

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2014

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.(MD)No.10882 of 2014

and

M.P.(MD) No.1 of 2014

S.Swapna (Transgender)

: Petitioner

Vs.

1.The State of Tamil Nadu  
Rep. by its Secretary  
Department of School Education  
Fort St. George,  
Chennai – 600 009.

2.The Director of Government Examinations,  
DPI Complex,  
College Road,  
Chennai – 600 006.

3.The Joint Director of Government  
Examinations (Personnel)  
DPI Complex,  
College Road,  
Chennai – 600 006.

4.Tamil Nadu Public Service Commission,  
Rep. by its Secretary,  
Frazer Bridge Road,  
VOC Nagar,  
Park Town, Chennai – 600 003.

: Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 3rd respondent Joint Director vide Na.Ka.No.013186/B6-1/2014 dated 27.3.2014 refusing to issue fresh S.S.L.C and Higher Secondary Course Certificates to the petitioner in her present Identity-name viz. "S. Swapna" instead of "S. Nazar" Quash the same and further direct the respondents to forthwith issue fresh S.S.L.C. and Higher Secondary Course Certificates to the petitioner in her present identity-name viz. "S. Swapna" instead of "S. Nazar".

For Petitioner : Mr.R.Rajesh

For Respondents : Mr.G.Muthu Kannan, G.A.

For RR1 to 3

Mr.K.P.Krishnadoss, G.A. For R4

### **ORDER**

This writ petition is directed against the order dated 27.03.2014, whereby and whereunder, the third respondent was pleased to reject the request made by the petitioner to issue fresh S.S.L.C. and Higher Secondary Course certificates indicating her new name instead of the earlier name, on account of the subsequent event and more particularly the Sex Reassignment Surgery underwent by her.

2.The petitioner is stated to be a Transgender. She was born as a male. She was earlier known as S.Nazar. The petitioner completed her S.S.L.C. Course during 2006 and Higher Secondary course during 2008 from Mangayarkarasi Higher Secondary School, Madurai. The petitioner underwent Sex Reassignment Surgery in 2011. Thereafter, she acquired B.A. Degree from Madurai Kamaraj University through Distance Education Programme. The University issued a certificate indicating her name as S.Swapna taking into account the subsequent events.

3.The petitioner made an application to the third respondent requesting to correct the entries in S.S.L.C. and Higher Secondary Course certificates on account of sex change that took place consequent to the surgery. The said application was rejected by the third respondent on the ground that prevailing regulations does not permit such course of action. Feeling aggrieved by the same, the petitioner is before this Court.

4.The petitioner has produced string of documents in support of

her contention that she was born as Male and she became a female later. Earlier certificates all contained her name as S.Nazar. The certificate dated 22.02.2013 issued by the Department of Urology, Government Rajaji Hospital, Madurai also supports the case of the petitioner. The Tahsildar, Madurai South has issued a certificate dated 15.05.2012 certifying that both S.Nazar and S.Swapna are one and the same.

5.The third respondent rejected the application primarily on the ground that the prevailing rules does not permit such sex and name changes. The regulations were all made long back without for seeing the future developments. When a transgender undergoes a sex reassignment surgery and makes an application thereafter for change of name and sex in the relevant records on the basis of various documents including the certificate issued by the Medical Officer, the concerned authorities are expected to verify the records and make consequential changes in the concerned records. The petitioner cannot be dragged from pillar to post on the ground that there are no rules permitting such changes in educational records. The petitioner has produced sufficient documents to prove her identity. The application

should have been considered on merits by the third respondent. The authorities in a case of this nature must extend their helping hand to a transgender rather than denying the relief on technical reasons. I am therefore of the view that the third respondent erred in rejecting the request made by the petitioner.

6. In the result, the impugned order is set aside. The matter is remanded to the third respondent for fresh consideration. The third respondent is directed to accept the certificates issued by the Tahsildar and Medical Officer, besides the certificate issued by the Madurai Kamaraj University and make appropriate changes in all the relevant records. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

20.08.2014

Internet : Yes/No  
Index : Yes/No

Arul

**K.K.SASIDHARAN. J.**

**Arul**

To

- 1.The Secretary  
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- 2.The Director of Government Examinations,  
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Chennai – 600 006.
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