

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (C) NO. _____ OF 2026
[WITH PRAYER FOR INTERIM RELIEF]**

IN THE MATTER OF:

DR. A	AND ORS.	...PETITIONERS
	VERSUS	
UNION OF INDIA AND ORS.		...RESPONDENTS

**I.A. NO. _____ OF 2026 : APPLICATION PRAYING FOR AD
INTERIM AND EX-PARTE STAY**

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

ADVOCATE FOR THE PETITIONER: ROHIT KUMAR -

FILED ON: 15.04.2026

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PROFORMA FOR FIRST LISTING

SECTION:

The case pertains to (Please tick/check the correct box):

- Central Act: (Title) : Transgender Persons (Protection of Rights) Amendment Act, 2026 (No. 3 of 2026) & The Transgender Persons (Protection of Rights) Act, 2019
- Section: Sections 2(ii), 2(iii), 2(iv), 3, 4(a), 4(b) 5, 7 and 8 of the Transgender Persons (Protection of Rights) Amendment Act, 2026 & Section 2(aa), Section 2(i), Section 2(k), Section 4(2), Sections 6, 7, 18 and 22 of the Transgender Persons (Protection of Rights) Act, 2019
- Central Rule: (Title): N/A
- Rule No(s): N/A
- State Act: (Title) : N/A
- Section: N/A
- State Rule: (Title): N/A
- Rule No(s): : N/A
- Impugned Interim Order: (Date) : N/A
- Impugned Final Order/Decree: (Date): N/A
- High Court: (Name): N/A
- Names of Judges: N/A
- Tribunal/Authority: (Name) N/A

1. Nature of matter: CIVIL

2.

- (a) Petitioner: Dr. A and Ors.
(b) e-mail ID: officeofrohitkumar@gmail.com
(c) Mobile phone number: N/A

3.

- (a) Respondent: Union of India & Ors.
(b) e-mail ID: N/A
(c) Mobile phone number: N/A

4.

- (a) Main category classification: 48
(b) Sub-classification: 4805

5. Not to be listed before: N/A

6. (a) Similar disposed of matter with citation, if any, & case details: No similarly disposed of matter.

(b) Similar pending matter with case details: W.P. (C) No. 1405 of 2023 titled as “Jane Kaushik vs Union of India & Ors.”

7. Criminal Matters: No

(a) Whether accused/convict has surrendered: N/A

(b) FIR No.: N/A

(c) Police Station: N/A

(d) Sentence Awarded: N/A

(e) Period of sentence undergone including period of detention/custody undergone: N/A

(f) Whether any earlier case between the same parties is filed: No

(g) Particulars of the FIR and Case: N/A

(h) Whether any bail application was preferred earlier and decision thereupon: N/A

8. Land Acquisition Matters:

(a) Date of Section 4 notification: N/A

(b) Date of Section 6 notification: N/A

(c) Date of Section 17 notification: N/A

9. Tax Matters: State the tax effect: N/A

10. Special Category (first petitioner/appellant only):

Senior Citizen > 65 years SC/ST Woman/Child Disabled

Legal aid case In custody

11. Vehicle Number (in case of Motor Accident Claim matters): N/A

12. Whether there was / is litigation on the same point of law, if yes, details thereof: W.P. (C) No. 1405 of 2023 titled as “Jane Kaushik vs Union of India & Ors.”

Filed: 15.04.2026

Rohit Kumar
3594
AOR for Petitioners

SYNOPSIS

The Petitioners have filed the present Writ Petition under Article 32 of the Constitution of India challenging the constitutional validity of the Transgender Persons (Protection of Rights) Amendment Act, 2026 (“Amendment Act”) for being violative of the fundamental rights to equality, dignity, autonomy, privacy and discrimination on the ground of gender identity privacy guaranteed under Articles 14, 15(1), 16, 19 and 21 of the Constitution of India and in contravention of this Hon’ble Court’s judgement in *National Legal Services Authority (NALSA) v. Union of India* (2014) 5 SCC 438 in as much as it takes away the right to self-determination, self-identification, mandates certification from state-appointed medical boards and introduces new penalties which create a chilling effect.

The Petitioners are members of the transgender and genderqueer community having gender identities of transwoman, intersex person, transman, hijra/transwoman, “*panthi satla kothi*” (‘Pant-shirt transgender’) and a genderqueer person. The Petitioners represent the diversity of transgender identities that are impacted by the introduction of the Amendment Act, 2026 and who stand to lose the protections, rights and entitlements accrued to them under the Transgender Persons (Protection of Rights) Act, 2019 (“**The 2019 Act**” or “**the TG Act, 2019**”).

In March 2026, without any prior consultation or public engagement, The Transgender Persons (Protection of Rights) Amendment Bill, 2026 (“The 2026 Amendment Bill”) was introduced in the Lok Sabha on 13.03.2026 and passed on 24.03.2026 and subsequently passed by the Rajya Sabha on 25.03.2026. It received the Hon’ble President’s assent on 30.03.2026 and was published in the

Gazette on the same day as the Transgender Persons (Protection of Rights) Amendment Act 2026 (“Amendment Act”).

The Amendment Act seeks to undo judicial precedents and legislative developments that have ensured the fundamental rights of transgender persons in the country. The Amendment Act has completely changed the definition of ‘transgender persons’ under section 2(k) of the TG Act 2019, to include only persons having socio-cultural identities of *hijra*, *kinnar*, *arvani* and *jogta*, and intersex persons, and excluding all other persons including transgender men, transgender women, persons who do not identify with the gender assigned at birth, genderqueer persons, all other trans persons who do not belong to these socio-cultural groups, thus completely leaving the Petitioners out of the purview of ‘transgender persons’ under the TG Act 2019 and from the coverage of the law. Further, the Amendment Act deletes Section 4(2) of the 2019 Act *vide* section 3 of the impugned Amending Act that removes a clause clarifying that transgender persons have the right to self-perceived identity. The deletion of Section 4 (2) of the 2019 Act renders the right to self-determination of gender identity redundant. At the same time, the constitutional validity of unamended Section 4, which limits recognition to “transgender” rather than permitting identification as male or female, remains pending adjudication.

It also amends Section 7 of the 2019 Act by requiring that anyone who undergoes surgery for their gender-affirmation has to report it and the medical institution performing such surgery is also obliged to report it to the District Magistrate. The 2026 Amendment Act makes it exponentially more severe by mandating institutional surveillance and stripping away individual autonomy.

Finally, the Amendment Act introduces new penal offences that are extremely broad and vague encompassing anyone who (i) kidnaps someone

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(ii) causes grievous hurt by procedures like emasculation, castration, surgery or hormonal therapy (iii) with an intent of ‘compelling such person to assume, adopt, or outwardly present a transgender identity against the will or consent of such person, whether by force, allurements, deceit, undue influence or otherwise’ with punishment up to life imprisonment. The Impugned Amendment Act introduces new offences under Sections 18(e)-(h) which invoke severe criminal law against the transgender community itself. These sections are extremely broad and vague and therefore would be used to criminalize the Petitioners, including members of the hijra community, transgender community networks, kinship networks, supportive parents, medical workers providing gender-affirming care or social organisations and workers who support transgender persons.

The Petitioners including those who are transmen, transwomen and genderqueer persons were all falling under the definition of ‘transgender persons’ under the TG Act 2019 as they are persons who do not identify with the gender assigned to them at birth, transmen, transwomen, or genderqueer persons, who are not from the socio cultural identities, and many of whom also had the Certificates of Identity as transgender persons issued to them under the TG Act 2019, for legal recognition, and now are completely erased from the protective umbrella of the 2019 Act and are left essentially unrecognised by the law threatening to permanently impact their access to healthcare, education, employment and livelihood as all these aspects remained contingent on documentation provided by way of certification under the 2019 Act. In other cases, even for the Petitioner who is from the hijra community, and other Petitioners, the newly introduced penalties threaten and create a chilling effect on their community and alternate family structures such as *gharanas*. The Petitioners would not be able to get their gender identity legally recognised and obtain documentation and stand to have their access to safe healthcare and medical facilities completely disrupted. All Petitioners are impacted by the mandatory

medical board certification. Once covered under the 2019 Act, they are now completely without any of their fundamental rights to their self-determined gender identity, legal recognition as transgender persons under the 2019 Act despite having the TG cards issued to them, and also unable to get protection from discrimination in employment, education or access to healthcare.

These amendments militate against this Hon'ble Court's ruling in *NALSA* which has held the right to self-identification to be a fundamental right and gender identity to be based entirely and exclusively upon self-identification and not any medical procedure. This Hon'ble Court further held that both gender and biological attributes constitute distinct components of sex and that while biological characteristics, include genitals, chromosomes and secondary sexual features, but gender attributes include one's self-image, the deep psychological or emotional sense of sexual identity and character. It held that discrimination on the ground of 'sex' under Articles 15 and 16, therefore, includes discrimination on the ground of gender identity.

The judgement in *NALSA* was affirmed by the 9-judge constitutional bench in *K.S. Puttaswamy and Another v. Union of India and Others* (2017) 10 SCC 1 which held the right to privacy to be a part of the Right to Life and Personal Liberty under Article 21 of the Constitution and such privacy to include the freedom for self-determination and protection "of all elements which are crucial to gender identity." The ruling was once again affirmed by a 5-judge bench in *Navtej Singh Johar and others v. Union of India* (2018) 10 SCC 1 which held that the right to self-determine one's gender identity is an integral part of one's right to life, dignity and autonomy.

As such, the impugned Amendment Act seeks to undo judicial precedents and legislative developments that have ensured the fundamental rights of the

Petitioners who are transgender persons by violating their rights under Articles, 14, 15(1), 16, 19 and 21 of the constitution.

Hence, this Writ Petition.

LIST OF DATES

DATE	PARTICULARS
NIL	The transgender community is among one of the most marginalized communities in the country, and they face extreme social exclusion due to stigma and discrimination based on their gender identity, lack of education facilities, unemployment, lack of medical facilities, housing and violence at the hands of family and society. The discrimination based on their class and gender makes the transgender community one of the most disempowered and deprived groups in the country.
15.4.2014	For the first time, the constitutional rights of transgender persons were recognized by this Hon'ble Court in <i>National Legal Services Authority v. Union of India & Ors.</i> , (2014) 5 SCC 438, this Hon'ble Court held that gender identity is an important aspect of one's personal identity and is inherent to a person. It was held that transgender persons have the right to express their self-identified gender by way of speech, mannerism, behaviour, presentation and clothing, etc. This Hon'ble Court also noted that like gender identity, sexual orientation is integral to one's personality, and is a basic aspect of self-determination, dignity and freedom. It held that all persons have the right to self-identification of gender identity as against the biological or medical model and held that

all persons have the right to self-identify one's gender identity as male, female or transgender. In paragraph 75 and 76, it was observed as follows::

“75. As already indicated, we cannot accept the Corbett principle of “Biological Test”, rather we prefer to follow the psyche of the person in determining sex and gender and prefer the “Psychological Test” instead of “Biological Test”

...

*Gender identity as already indicated forms the core of one's personal self, **based on self-identification, not on surgical or medical procedure.**” (emphasis supplied)”*

This Hon'ble Court gave extensive directions to the Government of India to, *inter alia*, uphold transgender persons' “right to decide their self-identified gender” and grant legal recognition of their gender identity such as male, female or as transgender.

- 2.8.2016 During this time, the Respondent Union of India, in 2016 introduced the Transgender Persons (Protection of Rights) Bill, 2016 in the Lok Sabha on 2.8.2016. The 2016 Bill had several deficiencies, especially the definition of ‘transgender person’,
- 8.9.2016 The Transgender Persons (Protection of Rights) Bill, 2016 was referred to The Standing Committee on Social Justice and Empowerment.
- 19.7.2017 The Standing Committee on Social Justice and Empowerment produced its Report dated 19.7.2017. The Committee Report, on the specific definition given to “transgender persons” under the

2016 Bill noted that the definition as it stood in the 2016 Bill failed to incorporate the right to self-determination. It recommended as follows:

“1.13 The Committee feels that the definition of 'transgender person' will be the fulcrum of any legislation on transgender rights and welfare and the whole law would depend on the scope of this definition. The Committee feel that the proposed definition of 'transgender person' in the Bill is in stark contrast to global developments, where transgender persons have been granted the right to self-determine and to seek benefits according to such identity/expression. More so, it not only violates the fundamental rights to equality, dignity, autonomy but also freedom of transgender persons guaranteed under Articles 14, 19 and 21 of the Constitution.”

1.26 The Committee, therefore, are of considered view that the proposed definition of transgender person not only takes away the right to self determined gender identity which was guaranteed by the Hon'ble Supreme Court in NALSA judgement but also adversely effects significant part of the transgender population - specially pre-op/non-op transmen and transwomen, trans people who cannot or do not wish to undergo surgical interventions, gender fluid, gender neutral, and intergender persons.

1.27 In view of the foregoing, the Committee conclude that a transgender person should have the option to choose

either 'man', 'woman' or 'transgender' as well as have the right to choose any of the options independent of surgery/hormones. The Committee, therefore, recommend that Clause 2(i) of the Bill may be reframed as under:

"transgender person" means a person whose gender does not match with the gender assigned to that person at birth and includes trans-men and trans-women (whether or not they have undergone sex reassignment surgery or hormone therapy or laser therapy etc.), gender-queers and a number of sociocultural identities such as - kinnars, hijras, aravanis, jogtas etc".

- 2017 The Transgender Persons (Protection of Rights) Bill, 2016 lapsed and was resultantly not passed.
- 23.8.2017 A 9-Judge Bench in ***Puttaswamy v Union of India*** (2017) 10 SCC 1 affirmed and relied on *NALSA* (Supra) to clarify that the right to self-determination of gender is an integral part of personal autonomy and self-expression under Articles 19 and 21 of the Constitution.
- 10.11.2017 The Yogyakarta Principles Plus 10 (YP+10) were adopted to supplement the Yogyakarta Principles. Principle 31 mandates that no medical and psychological tests can be required for the legal recognition of one's gender identity.
- 6.9.2018 A 5-Judge Bench of the Supreme Court in ***Navtej Singh Johar v Union of India*** (2018) 10 SCC 1 affirmed and relied on *NALSA* (Supra) and held that Section 377 of the Indian Penal Code, which criminalised 'carnal intercourse against the order of nature, creating a chilling effect on queer individuals was

unconstitutional to the extent that it criminalised consensual sexual acts between adults because it furthered stigma and prejudice, and had a disproportionate impact on the freedom and liberty of transgender and queer people. The Judgement adopted the principle of non-retrogression and progressive realisation of rights and bodily autonomy. It held as follows:

“253. The eminence of identity which has been luculently stated in the NALSA case very aptly connects human rights and the constitutional guarantee of right to life and liberty with dignity. With the same spirit, we must recognize that the concept of identity which has a constitutional tenability cannot be pigeon-holed singularly to ones orientation as it may keep the individual choice at bay. At the core of the concept of identity lies self-determination, realization of ones own abilities visualizing the opportunities and rejection of external views with a clear conscience that is in accord with constitutional norms and values or principles that are, to put in a capsule, constitutionally permissible”

17.12.2018 The Transgender Persons (Protection of Rights) Bill, 2018, was passed in the Lok Sabha despite strong opposition from the transgender community and society. This Bill however lapsed.

19.7.2019 The Transgender Persons (Protection of Rights) Bill, 2019 was introduced in the Lok Sabha with the following stated objects:

“1. Transgender community is one of the most marginalised communities in the country because they do not fit into the general categories of gender of male or female.

Consequently, they face problems ranging from social exclusion to discrimination, lack of education facilities, unemployment, lack of medical facilities and so on.

2. Though article 14 of the Constitution guarantees to all persons equality before law, clauses (1) and (2) of article 15 and clause (2) of article 16, inter alia, prohibit in express terms, discrimination on the ground only of sex and sub-clause (a) of clause (1) of article 19 ensures freedom of speech and expression to all citizens, yet the discrimination and atrocities against the transgender persons continue to take place.

3. The Hon'ble Supreme Court, vide its order dated 15th April, 2014, passed in the case of National Legal Services Authority Vs. Union of India, inter alia, directed the Central Government and State Governments to take various steps for the welfare of transgender community and to treat them as a third gender for the purpose of safeguarding their rights under Part III of the Constitution and other laws made by Parliament and the State Legislature”

05.12.2019 The Transgender Persons (Protection of Rights) Act, 2019 received the assent of the Hon'ble President of India and was published in the official gazette. Some of the sections state as follows:

Sec. 2(k) “transgender person” means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman

(whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.

1. Recognition of identity of transgender person.—

(1) A transgender person shall have a right to be recognised as such, in accordance with the provisions of this Act.

(2) A person recognised as transgender under sub-section (1) shall have a right to self-perceived gender identity.

6. Issue of certificate of identity.—

1) The District Magistrate shall issue to the applicant under section 5, a certificate of identity as transgender person after following such procedure and in such form and manner, within such time, as may be prescribed indicating the gender of such person as transgender.

(2) The gender of transgender person shall be recorded in all official documents in accordance with certificate issued under sub-section

(3) A certificate issued to a person under sub-section (1) shall confer rights and be a proof of recognition of his identity as a transgender person.

7. Change in gender.—

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(1) After the issue of a certificate under sub-section (1) of section 6, if a transgender person undergoes surgery to change gender either as a male or female, such person may make an application, 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 surgery, to the District Magistrate for revised certificate, in such form and manner as may be prescribed.

(2) The District Magistrate shall, on receipt of an application along with the certificate issued by the Medical Superintendent or Chief Medical Officer, and on being satisfied with the correctness of such certificate, issue a certificate indicating change in gender in such form and manner and within such time, as may be prescribed.

(3) The person who has been issued a certificate of identity under section 6 or a revised certificate under sub-section (2) shall be entitled to change the first name in the birth certificate and all other official documents relating to the identity of such person:

Provided that such change in gender and the issue of revised certificate under sub-section (2) shall not affect the rights and entitlements of such person under this Act.

25.9.2020 The Transgender Persons (Protection of Rights) Amendment Rules, 2020 were notified.

2020 After the TG Act 2019 was enacted and the Rules were framed in 2020, there were petitions filed, both before this Hon'ble Court as W.P. (C) No. 406 of 2020 titled as "Grace Banu Ganesan & Ors. vs Union of India & Anr." and before some of the High Courts, being W.P. No. 11679 / 2020 (before the Hon'ble High Court of Karnataka), challenging several provisions of the TG Act 2019 as being in direct violation of the judgement in NALSA with regard to recognition of gender identity, denying transgender persons the choice to live in any alternative arrangement outside of their family, which was often a place of violence, and also sections which criminalised certain acts as offences, on the ground of being vague and therefore be applied against the interests of the transgender community in an arbitrary manner, and also as violating Article 14's guarantee of equality as the maximum penalty for sexual abuse committed against transgender persons was capped at two years' imprisonment, whereas, for similar offences committed against women under the Indian Penal Code, 1860 at that time, was between three years to life imprisonment. These petitions are still pending.

6.7.2023 In the meanwhile, the Hon'ble Telangana High Court in *Vyjayanti Vasanta Mogli v State of Telangana* MANU/TL/0911/2023 struck down the Telangana Eunuchs Act, 1329 Fasli as unconstitutional as it replicated the Criminal Tribes Act 1867 and criminalised 'Every... eunuch found in female dress or ornamented in a street or a public place or in any other place with

the intention of being seen from a street or public place or who dances or plays music or takes part in any public entertainment in a street or public place'. This was found to be 'anathema to our constitutional philosophy.' The Hon'ble High Court noted that Section 1-A of the 1329 Act which defines the word 'eunuch' is not only repugnant to the definition of transgender person under Section 2(k) of the Transgender Persons Act but also opposed to the interpretation given by the Supreme Court to the word 'transgender' in *NALSA* and subsequent judgments.

17.10.2023 A 5-Judge Bench of the Supreme Court in *Supriyo v Union of India* 2023 INSC 920 upheld the right of transgender people to self-determine their gender, including for the purposes of marriage, and held that the Transgender Persons (Protection of Rights) Act 2019 may be enforced through Article 226 of the Constitution. Further, this Hon'ble Court clarified that there is a right to association for transgender and queer persons, regardless of marriage as several High Court have enforced through police protection and habeas corpus orders.

17.10.2025 This Hon'ble Court in *Jane Kaushik v Union of India* 2025 INSC 11248 recognized the shortcomings and gaps in the 2019 Act and 2020 Rules and the continued widespread discrimination against transgender persons. This Hon'ble Court held that the Respondent Union and State Governments therein had failed to formulate inclusive policies, constitute redressal mechanisms, ensure safety and equitable access which had resulted in ommissive discrimination. The judgement constituted an Advisory Committee of experts of which the members of the Ministry of Social Justice and Welfare were ex-officio members.

The mandate of the Committee was to give recommendations on *inter alia*, inclusive medical care for Transgender and Gender Diverse persons and Protections for Gender non-conforming and Gender-diverse persons noting that the 2019 Act focuses on the aspect of “medicalisation” of gender and does not give preponderance to the right to self-perceived identity. The Committee, it was directed, must look into how the State, without excessive bureaucratization, can guarantee rights provided under the 2019 Act to genderqueer and non-binary persons, especially those who do not undergo gender affirmative surgeries.

- 9.12.2025 The Union of India filed Review Petition No. 3046/2025 against the judgement dated 17.10.2025 in *Jane Kaushik v Union of India* which came to be dismissed by the Hon’ble Supreme Court by order dated 9.12.2025.
- 13.3.2026 While not addressing any of the gaps and the excessive medicalisation already in the TG Act 2019, The Transgender Persons (Protection of Rights) Amendment Bill, 2026, was introduced in the Lok Sabha, which introduced several amendments, making the TG Act 2019 even more medicalised and completely exclusionary to transpersons, without any prior consultation with the members of the transgender community. That, the 2026 Amendment Act is draconian and instead of curing existing defects in the TG Act 2019, the Impugned Act unlawfully retrogresses by completely altering the definition of ‘transgender person’ to exclude transmen, transwomen, and genderqueer persons; deleting Section 4(2) to strip away the only provision for self-perceived identity; requiring unconstitutional medicalization

by mandating Medical Board screenings and institutional surveillance under amended Sections 6 and 7; and invoking penal by introducing dangerously broad offences under Sections 18(e) to (h) with punishments up to life imprisonment that threaten to criminalize the transgender community's kinship structures, supportive networks, and essential healthcare providers.

30.3.2026

In 17 days, without any further consultation or referral to a Parliamentary Committee, the Bill was passed by both houses and received assent by the President of India which was communicated in the Gazette of India Notification dated 30.3.2026 as the Transgender Persons (Protection of Rights) Amendment Act, 2026. The amended Act has completely changed the definition of 'transgender persons' removed all persons who did not identify with their gender assigned to them at birth, transwomen, transmen, gender queer persons, and to include only socio-cultural identities of *hijra*, *kinnar*, *arvani* and *jogta*, and the derogatory term 'eunuch',

Further, it deletes Section 4(2) of the 2019 Act vide section 3 of the impugned Amending Act which had provided that that transgender persons under the Act have the right to self-perceived identity. It also amends Section 7 of the 2019 Act by now requiring that anyone who undergoes surgery to change their gender is obliged to apply to change their gender to a binary marker (male or female), and the medical institution performing such surgery is obliged to report it to the District Magistrate. Finally, the amended section 18 of the 2019 Act vide section 7 of the Impugned Amending Act introduces new offences that

are unnecessarily broad and vague encompassing anyone who (i) kidnaps someone (ii) causes grievous hurt by procedures like emasculation, castration, surgery or hormonal therapy (iii) with an intent of ‘compelling such person to assume, adopt, or outwardly present a transgender identity against the will or consent of such person, whether by force, allurements, deceit, undue influence or otherwise with punishment up to life imprisonment which have potential for misuse and for creating a chilling effect.

10.04.2026 Hence, this writ petition.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)
WRIT PETITION (CIVIL) NO. OF 2026

IN THE MATTER OF:

1. DR. A

2.

3.

4.

5.

6.

...PETITIONERS

VERSUS

1. UNION OF INDIA Through its
Secretary Ministry of Social
Justice and Empowerment
Government of India, Shastri
Bhawan Dr. Rajendra Prasad
Road New Delhi – 110001

**2. MINISTRY OF LAW AND
JUSTICE**

Through its Secretary
Government of India, Shastri
Bhawan Dr. Rajendra Prasad
Road New Delhi – 110001

**3. MINISTRY OF HEALTH
AND FAMILY WELFARE**

Through its Secretary
Government of India, Nirman
Bhawan New Delhi – 110001

...RESPONDENTS

**A WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA PRAYING, INTER ALIA, FOR ISSUANCE OF
WRIT/ORDER/DIRECTION DECLARING THE TRANSGENDER**

PERSONS (PROTECTION OF RIGHTS) AMENDMENT ACT, 2026
UNCONSTITUTIONAL FOR BEING VIOLATIVE OF ARTICLES 14, 15 (1),
16, 19 AND 21 OF THE CONSTITUTION OF INDIA

TO,

THE HON'BLE CHIEF JUSTICE AND
HIS COMPANION JUDGES OF THE HON'BLE
SUPREME COURT OF INDIA

THE HUMBLE PETITION OF
THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The Petitioners have approached this Hon'ble Court under Article 32 of the Constitution of India as members of the transgender community in India challenging the constitutional validity of the Transgender Persons (Protection of Rights) Amendment Act, 2026 ("**The impugned Act**") which makes sweeping changes to the Transgender Persons (Protection of Rights) Act, 2019 ("**The 2019 Act**" or "**the TG Act**") for being violative of the fundamental rights to dignity, autonomy and privacy guaranteed under Articles 14, 15 (1), 16, 19 and 21 of the Constitution of India and for being in complete contravention of this Hon'ble Court's judgement in *National Legal Services Authority (NALSA) v. Union of India* (2014) 5 SCC 438 in as much as it takes away the right to self-identification, mandates certification from state-appointed medical boards and introduces new criminal offences.

BRIEF FACTS:

2. The Petitioners are all transgender persons, being members of the diverse transgender community in India, and all are working on transgender rights.

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9. It is submitted that the transgender community is among one of the most marginalized communities in the country, and they face extreme social exclusion due to stigma and discrimination based on their gender identity, lack of education facilities, unemployment, lack of medical facilities, housing and violence at the hands of family and society. The discrimination based on their class and gender makes the transgender community one of the most disempowered and deprived groups in the country.

10. For the first time, the constitutional rights of transgender persons were recognized by this Hon'ble Court in *National Legal Services Authority v. Union of India & Ors.*, (2014) 5 SCC 438, This Hon'ble Court held that gender identity is an important aspect of one's personal identity and is inherent to a person. It was held that transgender persons have the right to express their self-identified gender by way of speech, mannerism, behaviour, presentation and clothing, etc. This Hon'ble Court also noted that like gender identity, sexual orientation is integral to one's personality, and is a basic aspect of self-determination, dignity and freedom. It held that all persons have the right to self-identification of gender identity as *against* the biological or medical model, and held that all persons have the right to self-identify one's gender identity as male, female or transgender. In paragraph 75 and 76, this Hon'ble Court observed as follows:

“75. As already indicated, we cannot accept the Corbett principle of “Biological Test”, rather we prefer to follow the psyche of the person in determining sex and gender and prefer the “Psychological Test” instead of “Biological Test”

...

*Gender identity as already indicated forms the core of one's personal self, **based on self-identification, not on surgical or medical procedure.**" (emphasis supplied)"*

11. This Hon'ble Court further held that both gender and biological attributes constitute distinct components of sex and that while biological characteristics, of course, include genitals, chromosomes and secondary sexual features, but gender attributes include one's self-image, the deep psychological or emotional sense of sexual identity and character. It held that discrimination on the ground of 'sex' under Articles 15 and 16, therefore, includes discrimination on the ground of gender identity. It then directed the Union Government to enforce the rights of transgender persons, particularly the right to self-identification of gender identity and held as follows:

"135. We, therefore, declare:

135.1. Hijras, eunuchs, apart from binary genders, be treated as "third gender" for the purpose of safeguarding their rights under Part III of our Constitution and the laws made by Parliament and the State Legislature.

135.2. Transgender persons' right to decide their self-identified gender is also upheld and the Centre and State Governments are directed to grant legal recognition of their gender identity such as male, female or as third gender.

135.3. We direct the Centre and the State Governments to take steps to treat them as Socially and Educationally Backward Classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments. 135.4. The Centre and State Governments are directed to operate separate HIV sero-surveillance

centres since hijras/transgenders face several sexual health issues. 135.5. The Centre and State Governments should seriously address the problems being faced by hijras/transgenders such as fear, shame, gender dysphoria, social pressure, depression, suicidal tendencies, social stigma, etc. and any insistence for SRS for declaring one's gender is immoral and illegal.

135.6. The Centre and State Governments should take proper measures to provide medical care to TGs in the hospitals and also provide them separate public toilets and other facilities.

135.7. The Centre and State Governments should also take steps for framing various social welfare schemes for their betterment.

135.8. The Centre and State Governments should take steps to create public awareness so that TGs will feel that they are also part and parcel of the social life and be not treated as untouchables.

135.9. The Centre and the State Governments should also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life.”

12. Following the judgement laid down in *NALSA*, the right to self-identification of gender identity has been solidified and affirmed in subsequent judgements of this Hon’ble Court. In *K.S. Puttaswamy and Another v. Union of India and Others* (2017) 10 SCC 1 the 9-judge constitutional bench re-iterated that the right to privacy includes the right to one’s self-identification of gender identity, and stated as follows:

“NALSA indicates the rationale for grounding of a right to privacy in the protection of gender identity within Article 15. The intersection of Article 15 with Article 21 locates a constitutional right to privacy as an

expression of individual autonomy, dignity and identity. NALSA indicates that the right to privacy does not necessarily have to fall within the ambit of any one provision in the chapter on fundamental rights.

.....

“Privacy has not been couched as an independent fundamental right. But that does not detract from the constitutional protection afforded to it, once the true nature of privacy and its relationship with those fundamental rights which are expressly protected is understood. Privacy lies across the spectrum of protected freedoms. The guarantee of equality is a guarantee against arbitrary state action. It prevents the state from discriminating between individuals. The destruction by the state of a sanctified personal space whether of the body or of the mind is violative of the guarantee against arbitrary state action. Privacy of the body entitles an individual to the integrity of the physical aspects of personhood. The intersection between one’s mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. When these guarantees intersect with gender, they create a private space which protects all those elements which are crucial to gender identity.”

13. Thereafter a 5-judge Constitutional Bench of this Hon’ble Court in *Navtej Singh Johar and others v. Union of India* (2018) 10 SCC 1, held that the right to self-determine one’s gender identity is an integral part of one’s right to life, dignity and autonomy.

14. During this time, the Respondent Union of India, in 2016 introduced the Transgender Persons (Protection of Rights) Bill, 2016 in the Lok Sabha on 2.8.2016. The 2016 Bill had several deficiencies, especially the definition of ‘transgender person’, and was thereafter referred to the Standing Committee on Social Justice and Empowerment which produced its Report dated 19.7.2017. The Committee Report, on the specific definition given to “transgender persons” under the 2016 Bill noted that the definition as it stood in the 2016 Bill failed to incorporate the right to self-determination. It recommended as follows:

“1.13 The Committee feels that the definition of 'transgender person' will be the fulcrum of any legislation on transgender rights and welfare and the whole law would depend on the scope of this definition. The Committee feel that the proposed definition of 'transgender person' in the Bill is in stark contrast to global developments, where transgender persons have been granted the right to self-determine and to seek benefits according to such identity/expression. More so, it not only violates the fundamental rights to equality, dignity, autonomy but also freedom of transgender persons guaranteed under Articles 14, 19 and 21 of the Constitution.”

1.26 The Committee, therefore, are of considered view that the proposed definition of transgender person not only takes away the right to self-determined gender identity which was guaranteed by the Hon'ble Supreme Court in NALSA judgement but also adversely effects significant part of the transgender population - specially pre-op/non-op transmen and transwomen, trans people who cannot or do not wish to undergo surgical interventions, gender fluid, gender neutral, and intergender persons.

1.27 In view of the foregoing, the Committee conclude that a transgender person should have the option to choose either 'man', 'woman' or 'transgender' as well as have the right to choose any of the options independent of surgery/hormones. The Committee, therefore, recommend that Clause 2(i) of the Bill may be reframed as under:

"transgender person" means a person whose gender does not match with the gender assigned to that person at birth and includes trans-men and trans-women (whether or not they have undergone sex reassignment surgery or hormone therapy or laser therapy etc.), gender-queers and a number of sociocultural identities such as - kinnars, hijras, aravanis, jogtas etc".

15. Ultimately the Committee in its Report had recorded that the Bill completely misunderstands trans identities and severely restricts the constitutionally guaranteed right of transgender persons to self-identify, which *NALSA* has upheld (Para 1.24) and not only takes away the right to self-determined gender identity which was guaranteed by the Hon'ble Supreme Court in *NALSA* judgement but also adversely effects significant part of the transgender population - specially pre-op/non-op transmen and transwomen, trans people who cannot or do not wish to undergo surgical interventions, gender fluid, gender neutral, and intergender persons (Para 1.26). The Committee further went on to consider the process for certification as envisioned in the Bill and noted that any procedure for 'identification of transgender persons' which goes beyond self-identification, and is likely to involve an element of medical, biological or mental assessment, would violate transgender persons' rights under Article 19 and 21 of the Constitution. (Para 3.7).

A copy of the Forty-Third Report of the Standing Committee on Social Justice and Empowerment (2016-2017) dated 21.7.2017 is annexed hereto and marked as **ANNEXURE -P- 7 (Pages 91-220)**

16. While the 2016 Bill was not passed, after the above developments, the Transgender Persons (Protection of Rights) Act, 2019 (TG Act 2019”) was introduced, which incorporated the definition of ‘transgender persons’ in accordance with the judgement of this Hon’ble Court in *NALSA* and also as laid down by the Standing Committee in its Report and recommendations. The TG Act 2019 was passed with specific and explicit provisions to recognize and give legislative recognition to the right to self-perceived gender identity incorporated through Sections 2(k), 4(2), (6) and (7) specifically providing for a broad definition of ‘transgender person’. That the unamended provisions are reproduced herein below:

Sec. 2(k) “transgender person” means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.

7. *Recognition of identity of transgender person.—*

(1) A transgender person shall have a right to be recognised as such, in accordance with the provisions of this Act.

(2) A person recognised as transgender under sub-section (1) shall have a right to self-perceived gender identity.

6. *Issue of certificate of identity.—*

- 1) *The District Magistrate shall issue to the applicant under section 5, a certificate of identity as transgender person after following such procedure and in such form and manner, within such time, as may be prescribed indicating the gender of such person as transgender.*
- 2) *The gender of transgender person shall be recorded in all official documents in accordance with certificate issued under sub-section*
- 3) *A certificate issued to a person under sub-section (1) shall confer rights and be a proof of recognition of his identity as a transgender person.*

7. *Change in gender.—*

- 1) *After the issue of a certificate under sub-section (1) of section 6, if a transgender person undergoes surgery to change gender either as a male or female, such person may make an application, 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 surgery, to the District Magistrate for revised certificate, in such form and manner as may be prescribed.*
- 2) *The District Magistrate shall, on receipt of an application along with the certificate issued by the Medical Superintendent or Chief Medical Officer, and on being satisfied with the correctness of such certificate, issue a certificate indicating*

change in gender in such form and manner and within such time, as may be prescribed.

(3) The person who has been issued a certificate of identity under section 6 or a revised certificate under sub-section (2) shall be entitled to change the first name in the birth certificate and all other official documents relating to the identity of such person: Provided that such change in gender and the issue of revised certificate under sub-section (2) shall not affect the rights and entitlements of such person under this Act.

17. The definitions given above to ‘transgender persons’ ensured that definition is as per the guarantees in *NALSA* and that transgender remains an umbrella term that is inclusive of all gender identities which includes any person who does not identify with the gender assigned to them at birth and includes transmen, transwomen and genderqueer persons. In addition to the above provisions, the TG Act 2019 provided for non-discrimination in employment, education, health care and the setting up of the National Council for transgender persons. Thereafter the Transgender Persons (Protection of Rights) Rules, 2020 were passed, which laid down the procedure for obtaining a certificate of identity for transgender persons, and the provision of welfare measures, education, social security and health of transgender persons by appropriate Government.

A copy of the Transgender Persons (Protection of Rights) Act 2019 is annexed hereto and marked as **ANNEXURE P-8 (Page Nos. 221-228)**.

A copy of The Transgender Persons (Protection of Rights) Rules, 2020 is annexed hereto and marked as **ANNEXURE P- 9 (Page Nos. 229-243)**.

18. That after the TG Act 2019 was enacted and the Rules were framed in 2020, there were petitions filed both before this Hon'ble Court in W.P. (C) No. 406 of 2020 titled as "Grace Banu Ganesan & Ors. vs Union of India & Ors" and before some of the High Courts, being W.P. No. 11679 / 2020 (before the Hon'ble High Court of Karnataka), challenging some provisions of the TG Act 2019 as being in direct violation of the judgement in NALSA with regard to recognition of gender identity, denying transgender persons the choice to live in any alternative arrangement outside of their family, which was often a place of violence, and also sections which criminalized certain acts as offences, on the ground of being vague and therefore, be applied against the interests of the transgender community in an arbitrary manner, and also on the ground that the maximum penalty for sexual abuse committed against transgender persons was capped at two years' imprisonment, whereas, for similar offences committed against women under the Indian Penal Code, 1860 at that time, was between three years to life imprisonment, which are still pending.
19. Thereafter, since the passing of the TG Act 2019, there have been several developments to extend rights, entitlements and protections to transgender persons. However, despite the enactment of the 2019 Act and several judgements from the High Courts and Supreme Courts, several of its provisions remained unenforced and there was still entrenched stigma amongst law enforcement and healthcare professionals against the transgender community and there continued to be challenges faced by transgender individuals. It was in fact, in recognition of these challenges that that Respondent No. 1 Union had on 24.3.2021 launched the online National

Portal for Transgender Persons to ensure that the process of certification is done for transgender persons.

A copy of the National Portal for Transgender Persons homepage is annexed hereto and marked as **ANNEXURE P- 10 (Pages Nos. 244)**

20. In a similar vein, the Ministry of Health and Family Welfare issued guidelines which clarify that access to hormones, surgery or other types of gender affirming care must be available to those who express a difference between their gender identity and their gender assigned at birth, and recognised the diversity in kinds of persons who experience gender incongruence, which is not limited to the categories defined in the impugned Amending Act, but also include transgender men and women, among others.

A copy of the Guidelines issued by the Ministry of Health and Family Welfare dated 03.09.2024 is annexed hereto and marked as **ANNEXURE P-11 (Pages Nos. 245 - 258)**

21. While things stood thus, suddenly in March 2026, without any prior consultation or reasoning, The Transgender Persons (Protection of Rights) Amendment Bill, 2026 (“The 2026 Amendment Bill”) was introduced by the Respondents, to completely restrict the coverage of the TG Act 2019. The Bill in its Statement of Objects and reasons stated as follows:

“STATEMENT OF OBJECTS AND REASONS

- 1. It is the legislative policy to recognise a specific class of transgender persons, who face social issues and to create a regime for their protection. The legislative policy was and is intended to protect only those who face severe social exclusion due to biological reasons for no fault of their own and no choice of their own.*

2. *Over the course of time, during the implementation of this enactment, certain doubts and difficulties have arisen and are likely to arise with regard to the expanse of the definition of transgender persons and how the identification of such persons is to be done under the existing definition. This is critical to the implementation of the Act, as it is of prime importance that the enactment is utilised and works towards only those who are in actual need of such protection.*
3. *The intent, object and purpose of the Act is and was to protect a specified class of persons socially and culturally known as transgender people who face societal discrimination of an extreme and oppressive nature. The purpose was and is not to protect each and every class of persons with various gender identities, selfperceived sex/gender identities or gender fluidities.*
4. *The existing vague definition of the expression “transgender person” not only makes it impossible to identify the genuine oppressed persons to whom the benefits of the Act are intended to reach, but also makes the operation and enforcement of several provisions under penal, civil and personal laws unworkable. Such a vague and broad definition of the expression “transgender person” is found to have created complex issues in the working of statutory enactments, as this vague definition is not compatible with several statutory provisions of several enactments enacted both by the Parliament and the State Legislatures. Any enactment conferring rights, privileges and protections cannot have a definition clause whereby the status entitling such rights, privileges and protections can be acquired.*

5. *It is therefore imperative to give a precise definition for proper and definitive identification and protection of transgender persons to whom the benefits of the Act must reach. The protection and benefits that are provided under the Act are vast in nature, and therefore, care has to be taken that such identification cannot be extended on the basis of any acquirable characteristics or personal choice or claimed self-perceived identity of an individual.*
6.
7. *The Transgender Persons (Protection of Rights) Act, 2019 prohibits discrimination and abuse against transgender persons but its penal provision under section 18, as presently enacted, addresses only general wrongs and criminal offences and prescribes a maximum of two years' imprisonment. It does not adequately address offences of exceptional gravity that have been documented in practice. The abduction of adults and children, the infliction of reversible or irreversible bodily harm upon them through mutilation, emasculation, castration, hormone therapies / other similar therapies or chemical alteration, and their forced assumption of a transgender identity, frequently as a prelude to economic and other forms of exploitation including but not limited to begging or servitude has been observed. While scattered provisions of the Bharatiya Nyaya Sanhita, 2023 and the Juvenile Justice (Care and Protection of Children) Act, 2015 address individual elements of these wrongs, no existing provision treats this conjunction of abduction, permanent bodily harm, and forced identity as a unified penal approach.*

8. *The Bill, therefore, also proposes to substitute section 18 of the principal Act, creating specific offences with graded punishments that reflect the gravity of the harm, the irreversibility of the injury, and the particular vulnerability of child victims. The proposed provisions operate cumulatively with the general criminal law and give legislative expression to the constitutional guarantees that every person's bodily integrity is inviolable, that no person may be subjected to forced labour or traffic in human beings.*

A copy of the Transgender Persons (Protection of Rights) Amendment Bill 2026 is annexed hereto and marked as **ANNEXURE – P-12 (Page Nos. 259-270)**

22. The above Statement of Objects and reasons shows that it is based on allegations of misuse, which are not substantiated with any data or evidence of such misuse or implementational hurdles. Further, there was no public consultation on the Bill, which introduced drastic changes to the existing TG Act and to the definition of ‘transgender person’.
23. Thereafter the Bill was introduced in the Lok Sabha on 13.03.2026 and passed on 24.03.2026 and subsequently passed the Rajya Sabha on 25.03.2026. It received the president's assent on 30.03.2026 and was published in the Gazette on the same day as the Transgender Persons (Protection of Rights) Amendment Act 2026 (“Amendment Act”).

A copy of the Transgender Persons (Protection of Rights) Amendment Act, 2026 is annexed hereto and marked as **ANNEXURE – P-13 (Page Nos. 271-275)**

24. The Impugned Amendment Act makes the following changes to the 2019 Act:

Section amending	2019 Act	Amendment Act 2026
Section 2(ii)	None	Section 2 '(aa) "authority" means a medical board, headed by a Chief Medical Officer or a Deputy Chief Medical Officer, as may be appointed by the Central Government, State Government or Union territory Administration;';
Section 2(iii)	Section 2(i) "person with intersex variations" means a person who at birth shows variation in his or her primary sexual characteristics,	Omitted

	external genitalia, chromosomes or hormones from normative standard of male or female body;	
Section 2(iv)	Section 2(k) "transgender person" means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such	Section 2(k) "transgender person" means— (i) a person having such socio-cultural identities as <i>kinner</i> , <i>hijra</i> , <i>aravani</i> and <i>jogta</i> , or eunuch, or a person with intersex variations specified below or a person who, at birth, has a congenital variation in one or more of the following sex

	<p>socio-cultural identities as <i>kinner</i>, <i>hijra</i>, <i>aravani</i> and <i>jogta</i>.</p>	<p>characteristics as compared to male or female development:—</p> <p>(a) primary sexual characteristics;</p> <p>(b) external genitalia;</p> <p>(c) chromosomal patterns;</p> <p>(d) gonadal development;</p> <p>(e) endogenous hormone production or response, or such other medical conditions; or</p> <p>(ii) any person or child who has been, by force, allurement, inducement, deceit or undue influence, either</p>
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		<p>with or without consent, compelled to assume, adopt, or outwardly present a transgender identity, by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure or otherwise:</p> <p>Provided that it shall not include, nor shall ever have been so included, persons with different sexual orientations and self-perceived sexual identities.</p>
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Section 3	Section 4(2) A person recognised as transgender under sub-section (1) shall have a right to self-perceived gender identity.	Omitted
Section 4(a)	Section 6 (1) The District Magistrate shall issue to the applicant under section 5, a certificate of identity as transgender person after following such procedure and in such form and manner, within such time, as may be prescribed indicating the gender of such person as transgender.	Section 6 (1), for the words “District Magistrate”, the words “District Magistrate, after examining the recommendation of the authority and, if he considers either necessary or desirable, after taking the assistance of other medical experts” shall be

		substituted;
Section 4(b)	No equivalent subsection.	In section 6 - “(4) The person who has been issued a certificate of identity under subsection (1) and is so declared as a transgender person within the definition under this Act shall be entitled to change the first name in the birth certificate and all other official documents relating to the identity of such person.”
Section 5(a)	Section 7 (1) After the issue of a certificate under sub-	(a) in sub-section (1), for the words “such person may”, the words

	<p>section (1) of section 6, if a transgender person undergoes surgery to change gender either as a male or female, such person may make an application, 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 surgery, to the District Magistrate for revised certificate, in such form and manner as may be prescribed.</p>	<p>“such person shall” shall be substituted;</p>
Section 5(b)	No equivalent clause	In section 7- “(1A) The medical

		<p>institution in which the person who has undergone surgery to change gender, either as male or female, shall furnish the details of such person to the concerned District Magistrate and the authority in such form and manner as may be prescribed.”</p>
Section 5(c)	<p>Section 7 (2) The District Magistrate shall, on receipt of an application along with the certificate issued by the Medical Superintendent or Chief Medical Officer, and on being satisfied with</p>	<p>In section 7 - “(2) A person referred to in sub-section (1) shall also make an application to the District Magistrate who shall, on receipt of an application along with the</p>

	<p>the correctness of such certificate, issue a certificate indicating change in gender in such form and manner and within such time, as may be prescribed.</p>	<p>certificate issued by the Medical Superintendent or Chief Medical Officer, and on being satisfied with the correctness of such certificate, issue a certificate indicating change in gender in such form and manner and within such time, as may be prescribed.”;</p>
Section 5(d)	<p>Section 7 (3) The person who has been issued a certificate of identity under section 6 or a revised certificate under sub-section (2) shall be entitled to change the first name in the birth certificate</p>	Omitted

	<p>and all other official documents relating to the identity of such person:</p> <p>Provided that such change in gender and the issue of revised certificate under subsection (2) shall not affect the rights and entitlements of such person under this Act.</p>	
Section 7	<p>Section 18.</p> <p>Whoever,—</p> <p>(a) compels or entices a transgender person to indulge in the act of forced or bonded labour other than any compulsory service for public purposes imposed by Government;</p>	<p>Sections 18 (e), (f), (g) and (h) added:</p> <p>(e) kidnaps or abducts any adult person and causes—</p> <p>(i) grievous hurt to such person, whether by mutilation,</p>

	<p>(b) denies a transgender person the right of passage to a public place or obstructs such person from using or having access to a public place to which other members have access to or a right to use;</p> <p>(c) forces or causes a transgender person to leave household, village or other place of residence; and</p> <p>(d) harms or injures or endangers the life, safety, health or well-being, whether mental or physical, of a transgender person or tends to do acts including causing physical abuse, sexual abuse, verbal and emotional abuse</p>	<p>emasculatation, castration, amputation, or any surgical, chemical, or hormonal procedure; or</p> <p>(ii) permanent or severe injury to the body or bodily functions of such person, with the intent of, or in the course of, compelling such person to assume, adopt, or outwardly present a transgender identity against the will or consent of such person, whether by force, allurement, deceit, undue influence or otherwise, shall be punishable with</p>
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	<p>and economic abuse, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine.</p>	<p>rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than two lakh rupees;</p> <p>(f) kidnaps or abducts any child and causes—</p> <p>(i) grievous hurt to such child, whether by mutilation, emasculation, castration, amputation, or any surgical, chemical, or</p>
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		<p>hormonal procedure; or</p> <p>(ii) permanent or severe injury to the body or bodily functions of such child, with the intent of, or in the course of, compelling such child to assume, adopt, or outwardly present a transgender identity, whether by force, allurements, deceit, undue influence or otherwise, shall be punishable with rigorous imprisonment for life, and shall also be liable to fine which shall not be</p>
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		<p>less than five lakh rupees;</p> <p>(g) by force, threat, coercion, allurement, deception, inducement, or undue influence—</p> <p>(i) compels any person, whether or not such person is a transgender person, to dress, present, or conduct themselves outwardly as a transgender person against the will of such person; and</p> <p>(ii) employs, uses, or causes such person to engage in begging, solicitation,</p>
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		<p>servitude, or any other form of forced or bonded labour while so presenting, shall be punishable with rigorous imprisonment for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees; and</p> <p>(h) by force, threat, coercion, allurement, deception, inducement, undue influence or otherwise—</p>
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		<p>(i) compels any child, whether or not such child is a transgender person, to dress, present, or conduct themselves outwardly as a transgender person; and</p> <p>(ii) employs, uses, or causes such child to engage in begging, solicitation, servitude, or any other form of forced or bonded labour while so presenting, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which</p>
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		may extend to fourteen years, and shall also be liable to fine which shall not be less than three lakh rupees.”
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25. The Amendment Act has been passed in complete disregard of the judgements of the Hon’ble Court and the lived realities of transgender persons. The Petitioners herein are transgender persons many of whom have now been completely excluded from the coverage of the TG Act 2019 due to the Amendment Act. The definition excludes transmen, transwomen and genderqueer persons, and those who do not identify with the gender assigned to them at birth. Some of the Petitioners have already obtained TG identity Cards under the TG Act 2019, and are undergoing medical treatment for affirming their gender identity. Some of the Petitioners are still applying for their certificates of identity cards under the TG Act. The Amendment Act would not allow them to get their ID cards or carry on with their medical treatment, as they now do not fall under the definition of ‘transgender persons’ under the law. The Amendment Act seeks to undo judicial precedents and legislative and policy developments that have ensured the fundamental rights of gender minorities in the country. The Amended Act has completely changed the definition of ‘transgender’ to include only persons from socio-cultural identities of *hijra*, *kinnar*, *arvani* and *jogta*, and intersex persons, and excluding all other persons including transgender men, transgender women, persons who do not identify with the gender assigned at birth, genderqueer persons, all other trans persons who do not belong to these socio-cultural

groups, thus completely leaving the Petitioners out of the purview of the TG Act 2019.

26. Further, the Amendment Act deletes Section 4(2) of the 2019 Act vide section 3 of the impugned Amending Act that removes a clause clarifying that transgender persons have the right to self-perceived identity. It also amends Section 7 of the 2019 Act which was already problematic, by requiring surgery. However, by now requiring that anyone who undergoes surgery to report their surgery to the District Magistrate.
27. Finally, the Amendment Act introduces new penal offences that are extremely broad and vague encompassing anyone who (i) kidnaps someone (ii) causes grievous hurt by procedures like emasculation, castration, surgery or hormonal therapy (iii) with an intent of ‘compelling such person to assume, adopt, or outwardly present a transgender identity against the will or consent of such person, whether by force, allurement, deceit, undue influence or otherwise’ with punishment up to life imprisonment. These sections are extremely broad and vague and therefore would be used to criminalize the Petitioners, including members of the hijra community, transgender community networks, kinship networks, supportive parents, medical workers providing gender-affirming care or social organisations and workers who support transgender persons.
28. In view of the foregoing this Writ Petition is being filed on the following, amongst other grounds:

GROUND

29. **THAT** the Amendment Act 2026 amounts to a serious violation of the Petitioners' fundamental rights under Articles 14, 15(1), 16, 19 and 21 of the constitution and deserves to be held as ultra vires of the constitution and set aside.

I. **UNCONSTITUTIONAL AND ARBITRARY EXCLUSIONS FROM THE DEFINITION OF 'TRANSGENDER PERSONS'**

30. **THAT** the Amendment Act under Section 2(k) completely changes the definition of 'transgender person' that has been used under the TG Act since 2019 and is now limited only to persons from "socio-cultural identities" of *hijra, kinnar, aravani, jogta* and 'eunuch', persons with intersex variations and persons compelled to present as transgender. The definition completely excludes the Petitioners who were earlier included under the definition of 'transgender person' as "*a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta*" under Section 2 (k) of the TG Act 2019. Such restriction completely negates the Petitioners' identities, from the coverage of the law, and thus the Amendment Act deserves to be set aside.

31. **THAT** the impugned Amending Act by amending the definition of 'transgender person' goes against the definition given to the same, by the Hon'ble Supreme Court in *NALSA v. Union of India*, (2014) 5 SCC 438 wherein it was held that:

“Gender identity refers to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body which may involve a freely chosen, modification of bodily appearance or functions by medical, surgical or other means and other expressions of gender, including dress, speech and mannerisms. Gender identity, therefore, refers to an individual’s self-identification as a man, woman, transgender or other identified category.” [para 19]

32. **THAT** the impugned Amendment Act by deleting Section 4(2) of the TG Act which protected self-perceived gender identity, is in complete violation of the judgement in *NALSA v. Union of India*, (2014) 5 SCC 438. The deletion of Section 4(2) entirely removes the statutory protection of self-perceived identity. This creates a complete retrogression in law, stripping away even the idea of self-perceived gender identity. That the aforesaid is an affront to the principle that self-identification is the basis of gender identity as held by this Hon’ble Court in *NALSA* (Supra), the relevant portion of the judgement is reproduced hereunder:

*“We therefore, hold that values of privacy, **self-identity, autonomy and personal integrity are fundamental rights guaranteed to members of the transgender community under Article 19(1)(a)** of the Constitution of India and the State is bound to protect and recognize those rights.”*
[para 66]

*“**Self-determination of gender is an integral part of personal autonomy and self-expression and falls within the realm of personal liberty guaranteed under Article 21** of the Constitution of India.” [para 69]*

“(2) Transgender persons’ right to decide their self-identified gender is also upheld and the Centre and State Governments are directed to grant legal recognition of their gender identity such as male, female or as third gender.” [para 129]

Thus, by completely changing the definition of transgender persons to exclude from the definition which included persons who did not identify with the gender assigned to them at birth, amounts to a complete denial of the Petitioners’ right to gender identity as held by this Hon’ble Court under NALSA and deserves to be set aside.

33. **THAT** the definition by completely excluding transgender persons who do not belong to any socio-cultural identity, the Amendment Act has completely ignored a large section of the transgender community such as the Petitioners, who are transgender women and transgender men, and others, who were earlier covered under the TG Act, and were also clearly recognised by the law. Further, the Hon’ble Supreme Court in NALSA (Supra) explicitly stated that transmen should not be excluded from the coverage of the law and held:

*“Discussion on gender identity including self-identification of gender of male/female or as transgender mostly focuses on those persons who are assigned male sex at birth, whether one talks of Hijra transgender, woman or male or male to female transgender persons, **while concern voiced by those who are identified as female to male trans-sexual persons often not properly addressed. Female to male unlike Hijra/transgender persons are not quite visible in public unlike Hijra/transgender persons. Many of them, however, do experience***

violence and discrimination because of their sexual orientation or gender identity.” [para 46]

The Amendment Act by only covering persons falling under the socio-cultural identities and intersex persons, completely excludes transgender men, or transmasculine identities, and excludes them from getting legal recognition of their gender identity and from the coverage of the law, which provides protection and non-discrimination and hence, violates the fundamental rights under Articles 14, 15, 19 and 21 of the Petitioners.

34. **THAT** the Amendment Act is manifestly arbitrary and therefore in violation of Article 21 as per the test laid down in *Shayara Bano v Union of India*, AIR 2017 SC 4609:

“The test of manifest arbitrariness, therefore, as laid down in the aforesaid judgments would apply to invalidate legislation as well as subordinate legislation under Article 14. Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary.” [para 55]

The definition of ‘transgender persons’ under the Act, the inclusion of new criminal offences under the Amendment Act includes categories and excludes categories in a classification that is capricious, irrational and/or without adequate determining principle. First, there is no constitutional basis for excluding people from the definition of ‘transgender persons’ who were earlier covered under the 2019 Act, which included persons who do not

identify with their gender assigned at birth, and included transmen, transwomen, and gender queer persons, particularly since this was the definition decided by this Hon'ble Court. Second, the definition includes within its scope those who were 'compelled' to present as transgender, thereby itself forcing people to identify as transgender without respecting their agency. Such exclusions and classifications are manifestly arbitrary and without application of mind and amounts to a violation of Article 14 and deserves to be struck down.

35. **THAT** the Amendment Act, by creating a distinction in the amended section 2(k) between transgender persons who fall within socio-cultural identities and are intersex, and other transgender persons who self-determine their gender identity, are transgender men or transgender women, or genderqueer, makes a classification amongst transgender person, and excludes an entire section of the transgender community from the coverage of the law. Such a classification is unreasonable and bears no rational nexus with the purpose of the law, which is to protect and recognise all transgender persons, and cannot be meant for the coverage of only a section of the transgender community and is violative of Article 14 of the constitution and deserves to be struck down.

36. **THAT** the impugned Act systematically excludes gender non-binary and genderqueer persons from the protective umbrella of the law, thereby being in direct contravention of this Hon'ble Court's judgement in *Jane Kaushik v. Union of India*, 2025 INSC 1248 wherein this Hon'ble Court has held that the State's failure to adapt administrative machinery to recognize and include non-binary identities constitutes omissive discrimination, and specifically directed this aspect to be considered. By removing the right to self-identify

one's gender identity, the Amendment Act creates a procedural impossibility for non-binary and gender diverse citizens to access public employment, education, healthcare and all other entitlements and thus deserves to be set aside.

II. COMPLETE DENIAL OF THE RIGHT TO SELF-PERCEIVED GENDER IDENTITY, WHICH IS IN VIOLATION OF THE RIGHT TO AUTONOMY AND THE RIGHT TO LIFE:

37. THAT the impugned Act is violative of Article 21 of the Constitution of India in as much as it violates the right to self-determination and therefore personal autonomy and personal liberty as guaranteed under Article 21 of the Constitution of India.

38. THAT this Hon'ble Court have held that the recognition of gender identity lies at the heart of the fundamental right to dignity and legal recognition of gender identity is, therefore, part of right to dignity and freedom guaranteed under Article 21 of the Constitution. The Hon'ble Court in *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 to include gender identity and sexual orientation. It held,

“Privacy enables the individual to retain the autonomy of the body and mind. The autonomy of the individual is the ability to make decisions on vital matters of concern to life. Privacy has not been couched as an independent fundamental right. But that does not detract from the constitutional protection afforded to it, once the true nature of privacy and its relationship with those fundamental rights which are expressly protected is understood. Privacy lies across the spectrum of protected

freedoms. The guarantee of equality is a guarantee against arbitrary state action. It prevents the state from discriminating between individuals. The destruction by the state of a sanctified personal space whether of the body or of the mind is violative of the guarantee against arbitrary state action. Privacy of the body entitles an individual to the integrity of the physical aspects of personhood. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. When these guarantees intersect with gender, they create a private space which protects all those elements which are crucial to gender identity. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual. Above all, the privacy of the individual recognises an inviolable right to determine how freedom shall be exercised” (para 169)

39. **THAT** Article 141 of the Constitution of India states that law declared by this Hon'ble Court shall be binding on all courts within the territory of India and hence the directions of this Hon'ble Court in *NALSA* to provide reservations for transgender persons in public employment have to be guaranteed. This is to ensure certainty and continuity in the interpretation of the law across the country as required by the legal doctrine of *stare decisis*. This Hon'ble Court in the case of *Priya Gupta and Ors. vs. Addl. Secy. Ministry of Health and Family Welfare and Ors* (2013) 11 SCC 404 held that, “The orders passed by this Court are the law of the land in terms of Article 141 of the Constitution of India. No Court or Tribunal and for that matter any other authority can ignore the law stated by this Court.”

40. **THAT** the Amendment Act in excluding a vast spectrum of gender-diverse individuals by taking away the right to self-identify has created a legal vacuum wherein entire categories of gender minorities have been rendered without any protection, rights and entitlements previously extended to them.

41. **THAT** in *Arunkumar v Inspector General of Registration*, judgment dated 22.04.2019 in WP (MD) No. 4125 of 2019, the Hon'ble Madras High Court held that a transgender or intersex woman who identifies as a woman can register her marriage with a man under the Hindu Marriage Act, 1955:

“Seen in the light of the march of law, the expression ‘bride’ occurring in Section 5 of the Hindu Marriage Act, 1955 will have to include within its meaning not only a woman but also a transwoman. It would also include an intersex person/transgender person who identifies herself as a woman. The only consideration is how the person perceives herself.”
[para 15]

Therefore, the Madras High Court has affirmed the right to self-determine gender extends to all legal entitlements including marriage. All of these rights would now be denied to the Petitioners and such exclusions amount to violation of the Petitioners' rights under Article 14 and 15 of the constitution.

42. **THAT** the Hon'ble Karnataka High Court has also upheld and implemented the right to self-determine one's gender in the case of *Ms. X v State of Karnataka*, in judgment dated 20.12.2024 in WP No 55559 of 2017 (GM-RES), wherein the Hon'ble High Court held that the Respondent State authorities are bound to change the name and gender on the birth certificate of the petitioner as per the intent of the 2019 Transgender Act and the rights

under the Constitution. The Hon'ble Karnataka High Court recommended that the 2019 Act was a special enactment and other statutes ought to be amended or read in compliance with it:

“There is an obligation in terms of Section 8 of the Transgender Act on the government to safeguard the interest of the Transgenders, one of the modes and methodologies for such protection being the implementation of the mandate of Section 4 to 7 of the Transgenders Act, the Government would have to carry out necessary amendments to the Act of 1969 and Rules framed thereunder to give effect to the Transgenders Act and establish necessary procedures required to be followed, to give effect to the purpose and intent and mandate of the special laws, namely the Transgender Act.” [para 42]

The impugned Amendment Act removes the main thrust and purpose of the 2019 Act which was to implement and give shape to the constitutional rights of transgender persons and therefore frustrates the established doctrines and principles of law on gender identity held in several cases by this Hon'ble Court and High Courts across various jurisdictions.

III. MEDICALIZATION OF GENDER IDENTITY

- 43. THAT** the Amendment Act through the amended Section 6 gives the District Magistrate the discretion to refuse applications for change of gender identity and to decide on the same only after obtaining a certificate from a medical board, and medical experts and aggressively worsens this process for transgender persons by introducing a mandatory Medical Board. Hence, making the issuance of the identity certificate to transgender persons dependent on various undefined third parties, medical examinations and vague and arbitrary criteria which would amount to a violation of a person's

right to self-determine their gender identity and autonomy guaranteed under Article 21 of the constitution. That the impugned Amendment Act also states in Section 7 that if a transgender person undergoes surgery to change their gender identity to male or female, it can be done only after medical reassignment and is now mandatory to apply for a revised certificate, taking away even the option to self-determine whether one wishes to undergo the state certification process. This amounts to a complete violation of the right to self-determination of one's gender identity upheld by this Hon'ble Court in *NALSA* which held that there is no need to undergo any medical procedure in order for a transgender person to exercise their right to identify their gender under Articles 19(1)(a) and 21 of the Constitution:

*“Each person’s self-defined sexual orientation and gender identity is integral aspects of self-determination, dignity and freedom and **no one shall be forced to undergo medical procedures, including SRS, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity.**” [para 22]*

*“Gender identity as already indicated forms the core of one’s personal self, based on self-identification, **not on surgical or medical procedure.**” [para 82]*

44. **THAT** the Amendment Act is in complete violation of the ruling of this Hon'ble Court in *NALSA* which has explicitly clarified the test for gender identity to be the psychological test and not the medical model and held:

“As already indicated, we cannot accept the Corbett principle of “Biological Test”, rather we prefer to follow the psyche of the person in determining sex and gender and prefer the “Psychological Test” [para 75]

45. **THAT** The Amendment Act under section 7 requires all medical institutions to furnish details of gender affirmative surgeries undertaken by persons to the District Magistrate, by creating mandatory surveillance. Such a provision is a blatant violation of the right to privacy under Article 21 by sharing personal data of persons who intend to undergo surgery with the State, without their consent and without any legitimate aim or compelling state interest. This would also violate the right to privacy of the Petitioners. As held by this Hon'ble Court in *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1, the right to privacy over personal data was upheld, which would also encompass medical data:

“The sphere of privacy stretches at one end to those intimate matters to which a reasonable expectation of privacy may attach. It expresses a right to be left alone. A broader connotation which has emerged in academic literature of a comparatively recent origin is related to the protection of one’s identity. Data protection relates closely with the latter sphere. Data such as medical information would be a category to which a reasonable expectation of privacy attaches.” [para 77]

46. **THAT** the “Authority” constituted by s. 2(ii) of the impugned Amendment adding sub clause (aa) to include a Medical Board is to be comprised of a Chief Medical Officer or Deputy Medical Officer, as may be appointed by the Central or State Government or Union Territory Administration. The Authority carries significant powers relating to the determination of a person’s gender and legal identity yet completely excludes transgender and intersex persons from its composition going against the principles of natural justice and procedural fairness. By constituting an authority charged with the power

to verify someone's gender identity without any community representation the amendment contravenes the Right to Dignity under Article 21 by leaving groups vulnerable to institutional humiliation.

47. **THAT** amended Section 6 of the Transgender Persons (Protection of Rights) Act, 2019 vide sections 2(ii) and 4 of the impugned Amending Act, provides the District Magistrate with undue discretion to refuse applications and consult medical experts as 'desirable', and also creates undue medical hurdles without any clarity on what exactly the medical board under this provision will examine and base their recommendation on. The Impugned Amendment Act makes the provisions completely draconian thus aggravating the issues for obtaining a certificate. Such a legal provision which would make an identity certificate dependent on various undefined third parties, medical examinations and vague and arbitrary criteria which would amount to a violation of a person's right to gender identity and autonomy guaranteed under Article 21 of the constitution, as one's right to get recognition of legal identity should not be dependent on any documents to be provided.

IV. **NEW CRIMINAL OFFENCES AGAINST TRANSGENDER PERSONS WHICH ARE UNCONSTITUTIONAL:**

48. **THAT** this Hon'ble Court in the context of sexual minorities in *Navtej Singh Johar v Union of India*, (2018) 10 SCC 1, has held as follows:

"Citizens of a democracy cannot be compelled to have their lives pushed into obscurity by an oppressive colonial legislation. In order to ensure to sexual and gender minorities the fulfilment of their fundamental rights, it is imperative to 'confront the closet' and, as a necessary

consequence, confront ‘compulsory heterosexuality.’ Confronting the closet would entail “reclaiming markers of all desires, identities and acts which challenge it.” It would also entail ensuring that individuals belonging to sexual minorities, have the freedom to fully participate in public life, breaking the invisible barrier that heterosexuality imposes upon them. The choice of sexuality is at the core of privacy. But equally, our constitutional jurisprudence must recognise that the public assertion of identity founded in sexual orientation is crucial to the exercise of freedoms.” [para 60]

49. **THAT** the exclusionary definition in amended section 2(k), as well as the new criminalization provisions in amended section 18, produce an effect where Petitioners who are not included under the definition will be forced to hide their identity and return to the ‘closet’. That without legal recognition of the Petitioners’ identity, the Petitioners who are excluded from the definition are denied the right of the ‘public assertion of identity’. In *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, it was held that a classification, which discriminates against persons based on their ‘intrinsic or core trait’ such as their gender identity *ipso facto* fail the test of equality under Article 14 of the Constitution of India:

“Section 377 creates an artificial dichotomy. The natural or innate sexual orientation of a person cannot be a ground for discrimination.

Where a legislation discriminates on the basis of an intrinsic and core trait of an individual, it cannot form a reasonable classification based on an intelligible differentia.

- “ *In National Legal Services Authority v. Union of India & Ors. this Court **granted equal protection of laws to transgender persons.** There is*

therefore no justification to deny the same to LGBT persons and such classification has no rational nexus with the purpose of the law.” [paras 14.3-14.4]

50. That while even the existing criminal offences under Section 18 were problematic as they were vague and undefined, and that sexual offences against transgender persons were penalized with minimal punishments, the amended section 18 *vide* the Amendment Act errs in furthering the complete retrogression, by introducing a series of crimes that can be attracted by merely presenting oneself as a transgender. It fundamentally prejudices the idea of self-determination of gender identity. For these reasons, the impugned Amending Act violates Article 14 of the Indian Constitution.
51. THAT the Amendment Act now invokes severe criminal offences against the transgender community itself. That by introducing Sections 18(e)-(h), the State imposes life imprisonment for vaguely defined acts like ‘allurement’ or ‘undue influence’ to adopt a transgender identity, giving rise to a paradox in approaching and applying criminal provisions *on* transgender persons since while on one hand the State fails to protect transgender persons from severe sexual violence, yet on the other hand is deploying the harshest criminal sanctions to surveil and criminalize the transgender community’s own healthcare providers and kinship structures.
52. THAT further, the provisions of amended sections 18 (e), and (f) use extremely vague and broad terms including ‘force, threat, coercion, allurement, deception, inducement or undue influence’, and for sections 18(g)

and (h), the terms ‘force, allurements, deceit, undue influence or otherwise’. Such terms are not defined within the Act which run the risk of criminalizing even health care professionals as in the instant case for the Petitioners and leads to deprivation of fundamental rights. In *State of Madhya Pradesh v. Baldeo Prasad*, [1961] 1 S.C.R. 970, this Hon’ble Court struck down the use of the phrase ‘goonda’ because it was too vague and undefined in the legislation, casting a chilling effect on the freedoms under Article 19 of the Constitution:

“Incidentally it would also be relevant to point out that the definition of the word "goonda" affords no assistance in deciding which citizen can be put under that category. It is an inclusive definition and it does not indicate which tests have to be applied in deciding whether a person falls in the first part of the definition. [...] After all it must be borne in mind that the Act authorises the District Magistrate to deprive a citizen of his fundamental right under Art. 19(1)(d) and (e), and [...] care must always be taken in passing such acts that they provide sufficient safeguards against casual, capricious or even malicious exercise of the powers conferred by them. It is well known that the relevant provisions of the Act are initially put in motion against a person at a lower level than the District magistrate, and so it is always necessary that sufficient safeguards should be provided by the Act to protect the fundamental rights of innocent citizens and to save them from unnecessary harassment.” [page 979]

Thus, the provisions are unconstitutional considering the potential ways in which it can be arbitrarily used to target and harass the members of the transgender community, as well as medical providers of care to transgender

persons, without any sufficient safeguards, thereby violating Article 14 of the constitution.

- 53. THAT** the Amendment Act by including criminal offences under Sections 18 (e) and (f) which criminalise anyone who causes grievous hurt by ‘mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure in order to compel someone to present a transgender identity, will amount to putting health care providers and medical professionals at risk of being charged with the criminal offence of grievous hurt, or kidnapping. Thus, rather than amending Section 18 to adequately punish perpetrators of sexual violence against transgender persons as required for the protection of the transgender community, the State has introduced draconian penalties that target those providing essential gender-affirming care, which can result in a sentence of ten years to life imprisonment. This has led to the Petitioners being unable to get their medical treatment which they are undergoing presently, and if there are no continual treatment and drugs accessible to them, it would lead to their gender affirming treatment being aborted, and would leave them in a situation where they would not be able to express their gender identity in the manner that they wish to. It would also lead to several adverse health and medical consequences with hormonal effects reversing and leading to their right to life under Article 21 of the constitution being violated.
- 54. THAT** the Amendment Act, by introducing vague and broad crimes cast a chilling effect on this established right to relationships by potentially criminalising couples who run away with each other and where one is often accused of ‘kidnapping’ the other when one of them is a transgender person, which violates the right recognised under Article 21 of the constitution. This

protection would also extend to all forms of alternative kinship structures and chosen families exercised by the Petitioners who are transgender persons in order to maintain community and support, but which this impending Amendment Act could interfere with through its vague definition of crimes. This would also be in violation of the ruling of this Hon'ble Court in ***Supriyo v Union of India***, 2023 INSC 920:

“While we agree, that there is a right - which we will characterise as a 'right to relationship' to avoid confusion - we squarely recognise it to fall within Article 21, as already recognised in the afore cited cases. The right to relationship here, includes the right to choose a partner, cohabit and enjoy physical intimacy with them, to live the way they wish to, and other rights that flow from the right to privacy, autonomy and dignity. They are, like all citizens, entitled to live freely, and express this choice, undisturbed in society. Whenever their right to enjoyment of such relationship is under threat of violence, the state is bound to extend necessary protection. This is a natural consequence of this Court's judgments in Navtej Johar (supra), K.S. Puttaswamy (supra), Shafin Jahan (supra) and Shakti Vahini (supra).” [para 427, Justice Bhat]

55. THAT the TG Act 2019 itself was not fully implemented, and there was a case of a lack of bureaucratic will and ‘legislative omission’ in its implementation to all transgender persons. As this Hon'ble Court identified in ***Jane Kaushik v. Union of India***, 2025 INSC 1248:

“At this stage, it would be apposite to discuss another facet of legislative omission, i.e., a situation in which the subject matter is not entirely unattended by legislation, yet discrimination still ensues owing to the gaps in the said legislation. Such gaps have the consequence of violating

the constitutional mandate. In such cases, discrimination is not the result of an explicit act but of institutional legislative inaction. This is commonly known as, “relative legislative omission”.” [para 120]

Rather than addressing these gaps, the impugned Amending Act has in fact widened the legislative omission by further excluding more transgender persons from the definition, protections and mechanisms of the 2019 Act, and would amount to omissive discrimination under Articles 14, 15 and 21 of the Constitution.

56. **THAT** the provisions of amended section 18 (g) and 18(h) of the amended Act, makes it an offence to compel a person to present as transgender and indulge in begging, solicitation or forced labour, is vague in material terms as it does not define what is meant by forced or bonded labor. Therefore, it has the potential to be arbitrarily applied against the members of the transgender community who are already discriminated and face stigmatic treatment at the hands of state officials and other members of the society as indicated above. Further, the provision is also vague as it does not state what amounts to force, threat, coercion, allurement, deception, inducement, or undue influence. Thus, the provision is void for vagueness considering the potential ways in which it can be arbitrarily used to target and attack the members, be ‘atypical’ such as guru-chela relationships, or live together in homes of their own community. Such rights are protected under *Deepika Singh v Central Administrative Tribunal & Ors.*, AIR 2022 SC 4108, which extended constitutional rights to atypical families. Furthermore, in *Supriyo v Union of India*, 2023 INSC 920, the Court upheld the right of transgender persons in heterosexual relationships to enter marriage as well as all transgender and queer persons to live together and make a life

together outside the institution of marriage under the right to association in Article 19. The impugned Amending Act threatens the ability of heterosexual transgender persons to change their gender to access this right to marriage, and for all transgender persons to live in community with other transgender persons.

57. **THAT** the inclusion of the word ‘eunuchs’ in section 2(k) closely resemble the intention to criminalize and exterminate ‘eunuchs’ contained in the Criminal Tribes Act, 1871, a colonial legislation that was repealed in August 1949 by the Constituent Assembly sitting as Provisional Parliament as in contravention to the Founding values of the nation. The same is therefore prima facie unconstitutional and the doctrine of presumption of constitutionality should not apply. In *Vyjayanti Vasanta Mogli v. State of Telangana*, judgment dated 06.07.2023 in WP (PIL) No 44 of 2018, the Hon’ble Telangana High Court held that the Telangana Eunuchs Act 1329, Fasli is unconstitutional because it used derogatory terms that are hostile to the transgender community such as ‘eunuch’, which has been used again the impugned Amending Act. It was held as follows:

“[...] there can be no iota of doubt that such an enactment is anathema to our constitutional philosophy as explained by the Supreme Court in the above judgments. This is not only arbitrary and unreasonable but is, also manifestly arbitrary in as much as it criminalises the entire communities of eunuchs.” [para 48]

“This legislation is violative of the human rights of the third gender community besides it is an intrusion into their private sphere as well as an assault on their dignity. It is thus offensive of both the right to privacy, and the right to dignity of transgender persons. It is not only violative of

Article 14 but also clearly violative of Article 21 of the Constitutional of India. Such an enactment can no longer continue to find a place in our statute book. It is accordingly declared as unconstitutional.” [para 49]

58. **THAT** in *Lt. Col. Nitisha v Union of India*, (2021) 15 SCC 125, this Hon’ble Court held that if any provision, even if neutrally worded has a ‘disproportionate impact’ on a certain protected category of persons, it is violative of Articles 14 and 15 of the Constitution. Specifically, this Hon’ble Court endorsed the following two-part test:

“First, the Court has to enquire whether the impugned rule disproportionately affects a particular group. [...] Second, the Court has to look at whether the law has the effect of reinforcing, perpetuating, or exacerbating disadvantage. Such disadvantage could be in the shape of: “[e]conomic exclusion or disadvantage, [s]ocial exclusion...[p]sychological harms...[p]hysical harms...[or] [p]olitical exclusion”, and must be viewed in light of any systemic or historical disadvantages faced by the claimant group.” [para 65]

The amended sections 18 (e)-(h), while ostensibly neutral, will be disproportionately used against transgender persons who maintain households and provide shelter to other transgender persons who face social stigma and harm, including from their families. It will also affect the access to healthcare, support, shelter, and community for transgender people. The disproportionate impact is made out on the face of the impugned Amending Act itself which states that one of the elements of all of these crimes is when someone ‘presents’ as a transgender person or with a transgender identity and will produce a disproportionate harm on transgender persons and engages in

furthering stereotypes and physical violence against transgender communities. By criminalising anyone who compels a person to ‘dress, present or conduct themselves outwardly as transgender’ by ‘force, allurements, deception or undue influence’, the impugned Amendment Act will cast a chilling effect on persons who assist transgender persons in pursuing their constitutional right to a self-declared gender identity. The impugned Amendment runs the risk of framing any such support as ‘allurement’ or ‘undue influence’ due to the vagueness in these concepts. This broad and vague provision increases the discretion to be enjoyed by police authorities in interpreting the ambit of the offence and is thereby unconstitutional.

V. VESTED AND ENTRENCHED RIGHTS CANNOT BE TAKEN AWAY

59. THAT the impugned Act creates a chilling effect on fundamental rights and threatens to have the Petitioners de-recognised by the law resulting in losing access to healthcare, education and employment opportunities that are all contingent upon the valid identity certificates issued under the 2019 Act.

60. THAT once rights are granted under Indian Constitutional law, they cannot be restricted or taken away. This follows from the doctrine of progressive realization which is contained in Article 2(1) of the International Covenant on Economic, Social and Cultural Rights, to which India is signatory, and held by this Hon’ble Court in *Navtej Singh Johar*:

“The doctrine of progressive realization of rights, as a natural corollary, gives birth to the doctrine of non-retrogression. [...] The doctrine of non-retrogression sets forth that the State should not take measures or steps that deliberately lead to retrogression on the enjoyment of rights either under the Constitution or otherwise.” [paras 188-189]

Since the rights of self-determination and self-perceived identity were provided by the jurisprudence of this Hon'ble Court and section 4(2) of the 2019 Act, its explicit removal *vide* the impugned Amending Act defeats the principle of non-retrogression which is an aspect of the Indian Constitution including Article 14.

61. **THAT** in *Kerala State Beverages (M&M) Corpn. Ltd. v. PP Suresh and Others*, (2019) 9 SCC 710, this Hon'ble Court held that when an authority makes an assurance as to providing some right that gives rise to a legitimate expectation, then it cannot be withdrawn without having firstly, provided for the opportunity to hear reasons why it should not be withdrawn and secondly, without having good reasons in public interest to change their policy:

“[...] That the procedural part of legitimate expectation relates to a representation that a hearing or other appropriate procedure will be afforded before the decision is made. The substantive part of the principle is that if a representation is made that a benefit of a substantive nature will be granted or if the person is already in receipt of the benefit, that it will be continued and not be substantially varied, then the same could be enforced.” [para 15]

Therefore, those who already have received their rights and entitlements including, but not limited to, legal gender change, access to gender affirming care, schemes and benefits, should be able to continue accessing the same as per their legitimate expectation. In the instant case, the Impugned Amending Act has taken away the right of transgender persons who were previously recognized and are no longer within the definition. There was neither any

consultation nor any clauses which provided a transition period, savings of previous rights or acknowledged the fact that the statute was in violation of a right granted by a constitutional court. The failure to retain these rights violates the legitimate expectation of benefit held by the Petitioner. It is submitted that the impugned Amending Act has led to infringement of Petitioner's fundamental right to life guaranteed under article 21, right to equality under article 14 and the doctrine of legitimate expectation.

62. **THAT** the Amendment Act amended section 2(k) of the 2019 Act *vide* impugned amending Act section 2(iv) which restricts the definition of 'transgender persons' and discriminates on the basis of gender identity in complete violation of Constitutional guarantees under Articles 14, 15 and 19 this Hon'ble Court's judgement in *NALSA* (2014) in which the Court has held that discrimination on the basis of sexual orientation or gender identity includes any discrimination, exclusion, restriction or preference, which has the effect of nullifying or transposing equality by the law or the equal protection of laws guaranteed under our Constitution.
63. **THAT** by removing the right to self-identify the impugned Act creates a procedural impossibility for non-binary and gender diverse citizens to access public employment, education, healthcare and all other entitlements.
64. It is in this background that this Hon'ble Court in *Jane Kaushik v. Union of India* 2025 INSC 1248 recognized the shortcomings and implementational gaps in the 2019 Act and 2020 Rules and the continued widespread discrimination against transgender persons. This Hon'ble Court held that the Respondent Union and State Governments therein had failed to formulate

inclusive policies, constitute redressal mechanisms, ensure safety and equitable access which had resulted in ommissive discrimination. Noting the nature of continued discrimination faced by transgender persons, this Hon'ble Court held:

“179. It is a matter of grave constitutional concern that members of the transgender community continue to encounter systemic barriers in the ordinary conduct of their lives. Their daily existence is marred by a pattern of discrimination that operates across domains: beginning with the hurdles pertaining to recognition in official records, extending to harassment at public spaces, exclusion from educational and employment opportunities, and summing up in social ostracism and violence. A chain of precedents from various High Courts reveals a disturbing continuum of prejudice. We cannot but express our dismay towards the intrusive surveillance of transgender persons, policing of their identities, and an institutional indifference that often results in denial of dignity. Despite the authoritative pronouncement in NALSA (supra), the reality of the transgender person remains one of stigma. The workplaces question their capability, educational institutions hesitate to include them and the law, though well-intentioned, falters in its implementation. We have discussed below the day-to-day hurdles faced by the transgender community that stand revealed to us from various judgments and orders of High Court.”

65. **THAT** the Petitioners have themselves had their healthcare professionals including those specialising in gender affirmative care, express their concerns that the Act threatens the ability to deliver gender affirming care to international and national standards as they are required to do so under the

Mental Healthcare Act 2016. It also risks criminalizing the provision of crucial medical drugs and procedures for transgender people and could cause great harm to the Petitioners and others who have already begun treatment such as hormonal replacement therapy if their prescriptions are stopped.

VI. VIOLATION OF RIGHT TO LIFE AND AUTONOMY AND HEALTH UNDER ARTICLE 21

66. **THAT** the impugned Act, in introducing mandatory reporting by the individuals seeking medical procedures as well as by medical institutions severely hinders the rights to health of transgender and gender-diverse persons which has been held to be a fundamental right under Article 21 (*Parmananda Katara v. Union of India* AIR 1989 SC 2039, *Paschim Banga Khet Mazdoor Samity v. State of West Bengal & Ors.*, AIR 1996 SC 2426) as it introduces a form of medical surveillance which is likely to deter persons from accessing health facilities.
67. **THAT** the impugned Act is violative of Article 21 of the Constitution of India in as much as it violates the right to self-determination and therefore personal autonomy and personal liberty as guaranteed under Article 21 of the Constitution of India.
68. **THAT** in *Anuj Garg v. Hotel Association of India* (2008) 3 SCC 1, this Hon'ble Court held that personal autonomy includes both the negative right of not to be subject to interference by others and the positive right of individuals to make decisions about their life, to express themselves and to choose which activities to take part in.

69. **THAT** this Hon'ble Courts have held that the recognition of gender identity lies at the heart of the fundamental right to dignity and legal recognition of gender identity is, therefore, part of right to dignity and freedom guaranteed under our Constitution.
70. **THAT** it has been held by this Hon'ble Court in *K.S. Puttaswamy v. Union of India* that the test of popular acceptance does not furnish a valid basis to disregard rights which are conferred with the sanctity of constitutional protection noting that sexual orientation is an essential attribute of privacy. It was held that discrimination against an individual on the basis of sexual orientation is deeply offensive to the dignity and self-worth of the individual. Equality demands that the sexual orientation of each individual in society must be protected on an even platform. The right to privacy and the protection of sexual orientation lie at the core of the fundamental rights guaranteed by Articles 14, 15 and 21 of the Constitution.
71. **THAT** In *Joseph Shine v. Union of India*, (2019) 3 SCC 39, this Hon'ble Court decriminalised Section 497 of the IPC as it was violative of Articles 14, 15(1) and 21 of the Constitution respectively. This Hon'ble Court opined that the first step towards realising substantive equality is to test if a provision enacted to address a disadvantage, itself results in a handicap to a group of citizens or not. Further, the provisions, measures or redressal of such a disadvantage must not be grounded in the notions and stereotypes about a section of the society. That such stereotypical redressal gives birth to social, economic and political impediments and is in fact no real remedy at all. This is so because, in essence, the same would lead to the legitimization of the disadvantage. It was recognised that the object underlying Article 15(3)

includes giving effect to substantive equality in the fullest sense by assuring dignity and autonomy to the section of the society sought to be benefited. While doing so, there can be no possibility for the legislature or executive to entrench their remedial measures in stereotypes and notions that find their origin in the very disadvantage sought to be remedied.

72. **THAT** the Hon’ble Supreme Court in the case of *Navtej Singh Johar and Others vs. Union of India*, (2018) 10 SCC 1, where a legislation discriminates on the basis of an intrinsic and core trait of an individual, it cannot form a reasonable classification based on an intelligible differentia.
73. **THAT** the passage of the Amendment Act was not in compliance with the minimum 30-day period of consultation that is mandated under the Pre-Legislative Consultative Policy.

VII. INTERNATIONAL PRINCIPLES AND JUDGEMENTS

74. **THAT** the Yogyakarta Plus 10 Principles, in Principle 31 mandates that no medical and psychological tests can be required for the legal recognition of one’s gender identity. Principle 31 of the Yogyakarta Principles reads as under:

“Principle 31 – The Right To Legal Recognition: Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right

to change gendered information in such documents while gendered information is included in them.

States Shall:

A. Ensure that official identity documents only include personal information that is relevant, reasonable and necessary as required by the law for a legitimate purpose, and thereby end the registration of the sex and gender of the person in identity documents such as birth certificates, identification cards, passports and driver licences, and as part of their legal personality;

B. Ensure access to a quick, transparent and accessible mechanism to change names, including to gender-neutral names, based on the self-determination of the person;

C. While sex or gender continues to be registered:

i. Ensure a quick, transparent, and accessible mechanism that legally recognises and affirms each person's self-defined gender identity;

ii. Make available a multiplicity of gender marker options;

*iii. **Ensure that no eligibility criteria, such as medical or psychological interventions, a psycho-medical diagnosis, minimum or maximum age, economic status, health, marital or parental status, or any other third-party opinion, shall be a prerequisite to change one's name, legal sex or gender;***

iv. Ensure that a person's criminal record, immigration status or other status is not used to prevent a change of name, legal sex or gender."

(emphasis supplied)

75. That the Yogyakarta Principles were recognised as being a part of Indian law in *NALSA v Union of India* and the same was upheld in *Puttaswamy v Union of India*. That this Hon’ble Court held as follows: “29. Observations of several judgments make it clear that in the absence of any specific prohibition in municipal law, international law forms part of Indian law and consequently must be read into or as part of our fundamental rights. (For this proposition, see: *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684 at paragraph 139, *Francis Coralie Mullin v. Administrator, Union Territory of Delhi & Ors.*, (1981) 1 SCC 608 at paragraph 8, *Vishaka & Ors. v. State of Rajasthan & Ors.*, (1997) 6 SCC 241 at paragraph 7 and *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438 at paragraphs 51-60). This last judgment is instructive in that it refers to international treaties and covenants, the Constitution, and various earlier judgments. The conclusion in paragraph 60 is as follows:

“The principles discussed hereinbefore on TGs and the international conventions, including Yogyakarta Principles, which we have found not inconsistent with the various fundamental rights guaranteed under the Indian Constitution, must be recognized and followed, which has sufficient legal and historical justification in our country.” (at page 487)

76. **THAT** the 11th edition of the International Statistical Classification of Diseases and Related Health Problems (ICD-11) issued by the World Health Organisation on sexual health and gender identity and the WPATH Standards of Care (Version 8) deprecates a “gatekeeping model” of health.

77. **THAT** the impugned Amendment Act vide Section 8 amends Section 22 of the principal Act, specifically modifying Section 22(2)(c) to empower the government to prescribe "the form and manner of details to be furnished by the medical institution under sub-section (1A)". It is submitted that since the newly inserted Section 7(1A) is itself manifestly arbitrary and violative of the fundamental right to privacy by mandating the non-consensual reporting of confidential medical and surgical data to the District Magistrate, the corresponding rule-making power granted under the amended Section 22 is equally unconstitutional.
78. That the Petitioners have not filed any other petition before this Hon'ble Court or any other court seeking the same relief.

PRAYER

Wherefore, in view of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- A.** Declare the Transgender Persons (Protection of Rights) Amendment Act, 2026, specifically Sections 2(ii), 2(iii), 2(iv), 3, 4(a), 4(b) 5, 7 and 8 that introduce amendments by way of addition of Section 2(aa), omit Section 2(i), modify Section 2(k), add a proviso to Section 2(k), omit Section 4(2), modify Sections 6, 7, 18 and 22 of the Transgender Persons (Protection of Rights) Act, 2019 as ultra vires Part III of the Constitution of India, 1950 for being violative of Articles 14, 15 (1), 16, 19 and 21 of the Constitution of India; and

- B.** Grant such other reliefs as this Hon'ble Court may deem fit and proper in light of the facts and circumstances of the case.

**AND FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL AS IS
DUTY BOUND EVER PRAY.**

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Drawn on: 10.04.2026

Filed on: 15.04.2026

Place: New Delhi

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