

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP D-5416 of 2019

Order with signature of Judge

Present: **Muhammad Ali Mazhar** and **Agha Faisal, JJ.**

1. *For orders on Misc. No.26001 of 2019*
2. *For orders on Misc. No.23841 of 2019*
3. *For hearing of main case*

01.11.2019

Petitioner M. Tariq Mansoor, Advocate is present in person.
Mr. Ishrat Zahid Alavi, Assistant Attorney General.
Mr. Jawad Dero, Additional Advocate General Sindh.

Muhammad Ali Mazhar J.- With reference to the order dated 19.09.2019, we observed that the petitioner wants some amendment in the Constitution which is not in the domain of this Court as under Article 238 of the Constitution of Islamic Republic of Pakistan the Constitution may be amended by the act of Majlis-e-Shoora (Parliament). However, during his arguments the learned counsel pointed out the Transgender Persons (Protection and Rights) Act, 2018 which has been legislated to provide protection, relief and rehabilitation of rights of the transgender persons and their welfare and for matters connected therewith. The petitioner, who is also an advocate of this Court, pointed out Section 6 of this Act which germane to the obligation of the government to secure full and effective participation of transgender persons and their inclusion in the society whereas under Section 16 of this Act fundamental rights enshrined and guaranteed under the Constitution of Islamic Republic of Pakistan, 1973 have also been extended unequivocally for every transgender persons. In order to see whether the law has been implemented in its letter and spirit we directed the learned D.A.G. to seek proper instructions and submit the comments. Today, learned Assistant Attorney General submitted a statement alongwith copy of letter communicated to him by the Assistant Director Ministry of Human Rights Government of Pakistan on 29th October, 2019 with reference to the same constitution petition. The text of the letter is reproduced as under:

“I am directed to refer to the Attorney General of Pakistan at Karachi’s letter No.4970-K/19, AGP dated 23rd October, 2019 on the above mentioned subject and to submit that

Ministry of Human Rights have taken following measure in connection with implementation of Transgender Persons (protection of Rights) Act, 2018:

- i. The Ministry of Human Rights is working on formulation of rules/Guidelines. The Ministry has reviewed relevant policies/guidelines to formulate rules/guidelines for effective implementation of this Act.
- ii. MOHR has constituted a National Implementation Committee which comprises of 13 members with the Secretary, MOHR as its Chairperson for effective implementation of the Transgender Persons (Protection of Rights) Act, 2018. The MOHR has also appointed a Transgender Person to work as the Transgender Expert and to serve as the coordinator of the said National Committee.
- iii. MOHR has also developed guidelines for Police authorities with respect to the treatment of Transgender Citizens in order to ensure compliance of Section 6(b) of the Act. MOHR has also conducted sensitization sessions/consultations on the aid guidelines with Islamabad and Rawalpindi Police.”

There is no cavil to the proposition that the Act was promulgated in 2018 and the Government is obligated to make all best possible arrangements and facilitation to secure full and effective participation of transgender persons and benefit of all fundamental rights have also been extended to them but despite that no proper rules have been framed as provided under Section 20 of the same Act nor the Act has been implemented. Today the reply filed by the learned Assistant Attorney General transpires that Ministry of Human Rights is working on formulation of rules, guidelines and also constituted a National Implementation Committee comprising 13 members and they have also developed some guidelines with respect to the treatment of transgender citizens in order to ensure compliance of the aforesaid Act. Since some positive steps seem to have been taken, therefore, this petition is disposed of with the directions to the Ministry of Human Rights to notify the rules and all relevant guidelines within 60 days and implement the law. Copy of this order may be transmitted to the learned Assistant Attorney General as well as the Secretary Ministry of Human Rights, Government of Pakistan for compliance.

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