

POLICE



DEPARTMENT

KERALA

No.U6-89368/2021/PHQ

Police Headquarters,

Thiruvananthapuram

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Dated. 25-03-2022

Circular. 10/2022/PHQ

Sub : Arrest of transgender persons to be effected strictly in compliance with the provisions in the Transgender Persons (Protection of Rights) Act, 2019 and the Central Rules issued thereunder - instructions - reg.

Ref : 1. Circular No.04/2019 dated 28-01-2019 of the State Police Chief.
2. Executive Directive No.31/2020 dated 06-11-2020 of the State Police Chief.
3. The Transgender Persons (Protection of Rights) Act, 2019
4. The Transgender Persons (Protection of Rights) Rules, 2020
5. 20th Report of the Committee for the Welfare of Women, Transgenders, Children and the differently abled (2019-2021) of the XIV th Kerala Legislative Assembly on the various issues faced by Transgenders (38th paragraph).

01. The Transgender Persons (Protection of Rights) Act, 2019 came into force on 10-01-2020. The Central Rules issued thereunder, namely, the Transgender Persons (Protection of Rights) Rules, 2020 came into force on 25-09-2020. As per section 2(k) of the Act "transgender person" means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Re-assignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, gender queer and person having such socio-cultural identities as *kinner, hijra, aravani and jogta*. The Act prohibits discrimination against transgender persons and recognizes their right to be recognized as transgender persons in accordance with the provisions of the Act. Section 4(2) of the Act further declares that a person recognized as transgender under sub-section (1) of section 4 shall have a right to self-perceived gender identity.

02. It has already been instructed vide Circular 1st cited that, all members of the police force shall treat transgender persons with dignity and respect their rights in society, even when effecting an arrest. But the report of the Legislative Committee 5th cited at paragraph 38, states that when a trans woman who has not undergone the Sex Re-assignment Surgery (SRS) and whose outward appearance is that of a man, is arrested, in many instances the police misbehaved with such trans woman.



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03. As of now, a transgender person is having the statutory right to be recognized as such, in accordance with the provisions of the Transgender Persons (Protection of Rights) Act, 2019. A person so recognized as transgender under section 4(1) of the Act shall have a right to self-perceived gender identity. The certificate of Identity issued by the District Magistrate under section 6 of the Act shall confer rights upon him and be a proof of recognition of his identity as a transgender person. So also rule 3(3) of the Transgender Persons (Protection of Rights) Rules, 2020, provides that Transgender persons who have officially recorded their change in gender, whether as male, female or transgender, prior to the coming into force of the Act shall not be required to submit an application for certificate of identity under the rules. It is, therefore, clear that there are two categories of statutorily recognized transgender persons, namely, 1. those who require the Certificate of Identity and 2. those who do not require a Certificate of Identity due to prior official recording before this Act coming into force. Whatever may be the category, there shall not be any harassment by the Police to the transgender persons at the time of effecting an arrest. In cases where the Certificate or official document is not available with a transgender person while making an arrest, their self declaration-whether male, female or neutral- shall be accepted by the Police for effecting the arrest. There shall not be any intimidation or harassment to reveal their sexual orientation/identity.

04. Public ostracism, violence and abuse against transgender persons can be prevented only if the police are treating them with human dignity and respect, to which the transgender persons are legally entitled. Hence all officers are hereby directed to comply with the above directions immediately and brief all the field officers. The immediate superior officers and controlling officers should ensure that the above instructions are strictly followed. Any laxity in this regard will be viewed seriously.



Anil Kant IPS
State Police Chief

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