately set up a Grievance Redressal Mechanism and/or official in the West Bengal Police in compliance of Section 11 of the Transgender Act of 2019.

The Chief Secretary of the State shall also take immediate steps to set up a Grievance Redressal Forum and Mechanism in the State in terms of Section 11 above to enable Transgender persons to have remedies under the aforesaid Transgender (Protection of Rights) Act of 2019.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rajasekhar Mantha, J.)

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