

FACING DISCRIMINATION DESPITE LAWS

Relevant for: Developmental Issues | Topic: Rights & Welfare of Minorities Incl. Linguistic Minorities - Schemes & their performance; Mechanisms, Laws, Institutions & Bodies

More than three years after she was denied a job in the Maharashtra State Police force despite passing the written exam because a medical test declared her a “man” citing anatomical anomalies even she was not aware of, the Bombay High Court on May 12 cleared the way for the woman’s appointment, asking the Maharashtra government to finalise it in two months. The court has masked the woman’s name in this case.

Despite the Transgender Persons (Protection of Rights) Act, 2019, which was brought to end discrimination against transgender persons in accessing education, employment and healthcare, and recognise the right to self-perceived gender identity, their harassment continues endlessly.

Existing structures continuing to categorise people into the binary of male and female has resulted in the need for them to approach the courts or governments repeatedly for the implementation of every single aspect of the law that was passed to protect them.

Though the Transgender Identity Certificate acknowledges the gender assigned at birth and gender requested, while applying for jobs they are often compelled to identify themselves as male or female in the absence of a third option.

The “disgusting stares” from people in public places, says 30-year-old trans-man Kabir, is unbearable. Once Kabir went for a school teacher’s job interview and the panel mentioned that a *saree* was the mandatory attire in school. “I did not know how to respond. I had not fully transitioned and I wore what I thought was the most gender-neutral attire, a *kurta* and jeans,” Kabir said.

Trans-woman Jane Kaushik, 29, is fed up of applying for jobs. “When I let them know I am a trans, they don’t even bother to shortlist me for the interview,” she said. She decided to go through the Delhi Subordinate Services Selection Board, but she saw there was no option to identify as third gender.

Jane approached an NGO for help to get the job application forms revised with an option for third gender, which was done in 2021.

However, the updated version, following the intervention of Social Justice Ministry, does not allow re-registration after a correction is made in the gender column and this has been a problem for transgender persons. Jane approached the Delhi High Court with a plea to enable re-registration and also sought reservation for transgender persons in government jobs.

Even though reservation for trans people under the Other Backward Classes (OBC) category is under consideration by the government, Jane’s petition in the Delhi High Court, and the petition in the Bombay High Court seek separate reservation. Jane told *The Hindu* that the government ought to move beyond just making laws and show through meaningful action like reservation that it wants to mainstream transgender persons.

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Jane Kaushik

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