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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
Department of Women & Child Development and Social Welfare

NOTIFICATION

No. 155/WBTGPDB/Estt/15/2021, dt, 30.11.2022. – WHEREAS the draft rules, in exercise of the powers conferred by section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019) was issued, as required by sub-section (1) of the said section by notification of this Department *vide* No.136/WBTGPDB, dated: 04.11.2022 and published in the *Kolkata Gazette, Extraordinary*, Part-I, on 4th November, 2022, inviting objections and suggestions from the persons likely to be affected thereby;

AND WHEREAS, the objections and suggestions received from the public in respect of the said draft rules have been considered;

NOW, THEREFORE, in exercise of the power conferred by section 22 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019), The Governor is hereby pleased to make the following rules, namely:—

Rules

1. **Short title and commencement** – (1) These rules may be called the West Bengal Transgender Persons (Protection of Rights) Rules, 2022.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. **Definition.**— In these rules, unless the context otherwise requires,—
 - (a) “Act” means the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019);
 - (b) “applicant” means a transgender person who submits an application under rule 3;
 - (c) “application” means the application form as provided in Form-1;
 - (d) “affidavit” means affidavit in Form-2 to be submitted by an applicant seeking certificate of identity;

- (e) “any official documents” include all documents listed in Annexure-1, which the State Government may revise, by notification in the Official Gazette;
- (f) “certificate of identity” means a certificate issued by the District Magistrate under section 6 or section 7 of the Act as in Form-3 or Form-4 respectively;
- (g) “District Magistrate” means the District Magistrate of the respective district and for Kolkata, authority as designated by the State Government by notification for the purpose and intent of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019);
- (h) “form” means a form prescribed these rules;
- (i) “identity card” means a photo identity card issued in Form-5 to a transgender person under section 6 or issued in Form-6 to a transgender person on change of gender under section 7 on the basis of “certificate of identity” issued by the District Magistrate or an identity card to a transgender person issued by a State authority prior to the coming into force of these rules;
- (j) ‘procedure’ means procedure laid in Annexure-1 to be adopted by District Magistrate for issue of certificate of identity under section 6 or 7;
- (k) “medical institution” means any medical institution whether hospital or clinic, private or public;
- (l) “medical intervention” includes any gender affirming medical intervention undertaken by an individual to facilitate the transition to their self-identified gender, including but not limited to counseling, hormonal therapy, and surgical intervention, if any;
- (m) “section” means a section of the Act;
- (n) “rule” means a rule under these rules;
- (o) all other words and expressions used herein but not defined in the Act shall have the same meaning assigned to them in the Act.

3. Application for issue of certificate of identity under section 6 or section 7:

- (1) A transgender person desirous of obtaining a certificate of identity shall make an application as prescribed in Form-1.
- (2) The application shall be submitted to the District Magistrate in person or by post till online facilities are developed by the State Government and thereafter the application shall be made by online :

Provided that in case of a minor child, such application shall be made by a parent or guardian of such minor child and in the case of a child in need of care and protection, by the competent authority under the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) as amended by Juvenile Justice (Care and Protection of Children) Amendment Act, 2021.

- (3) Transgender persons who have officially recorded their change in gender, whether as male, female or transgender, prior to the coming into force of the Act shall not be required to submit an application for certificate of identity under these rules:

Provided that such persons shall enjoy all rights and entitlements conferred on transgender persons under the Act.

4. Procedure for issue of certificate of identity:—(1) The District Magistrate shall, subject to the correctness of the applicant’s particulars, get the application processed based on the affidavit submitted declaring the gender identity of any person in Form-2, without any medical or physical examination, and thereafter issue an identification number to the applicant, which may be quoted as proof of application.

- (2) For the purpose of determination of the place of residence, the applicant must have been a resident of the area under the jurisdiction of the District Magistrate for a continuous period of at least six months as on the date of the application, and an affidavit to this effect shall be submitted in Form-2.

- 5. Issue of certificate of identity for a transgender person under section 6. – (1)** The District Magistrate shall issue to the applicant, a certificate of identity in Form-3 following the procedure provided in rule 4 indicating the gender of such person.
- (2) The said certificate of identity shall be issued within thirty days of receipt of duly filled in application along with the affidavit.
 - (3) The certificate of identity issued under sub-rule (1) shall entitle the applicant to change the gender as well as the name and the photograph, if so necessitated, of the transgender person in all such official documents as provided in Annexure-1, in accordance with the gender specified in the said certificate of identity.
 - (4) The District Magistrate shall, at the time of issuance of the certificate of identity under sub-rule (1), issue a transgender identity card in Form-5 to the applicant.
 - (5) The appropriate authority shall maintain a register for the issuance of certificate of identity and the transgender identity card distinctively.
 - (6) The authority that issued the official document, on an application made by an applicant under rule 3, shall change the name or gender or photograph or any of this information of the applicant in the official documents within fifteen days of making of such application.
 - (7) Any official document wherein gender, name and the photograph of transgender are revised based on the said certificate of identity, shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name or gender or both in the official documents:

Provided that all benefits that a transgender person was entitled to based on an identity card, if any, issued by a State authority shall continue to be enjoyed by that transgender person based on the certificate of identity issued under these rules.
- 6. Procedure for issue of a certificate of identity for change of gender.–**
- (1) If a transgender person undergoes medical intervention towards a gender affirming procedure, either as a male or female, such person may apply in the Form-1, along with a certificate issued to that effect by the Medical Superintendent or Chief Medical Officer of the medical institution in which that person has undergone the said medical intervention, to the District Magistrate for the issue of a revised certificate of identity.
 - (2) The District Magistrate shall, on receipt of an application referred to in sub-rule (1) shall verify the correctness of the said medical certificate, which shall not include any physical examination.
 - (3) The applicant shall be a resident for a continuing period of at least six months up to the date of application in the area under the jurisdiction of the District Magistrate and an affidavit to this effect shall be submitted along with the application in Form-1.
- 7. Issue of certificate of identity under section 7 – (1)** The District Magistrate shall issue a revised certificate of identity in Form-4 to the applicant seeking change in gender indicating the gender of such a person as male or female, as the case may be.
- (2) The District Magistrate shall issue the revised certificate under sub-rule (1) within thirty days of its receipt of the application.
 - (3) The certificate of identity issued under sub-rule (1) shall entitle the applicant to record or change the gender, as well as photograph and name, if so necessitated of transgender person in all such official documents listed in Annexure-1, in accordance with the gender specified in the said certificate of identity as male or female, as the case may be.
 - (4) The District Magistrate while issuing the certificate of identity for change of gender shall simultaneously issue an identity card in Form-6 to the applicant.

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- (5) The authority that issued the official document, on an application made by an applicant under sub-rule (3), shall change the name or gender or photograph or any of this information of the applicant in the official documents within thirty days of making of such application.
- (6) Any official document wherein gender, name or photograph of transgender person is revised based on the said certificate of identity, shall bear the same serial or reference number as in the original official document of such transgender person who seeks change in the name or gender or both in the official documents.
- 8. Communication of rejection of application** – In case of rejection of application made under rule 3, the District Magistrate shall inform the applicant the reason or reasons for such rejection within thirty days from the date of receipt of such application.
- 9. Right to appeal** – The applicant shall have a right to appeal, within ninety days from the date of intimation of the rejection of application made under rule 3, to the appellate authority as designated by the State Government by notification.
- 10. Provisions for non-discrimination.** – (1) The State Government shall take adequate steps to prohibit discrimination in any Government or private organization or establishment including in the areas of education, employment, healthcare, public transportation, participation in public life, sports, leisure and recreation and opportunity to hold public or private office.
- (2) The Government of West Bengal shall set up a Transgender Protection Cell in each District under the charge of the District Magistrate and under Director General of Police in the State and in case of Commissionerate under that Commissioner of Police to monitor cases of offences against transgender persons and to ensure timely registration, investigation and prosecution of such offences.
- 11. Equal opportunities in employment.** – (1) Every establishment shall implement all measures for providing a safe working environment and to ensure that no transgender person is discriminated in any matter relating to employment including, but not limited to, infrastructure adjustments, recruitment, employment benefits, promotion and other related issues.
- (2) Every establishment shall publish an equal opportunity policy for transgender persons.
- (3) The establishment shall display the equal opportunity policy, including the details of the complaints officer, preferably on their website, and/or at conspicuous places in their premises.
- (4) The equal opportunity policy of an establishment shall, inter alia, contain details of–
- (a) Infrastructural facilities (such as unisex toilets), measures put in for safety and security (transportation and guards) and amenities (such as hygiene products) to be provided to the transgender persons so as to enable them to effectively discharge their duties in the establishment.
- (b) applicability of all rules and regulations of the company regarding service conditions of employees;
- (c) confidentiality of the gender identity of the employees;
- (d) Complaint of the officers.
- 12. Grievance redressal** – The State Government shall ensure that every establishment designates a complaint officer in accordance with section 11 within six months from the date of coming into force of these rules by notification.
- (2) The complaint officer shall enquire into the complaints received within fifteen days from the date of receipt of such complaints.
- (3) The head of the establishment shall take action on the enquiry report submitted by the complaints officer within fifteen days from the date of submission of the report.
- (4) The head of the establishment shall take action forthwith in all cases where action has not been taken in accordance with the above time limits.

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- (5) The State Government shall also set up within one year a grievance redressal mechanism, operating through a helpline and outreach centers, for ensuring proper implementation of the provisions of Chapter V of the Act with special reference to sub- sections (1) and (2) of section 12.
 - (6) The grievance redressal system shall ensure resolution of grievances within thirty days from the date of bringing of such grievance to the helpline, and imposing of penalties as laid down in section 18.
 - (7) The State Government shall put in place a monitoring system for tracking the number of complaints filed, enquired and action taken of all the establishments in their jurisdiction.

Form - 1**[See rules 2(c), 3(1), 6(1), 7(1)]**

* Strike out whichever is not applicable

1	Name	
(i)	Given name (in capital letters)	
(ii)	Changed/Chosen name (in capital letters)	
(iii)	Out of (i) and (ii), name to be printed in the certificate of identity and in the identity card	
2	Gender	
(i)	Assigned at birth	
(ii)	Requested in the application	
3	Date of birth	dd/mm/yyyy
4	Educational qualification	
5	Present address	
6	Permanent address	
7	If there is a source of income, the annual income :	
(i)	Under Rs 1,00,000	YES / NO
(ii)	Between Rs 1,00,001 and 3,00,000	YES / NO
(iii)	Above Rs 3,00,000	Please specify the amount :
8	Do you have any of the following documents? If so, please submit self-attested photocopies of the certificates stated below.	
(i)	Birth Certificate	YES / NO
(ii)	Aadhaar Card	YES / NO
(iii)	PAN Card	YES / NO
(iv)	Election Voter Identity Card	YES / NO
(v)	Ration Card	YES / NO
(vi)	Passport	YES / NO
(vii)	Bank Passbook	YES / NO
(viii)	MNREGA Card	YES / NO
(ix)	Certificate of Caste (SC/ST/OBC/Others)	YES / NO
9	Medical history (for those applying under section 7 of the Transgender Persons (Protection of Rights) Act, 2019	
(i)	Have you undergone any medical intervention in the context of transgender transition?	YES / NO
(ii)	Please give details.	
(iii)	Name and complete address of the Hospital or medical institute.	
(iv)	Name of the issuing authority along with the date.	

(v)	Any other medical status you would like to share.	
(vi)	Have you been issued any certificate of identity under Section 6 and Section 7 under the Act, or any other ID Card issued by the State Authority before the commencement of these Rules? If so, enclosed the same.	
10	Any other information you would like to give.	
11	Have you attached affidavit prescribed in Form -2 under rule 2(d) and 4(1) West Bengal Transgender Persons (Protection of Rights) Rules, 2022 under section 5 of the Transgender Persons (Protection of Rights) Act, 2019?	
12	Have you attached the passport size photographs?	Yes/No

Enclosed: _____ documents as mentioned in the application.

Declaration

1. I declare that the particulars furnished by me are true and correct.

Information provided in this application will be treated as confidential and shall not be shared with any person or organization save the Central and / or State security agencies, any other agency as provided by Law; and for statistical and policy framing purposes.

Place:	
Date:	Signature or left hand thumb impression of the applicant given name of the applicant

Form - 2

[See rules 2(d) and 4(1)]

Format of affidavit to be submitted by a person applying for certificate of identity and identity card for transgender persons under Rule 4 of the West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with Section 6 of the Transgender Persons (Protection of Rights) Act, 2019.

(Affidavit should be on Non-judicial stamp paper of Rs.10/-) Competent Notary Civil, District
(Name of the District), (Name of the State)

I, (Name), son/daughter/ward/spouse of (name of the parent/guardian/husband), aged (in completed years), residing at (address), (Tehsil), (District), (State) (Pin code) do hereby solemnly affirm and declare as under:

1. I am currently residing in the above address.
2. I perceive myself as a transgender person whose gender does not match with the gender assigned at birth.
3. I declare myself as transgender.
4. I am executing this affidavit to be submitted to the District Magistrate for issue of certificate of identity as transgender person under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019 under West Bengal Transgender Persons (Protection of Rights) Rules, 2022.

. * strike out whichever is not applicable.

Deponent

(Signature of the Applicant)

Verification

I, (Name), hereby state that whatever is stated here in above serial Nos. 1 to 4 are true to the best of my knowledge.

Deponent

(Signature of the Applicant)

Tehsil

Date

Identified by me

Advocate

Public

Before Me

Notary

Form - 3**[See rules 2(f) and 5(1)]**

Form of certificate of identity to be issued by District Magistrate under rule 5 of West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with section 6 of the Transgender Persons (Protection of Rights) Act, 2019.

**Photograph of the
certificate holder
District
Magistrate to
attest the
photograph**

1. On the basis of the application dated dd/mm/yyyy to the undersigned, it is certified that Shri / Smt. / Km/ Ms (name) son / daughter / ward of Shri/ Smt. (name of the parent or Guardian) of (complete residential address of the applicant) is a transgender person.
2. His / her birth name is _____ .
3. This certificate is issued in terms of the provisions contained under Rule 5 West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with section 6 of the Transgender Persons (Protection of Rights) Act, 2019.
4. It is also certified that Shri/Smt/Km/Ms. _____ is ordinarily a resident at the address given above.
5. This certificate entitles the holder to change name and gender in all official documents of the holder.

Date

Signature of the District Magistrate

Place

Seal

Form - 4**[See rules 2(f) and 7(1)]**

Form of certificate of identity for change of gender to be issued by District Magistrate under Rule 6 of the West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with section 7 of the Transgender Persons (Protection of Rights) Act, 2019.

**Photograph of the
certificate holder.
District
Magistrate to
attest the
photograph**

1. On the basis of the application submitted to the undersigned along with a medical certificate from the Medical Superintendent or Chief Medical Officer (name of the Hospital and complete address), it is to certify that Shri / Smt. / Km/ Ms. (name) son/ daughter / ward of Shri/ Smt. (name of the parent or Guardian) of (complete residential address of the applicant) has undergone medical intervention to change gender.
2. His/ Her birth name is _____ .
3. This certificate is issued in terms of the provisions contained under Rule 6 of the West Bengal Transgender Persons (Protection of Rights) Rules, 2022 read with section 7 of the Transgender Persons (Protection of Rights) Act, 2019.
4. It is also certified that Shri / Smt/ Km/ Ms. is ordinarily a resident at the address given above.
5. This certificate entitles the holder to change name and gender in all official documents of the holder.
6. Such change in name and gender and the issue of this certificate shall not adversely affect the rights and entitlements of the holder of this certificate.

Date

Signature of the District Magistrate

Place

Seal

Form - 5

[See rule 5(4)]

Form of Identity Card Front side of identity card

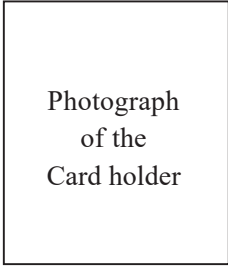
State Emblem

Government of West Bengal

Office of the District Magistrate

Transgender Identity Card

Identity card number



Photograph
of the
Card holder

Name

Mother's name @

Father's or Guardian's name @

Gender

Transgender

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of

_____ years

Identity card

Reference number of
certificate of authority on
the basis of which this card
is issued**Back side of the identity card**

Present address

Card issue date

Signature of the
issuing authority

Designation

Seal of the issuing authority

Issued under Rule 5 of West Bengal Transgender Persons (Protection of Rights) Rules, 2022 and read with under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019.

* **Strike out whichever is not applicable**

@ only in case the applicant is a minor child

Form - 6

[See rule 7(4)]

Form of Identity Card Front side of identity card

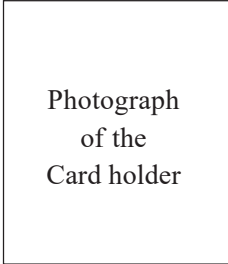
State Emblem

Government of West Bengal

Office of the District Magistrate

Identity Card

Identity card number



Photograph
of the
Card holder

Name

Mother's name @

Father's / Guardian's name @

Gender

Male /Female

Date of birth or

dd/mm/yyyy

Age as on the date of application for issue of

_____years

Identity card

Reference number of certificate of
authority on the basis of which this
card is issued**Back side of the identity card**

Present address

Permanent address

Card issue date

Signature of the issuing authority

Designation

Seal of the issuing authority

@ only in case of a minor child

Annexure-I
[See rule 7(3)]

Illustrative list of official documents referred to in _____

Sl. No.	Name of the official document
(1)	Birth certificate
(2)	Caste/ Tribe certificate
(3)	Any education certificate issued by a school, board, college, university or any such academic institution
(4)	Election Photo Identity Card
(5)	Aadhaar Card
(6)	Permanent Account Number (PAN)
(7)	Driving Licence
(8)	BPL ration card
(9)	Post Office / Bank Pass book with photo
(10)	Passport
(11)	Kisan Pass Book
(12)	Marriage certificate
(13)	Electricity / water/ gas connection paper
(14)	Property papers,
(15)	Vehicle registration
(16)	Service book, employment papers
(17)	Identity card related to bar,
(18)	Policy papers

Annexure-II**Suggested list of welfare schemes to be considered :****1. Access to health :**

- a) At least 1 government hospital in every State shall be equipped to offer safe and free gender affirming surgery, counseling and hormone replacement therapy to the transgender community, including all Male to Female (MTF) and Female to Male (FTM) procedures.
- b) State medical insurance shall cover procedures of SRS, hormonal therapy, laser therapy, counselling and other health issues of transgender persons at private hospitals
- c) medical insurance/arogyashri cards,
- d) All healthcare facilities should ensure that there are separate wards for transgender persons

2. Access to education :

- a) Scholarship for transgender students
- b) Inclusive and equitable quality education in schools that fosters respect for equality and gender diversity
- c) Protection against ragging in the educational institutions with provisions for grievance redressal
- d) Facilitation of accommodation and schooling for transgender, gender non conforming and intersex children in residential government schools and universities

3. Access to housing :

- a) Affordable housing
- b) Shelters and community centres for at risk transgender youth that provide nutritious food and counselling.
- c) Access to sanitation facilities and safe drinking water

4. Welfare measures :

- a) Universal access to Food security schemes and provision of ration cards,
- b) Pension for aged, disabled or other vulnerable transgender persons
- c) Old age and retirement homes for transgender persons facing housing exclusion
- d) Public transport to have harassment-free zones for transgender persons

5. Economic support :

- (1) Universal coverage of Life Insurance
- (2) Access to banking and financial services including loans
- (3) Explicit inclusion of transgender persons in employment guarantee schemes such as Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) and all social security schemes,
- (4) Formation into Self Help Groups for livelihood activities,
- (5) Provisions of zero-interest and other micro-finance schemes.

By order of the Governor,

SANGHAMITRA GHOSH, IAS
Principal Secretary to the Government of West Bengal.