

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

Present : **HON'BLE JUSTICE SOUMITRA PAL,**      **HON'BLE CHAIRMAN &**  
**HON'BLE SAYEED AHMED BABA,**      **ADMINISTRATIVE MEMBER.**

Case No. – OA 368 of 2022.

PALLABI CHAKRABORTY – VERSUS-THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

3  
17.6.2022

For the Applicant : Mr. M.N. Roy,  
Mr. A. Mitra,  
Mrs. S. Das,  
Advocates.  
For the State respondent : Mr. G.P. Banerjee,  
Nos. 1 to 9 Advocate.  
For the Respondent No. : Mr. S. N. Ray,  
10 Advocate.

Though the matter has appeared under the heading “New Application”, since copies of the application and notices have been served on the respondents and the learned advocates for the parties have appeared, the matter is treated to be ready for hearing.

At the very outset Mr. M.N. Roy, learned advocate for the applicant prays for leave to correct the typographical errors in the grounds for relief and interim reliefs.

Leave granted.

In this application Pallabi Chakraborty, the applicant stated to be transgender, as evident from the affidavit and the identity card, a copy of which has been annexed, has prayed for certain reliefs, the relevant portion of which are as under :-

“...a) An order do issue directing the concerned respondent authorities to allow the applicant to apply for the posts of Constable and Lady Constable in Kolkata Police – 2022 in online/offline application form, as a transgender candidate.

b) An order do issue directing the concerned respondent authorities to provide reservation for transgender community in the Constable and Lady Constable in Kolkata Police – 2022 in accordance with the Judgement passed by the Hon'ble Supreme Court of India in National Legal Services Authorities – versus- The Union of India and others, reported in

*(2014) 5 SCC 438.*

*c) An order do issue directing the concerned respondent authorities to provide reservation for transgender community in the Constable and Lady Constable in Kolkata Police – 2022 in accordance with the Judgement passed by the Hon’ble Supreme Court of India in National Legal Services Authorities – versus- The Union of India and others, reported in (2014) 5 SCC 438 in a manner as provided in the Joint CSIR-UGC net Examination June, 2021 which is framed after complying with the directions of the Hon’ble Supreme Court of India.*

*d) An order do issue directing the respondent authorities to transmit all relevant records and papers pertaining to the selection process for the posts of Constable and Lady Constable in Kolkata Police – 2022, so that conscionable justice be delivered.....”.*

Mr. M.N. Roy, learned advocate appearing on behalf of the applicant relying on the judgement of the Supreme Court in National Legal Services Authority – Versus- Union of India and Others, reported in (2014)5 Supreme Court Cases 438, particularly sub paragraph 135 thereof submits as there is no provision in the advertisement for the post of Constable and lady constable in Kolkata Police, 2022 reserving the post for transgender, appropriate interim order may be passed so that the applicant may be allowed to apply for the post.

Mr. G.P. Banerjee, learned advocate appearing on behalf of the respondent nos. 1 to 9 relying on the Transgender Persons (Protection and Rights) Act, 2019 submits since the applicants have not been granted certificate of identity under section 6 of the said Act, the application is not maintainable and therefore, he opposes the prayer 8(a) of the application for allowing the applicant to apply in the post in question as a transgender. Submission is as the applicant has applied for the post of Lady constable earmarked for women candidates, no order may be passed.

Mr. S.N. Ray, learned advocate appearing for the respondent no. 10

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adopts the submission of Mr. Banerjee.

Considering the facts and circumstances of the case, let there be an interim order granting liberty to the applicant, claiming to be transgender, to apply for the post of Constable, lady constable in Kolkata Police, 2022 physically and/or in the off line mode.

After the examination, the answer script and the mark sheets of the applicant shall be kept in a sealed cover by the respondents and shall not be opened without the leave of the Court.

Appointments, if any, shall abide by the result of the application. The maintainability of the Original Application, raised on behalf of the respondents is kept open.

The Chief Secretary, Government of West Bengal and the Additional Chief Secretary to the Government of West Bengal, Home and Hill Affairs Department, - the respondent nos. 2 and 3 respectively shall file status reports regarding reservation of posts for the transgender community in the State of West Bengal pursuant to the directions of the Supreme Court in National Legal Services Authority (supra) before the Learned Registrar of the Tribunal before the next date of hearing.

Let the matter appear under the heading "Admission Hearing" on 27<sup>th</sup> July, 2022.

Let plain copies be given to the parties and the respondents will act on the said basis.

(SAYEED AHMED BABA)  
MEMBER(A)

(SOUMITRA PAL)  
CHAIRMAN.

Skg.

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