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# Madras High Court Issues Directions To Curb Police Harassment, Insensitive Media Reporting Against LGBTQ + Community, Calls For Change In Queerphobic MBBS Curriculum

Aaratrika Bhaumik 1 Sep 2021 1:32 PM



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The **Madras High Court** on Tuesday issued a host of directions against police harassment, insensitive media reportage in matters pertaining to the LGBTQIA+ community. The Court was adjudicating upon a [writ petition](#) moved by a lesbian couple seeking protection from police harassment. In its [earlier order](#) dated **June 7, 2021** the Court had issued a slew of guidelines to ensure that same sex couples are not harassed by police authorities pursuant to missing complaints lodged by their parents.

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**Justice Anand Venkatesh** on Tuesday observed with anguish that despite the Court's earlier orders, the police authorities were continuing to harass same sex couples. Accordingly, he remarked,

*"It has been brought to the notice of this Court, by NGO workers who help and aid the community members that the police officers at various police stations refused to*

*provide protection and even in certain cases harassed not only the community members but also NGOs and field workers who were helping them. This Court is appalled upon learning that these instances have taken place even subsequent to the Order passed by this Court and the consequent guidelines issued on 07.06.2021"*

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The Court further noted that one of the 'excuses' given by the police authorities for harassing such same sex couples was that no internal circular or notification had been issued by the higher authorities of the Department in this regard. However, Justice Venkatesh proceeded to opine that such insensitivity towards members of the LGBTQIA+ community stems from acute apathy and a sheer lack of awareness.

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*"Evidently, the larger excuse seems to be the sheer lack of awareness and the apathy towards arming themselves enough to fight for a community of public belonging to the citizenry of this nation, to whom they swore to be servants. This*

*Court in its earlier Order already observed that 'lack of awareness can be no excuse to any form of discrimination', and the absence of internal communication and hierarchical orders is no excuse to deny protection to the community that is vulnerable, susceptible to threat and harassment. **What has been built by the State as a source of protection to the public cannot become the end from which they need protection**", the Court further observed.*

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Furthermore, the Court proceeded to direct the Advocate General to ensure that police authorities are more proactive in extending protection to such same sex couples. The State government was also ordered to work towards the recognition and development of the members of the LGBTQ+ community.

*"State of Tamil Nadu is always known for introducing reforms in the interest of persons belonging to the marginalized communities and sects and therefore, this State must be a role model to create a favorable atmosphere to persons belonging to the LGBTQIA+ Community. This Court is confident that the State Government will work towards the recognition and development of persons belonging to the community and they will be brought within the mainstream of the society."*

Accordingly, the Court granted more time to the State government in filing its compliance report in regards to the directions issued vide its earlier order dated June 7, 2021

### **Insensitive Media Reporting**

The Court also took serious objections to the prevalent insensitive media reporting of cases pertaining to same sex couples. Citing one such example, the Court noted that a news portal had run a story which contained remarks such as '*a woman disguised as a male and pretended to be in a marriage with her female friend, both of whom were rescued by the police after repeated efforts*' and '*she expressed her willingness to be united with her husband who, originally being a female, converted herself into a male for the sake of her partner*'.

*"Media's insensitive commentary and ridiculing with dramatic words, music on "reporting" though not new to our society, cannot be normalised. The reportage of the most intimate and personal aspects of an individual's identity by the contemporary vernacular media is deeply problematic and it not just reflects the pre-existing harmful stigmatization of the community, but also perpetuates it",*

the Court further observed.

Rs. 1,299

Rs. 1,699

Rs. 1,149

Rs. 849

Rs. 5,400

Rs. 5.999

Rs. 9.699

Justice Venkatesh further opined that it was high time that media houses use sensitive and inclusive terms on the gender spectrum when reporting on matters pertaining to the LGBTQ+ community. He further observed that phrases rooted in queerphobia must not be tolerated or entertained any further.

However, the Court declined to issue any positive directions on such media reportage so as to not curtail the freedom of press. Instead it pressed upon the need to exercise restraint while reporting on such sensitive issues.



*"This court doesn't want to give any positive directions at this point of time which may unwittingly trench upon the freedom of press. The press will have to play a major role in spreading awareness through sensitive reporting of cases. The choice of words ultimately should not demean the persons belonging to the Community. This Court reposes confidence on the press and expects the press to show more sensitivity while reporting cases and maintain the confidentiality of the identity of the persons involved in a news item", the Court added.*

Rs. 4,999

Rs. 2,499

Rs. 999

Rs. 2,649

Rs. 1,299

Rs. 1,299

## **Homophobic Literature In Medical Textbooks**

The Court further referred to a report submitted by Dr. Trinetra Haldar Gummaraju who had explained in detail the existence of homophobic literature in the curriculum of the

MBBS course and had thus pressed upon the need to revamp the curriculum so as to increase awareness. Thus, Justice Venkatesh proceeded to observe how the State must ensure that 'conversion therapies' by medical professionals are not permitted in any manner.

*'Queerphobia is being reaffirmed as legitimate throughout the education of a doctor who might go on to become a psychiatrist or any physician who might be approached by a person from the community. As important as it is for an advocate or a judge to take up a client's case or to decide the case, as the case may be without being personally judgemental about them, it is equally or even more important for a professional from the medical and mental health professionals' fraternity to be non-judgemental and free of moral or personal prejudices about their patient's or client's identity on the gender spectrum or their sexuality. **Knowledge about a patient's gender identity and sexuality may be of interest to a doctor, physician and a mental health professional if it is pertinent in cracking the course of treatment, but the course of treatment cannot be one which aims to "cure" their gender identity or sexuality itself**', the*

Court opined.

In this regard, the Court proceeded to cite an instance wherein a psychiatrist had prescribed medication to 'cure' a patient's gender identity. Opining that such treatment amounts to '*conversion therapy*', the Court remarked,

*"The Doctor had prescribed two medicines namely Stimuli Capsule and Fluoxet capsule for 15 days. That apart, this Doctor had also referred the concerned person to a psychotherapist for Cognitive Behavioral Therapy for M2M behavior. This sample case clearly exhibits the ignorance on the part of the Doctor who is not even aware that there is no "cure" for gender identity. **These are ways and means adopted by professionals under the guise of conversion therapy. Prescribing anti-depressants***

*and erectile dysfunction drugs to a person and referring them into cognitive behavioural therapy as "remedy" to their gender identity and sexuality is nothing but conversion "therapy", camouflaged as medical and mental health support. This lack of knowledge on the part of the concerned psychiatrist is directly attributable to the course that was undergone by him and which is yet to be revamped and brought up to date."*

Accordingly, the Court served notice upon the **National Medical Commission** and **Indian Psychiatric Society** and accordingly directed them to file a report as to how  they are going to handle this issue in future by carrying out necessary changes in the curriculum.

Furthermore, the counsel appearing on behalf of the Tamil Nadu State Legal Services Authority also brought to the notice of the Court that pursuant to its earlier orders, legal literacy and legal awareness camps had been conducted by 28 District Legal services Authorities across the State. The counsel also apprised the Court that a seminar on the "issue relating to transgender" would be organized along with the social welfare department across the State.

### **Directions Issued**

- Police department to refrain from harassing activists and people belonging to NGOs, not just the people who belong to the LGBTQIA+ community.
- **A specific clause is to be added in the Police Conduct Rules specifically providing that any harassment by the police, to the persons belonging to the LGBTQIA+ community and/or to the activists and NGO workers, will be treated as misconduct and will entail a punishment for such misconduct.**
- While conducting sensitization programs for the Police, it must be conducted through the persons belonging to the community and/or the activists and NGO