

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L.) NO.1976 OF 2018**

Myra Grace Bandikalla (formerly
known as Mr.Swaroop Rajarao Bandikalla) ...Petitioner
Vs.
Airport Authority of India & Ors. ...Respondents

Mr.Jaid Ansari i/b. Ms.P.S. Mhaske for Petitioner.
Mr.Sudhir Talsania, Senior Advocate, with Ms.Kavita Anchan for
Respondents.

**CORAM : NARESH H. PATIL AND
G.S. KULKARNI, JJ.**

DATE : 4th JULY 2018

P.C.:

1. The petitioner states that she belongs to “transgender community”. She was born as Swaroop Bandikalla as a male in Tenali, Andhra Pradesh, India. Since childhood, she was suffering from gender identity disorder. Since long she had established identity as a female in complete misalignment with her physical body. The petitioner is suffering from “Gender Dysphoria”. The petitioner has undertaken Hormone Replacement Therapy and she is now desirous of a Sex Reassignment Therapy (SRS).

2. It is submitted that petitioner proposes to have SRS surgery in Bangkok, Thailand. She is working with the respondents. It is further submitted that petitioner had got her name changed in the official gazette of

India from Swaroop Bandikalla to Myra Grace Bandikalla and gender from male to female. This change has been published in the official gazette of India on 3/2/2018, according to the petitioner. She has obtained Aadhar Card and Pan Card too.

3. The learned counsel appearing for the petitioner submits that necessary directions are required to be given to the respondents for grant of ad-interim relief as prayed for in the petition. The learned counsel placed reliance on the judgment of the Supreme Court in the case of National Legal Services Authority vs. Union of India and ors. [(2014) 5 SCC 438]. The respondents filed affidavit-in-reply.

4. The learned Senior Counsel Mr. Talsania appearing for the respondents submitted that the respondents would refer the petitioner to their Medical Board/Committee of Experts. The initial stand of the respondents is that petitioner has not undergone SRS surgery so far. The learned counsel has referred to paras 105 and 106 of the judgment in the case of National Legal Services Authority vs. Union of India and ors. (Supra), which read as under :-

“105. If a person has changed his/her sex in tune with his/her gender characteristics and perception, which has become possible because of the advancement in medical science and when that is permitted by in medical ethics with no legal

embargo, we do not find any impediment, legal or otherwise, in giving due recognition to the gender identity based on the reassign sex after undergoing SRS.

106. For these reasons, we are of the opinion that even in the absence of any statutory regime in this country, a person has a constitutional right to get the recognition as male or female after SRS, which was not only his/her gender characteristic but has become his/her physical form as well.

(2) Re:Right to TG to be identified and categorized as “third gender”.

5. The learned counsel appearing for the petitioner has also referred to the observations of the Apex Court in paras 11 and 20 of the above cited judgment.

6. After considering the submissions advanced and after perusal of the judgment of the Apex Court and in view of the record placed before us, we pass following ad-interim order, subject to the further orders to be passed in this petition :-

By way of an ad-interim relief, we direct the respondents to incorporate the name and gender of the petitioner as described in the petition, in the service record of the respondents. In case the petitioner desires to obtain

passport/visa, then the respondents would extend necessary certification/NOC as required in law based on the application filed by the petitioner as it is.

[G.S. KULKARNI, J.]

[NARESH H. PATIL, J.]