

## **TRANSGENDERS IDENTIFICATION AND RESERVATION IN GOVERNMENT JOBS FROM KARNATAKA STATE, INDIA**

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### **Abstract:**

This article deals with Identity and reservation opportunities in government jobs for transgender people in Karnataka state. In India total transgender population is 487,803 and in Karnataka state 20,266. In a landmark move, Karnataka has become the first state in the country to provide 1% reservation for the transgender community in all the government services. Whenever a notification is published inviting applications for government jobs, the 'others' column must be added along with male and female columns. The notification also underlines that there should not be any discrimination against transgenders in the process of selection and by providing the ethical basis for supporting the same.

**Keyword:** 1% Reservation, Jobs and Educational Opportunities, Transgender, Transgender Literacy, Transgender Identity.

### **I.Introduction**

In Indian transgenders are eunuchs, intersex people. Also known as *Aravani*, *Aruvani*, *Jogappa*, or (derogatorily) *Chhakka*, the transgender community in India prefer to call themselves *Kinnar* or *Kinner*, referring to the mythological beings that excel at song and dance. transgenders are officially recognized as the third gender in India, being considered neither completely male nor female. transgenders have a recorded history in the Indian subcontinent since antiquity, as suggested by the *Kama Sutra*. Many live in well-defined and organised all-*hijra* communities, led by a guru. These communities have consisted over generations of those who are in abject poverty or who have been rejected by or fled their family of origin. Many work as sex workers for survival.

In 2002, nearly 5,000 people attended the All India Eunuch Conference held in Varanasi; the conference's platform demanded that universities and government open more job opportunities to this population. On 15 April 2014, in *National Legal Services Authority v. Union of India*, the Supreme Court of India ruled that transgender people should be treated as a third category of gender or as a socially and economically "backward" class entitled to proportional access and representation in education and jobs.

The Rights of Transgender Persons Bill, 2014 is a proposed Act of the Parliament of India which seeks to end the discrimination faced by transgender people in India. The Bill was passed by the upper house Rajya Sabha on 24 April 2015. It was introduced in the lower house Lok Sabha on 26 February 2016.

Karnataka became the first state in India to reserve 1% of government jobs for the transgender community. The state government recently notified a division bench of Chief Justice Abhay Shreeniwas Oka and Justice Suraj Govindraj that a final notification dated July 6 had been issued to amend the Karnataka Civil Services Rules, also known as General Recruitment Rules, 1977. The state government can now fill 1% of vacancies in any service or post with transgender candidates in each category, general, scheduled tribes, scheduled caste, and other backward classes.

### **II.Review of literature:**

**Megha Kurian and Greeshma Manoj (2021)** Marginalization is the process that inhibits an individual or community from enjoying the rights, privileges, resources, or opportunities enjoyed by other members of society. Of all its marginalized sections, society most often tends to ignore the conditions of transgender persons. The 2011 census reported 480,000 of India's population as transgender. Kerala pioneered a model for a trans-friendly state<sup>1</sup> with the launch of a 10-day-long state-wide survey, which was followed by the introduction of a state policy for transgender individuals. **Upasana Ghosh and Poulami Ghosh (Sep 2020)** The main aim of the study was to find out how much society is ready to accept transgender persons as a part

of them and gender as a spectrum. From the above discussion and by questioning different types of people it can be concluded that society is still not ready to accept them completely. Present generation people gave positive opinions towards acceptance of transgender persons as a part of their society but the overall study revealed that society is not ready to accept them entirely. By **Kiran Johnson (Oct 2016)** this article writing affirmative action is essential in education and job, as it provides historically marginalized sections of the society to have a better opportunity in their life, by providing them the right to approach legal institutions, in case they find their rights being violated. **Aniruddha Dutta (Jan 2014)** In July 2014, Sumi Das, the secretary of Moitrisanjog Coochbehar, a community-based organization working with transgender *Kothi* and *hijra* communities in the district of Coochbehar in West Bengal, published a public post on Facebook critiquing the exclusionary nature of the state-level consultations in West Bengal on transgender and *hijra* issues.

### III.Objectives of the Study:

The followings are the objectives of the study

- a. To know the ID and 1% reservation for transgender people in Karnataka state, India.
- b. To study the government interventions to uplift and empower this weaker section.

### IV.Research Methodology

Research can be classified based on the nature of data, tools of data collection, interpretation of already available data, purpose, and other such criteria. In the doctrinal part, information has been taken from secondary sources only. Secondary sources include books, journals, articles, and websites.

### V.Transgender Population and Literacy Rate in India

Indian Census has never recognized the third gender i.e. Transgender while collecting census data for years. But in 2011, data on Transgender's were collected with details related to their total transgender, Literacy. The data on Transgender has been released by Census Department. For educational purposes, separate data on Transgender has been carved out from that.

#### Top cities with Transgender population

S. No	States	Population
1	Uttar Pradesh	137,465
2	Andhra Pradesh	43,769
3	Maharashtra	40,891
4	Bihar	40,827
5	West Bengal	30,349
9 <sup>th</sup> place	Karnataka	20,266
35	Lakshadweep	2
<b>Total</b>	<b>India</b>	<b>487,803</b>

**Transgender literacy States**

S. No	State	Literacy
1	Mizoram	87.14%
2	Kerala	84.61%
3	Daman and Diu	75.51%
4	Andaman and Nicobar Islands	73.81%
5	Mizoram	87.14%
<b>21<sup>st</sup> place</b>	<b>Karnataka</b>	58.82%
35	Bihar	44.35%
<b>Total</b>	<b>India</b>	<b>56.07%</b>

Sources: <https://www.census2011.co.in/transgender.php>

**VI. Getting the identity cards:**

Transgender persons were granted legal recognition in a Supreme Court judgment in April 2014 that recognized transgender as a third gender. The judgment popularly called the NALSA judgment upheld transgender persons' right to self-identify and directed central and state governments to grant legal recognition to their gender identity. It provided a legal recourse for transgender persons to change their name and gender and acquire identity cards in their preferred name and gender. A valid identity card is a prerequisite for accessing any government welfare scheme or private service system, including healthcare, education, banking, and housing. Despite legal recognition in 2014, acquiring an identity card in their preferred name and gender remains a challenge for transgender persons. "We had to wait months to open a bank account for our organization," said Shaman Gupta, co-chair of Transgender Welfare Equity and Empowerment Trust (TWEET) Foundation. "Sometimes the identity card details do not match with the PAN card of our board members or our addresses were not updated because we had to provide so many proofs."

Only a third of the transgender persons interviewed in the Kerala government survey had an Aadhaar card or a voter ID card and only 2% had a PAN card. Three in four respondents could not register their preferred gender identity. Similarly, around 16% of the transgender persons interviewed in UP and Delhi had an Aadhaar card or voter ID card where they were identified as transgender. Around 1% had an Aadhaar card and 2.5% had a voter ID card in the old name and gender. Some transgender persons may have multiple sets of documents (in their given name and assigned gender, and preferred name and gender), the IDRC report notes. This can be for various reasons: to prevent losing their eligibility for insurance claims that were procured in their assigned gender or to retain property rights that may be lost with changing their gender. No legislation in India covers this issue, the report says.

The process to acquire documents in their preferred name and gender included submitting an affidavit to the district magistrate and a gazette notification. This meant going to government offices and meeting officials who may not be sensitized, and a long legal process. "Sometimes the person sitting in the [gazette] office would not be aware and they would say that this cannot be published or the gazette officer's information may not be available," said Gupta. "So, a lot of people would come to Delhi as it is the central gazette." This option was thus limited to individuals who are educated or associated with a non-profit organization working with the community, found the 2020 report on the gendering of development data.

Since November 2020, this process has shifted online with the launch of the National Portal for Transgender Persons. The portal, based on the Transgender Persons (Protection of Rights) Act, requires individuals to log in, fill up a form and upload identity proof. Over four months since the launch, by March this year, 1,915 persons had applied for the certificate of identity, the Ministry of Social Justice and Empowerment told

parliament. Of these, 220 were rejected due to insufficient or invalid documents. Of the valid 1,695 applications, nearly 85% or 1,418 are pending. Only 227 cards have been issued.

Nearly 85% of Transgender persons' applications for ID Cards are pending

ID Card application status	Transgender Persons
Applied	1915
Rejected	220
Cards issued	277
<b>Pending</b>	<b>1418</b>

"People had started applying in December," said Gupta, "It has been nearly four months but they have not got an update on the profile. "Getting the identity certificate also requires other existing identification documents. Since many transgender persons leave their home (of birth) without their identification documents, this process becomes impossible for most stated the IDRC report. "Many transgender persons run away from their homes and, while leaving, collecting documents may not always be on their minds," said Chopade. "They just want to escape the situation or the violence that they are facing".

**VII. Transgender Voting power in Karnataka State**

Karnataka has a transgender population of more than 70,000, but only about 4,700 people from this community have enrolled for voting. Worse, just about 5% of the registered transgender voters go to their polling stations to vote.

Transgenders are called by various names in different parts of the state — Jogappa, Shivashakti, Mangalamukhi, and Hijra are some of them. In 2012, the Election Commission of India added a new column 'Others', so that transgenders could enroll without hesitation. Until then, very few transgenders had enrolled to vote either as 'male' or 'female'.

Transgender activist Akkai Padmashali said very few transgenders have their identity papers. "Only a few thousand have voter IDs because most of them don't have any documents to say they are residents of their localities," she said.

Year	No of registered voters	Those who voted
2013	2100	49 (Assembly polls)
1014	3890	167 (Lok Sabha polls)
2018	4844	462 (Assembly polls)
2019	4718	Yet to vote (Lok Sabha polls)

Transgenders are not given houses on rent by landlords because of their identity. They normally stay with their seniors, and documents are in their seniors' names, Akkai said. "We are planning to reach out to our community members across Karnataka, from where the heads of our communities will reach the districts, urging our people (transgenders) to enroll as voters. Let our voice be heard."

Some people have voter ID cards, but those cards pertain to the period before they became transgenders. "I have my voter card but I don't want to vote with that card," said Parichaya Gowda, the first transgender who works in the Women and Child Welfare department. She is now a resident of Bengaluru but does not have a voter ID card. Ashita, from Kerala, who is staying with her seniors in Kengeri, does not have a voter ID card either. "With much difficulty, I have convinced officials and applied for a voter ID card and am waiting for it. Hopefully, I will vote this time," said 26-year-old Ashita. Chief Electoral Officer Sanjiv Kumar said he is aware of the low percentage of voters among transgenders. "We have initiated an awareness program where our officials go out and urge them to vote. We hope they will oblige," he said. When asked about transgenders finding it difficult to get voter ID cards because of a lack of documents or address proof, he said, "If they (transgenders) bring it to our notice, we can help them." However, the number of transgenders voting is in the assembly and Lok Sabha polls in 2013, 2014, and 2018 have been steadily increasing, and that is an encouraging trend. **When they get an identity then they can eligible for applying for government jobs.**

### **Transgenders can't get state benefits as most official data ignores 'other'**

Lack of means to record their preferred gender identities means that many Indians who identify as transgender are excluded from various social security benefits. Last year, as India went into lockdown due to the Covid-19 pandemic, the government announced that each transgender person would receive Rs 1,500 as direct transfer and ration supplies. Despite an estimated population of 4.8 million, only 5,711 transgender individuals received the bank transfer and 1,229 received the ration supplies. "When we asked persons from the community to send us their bank account details, to forward to the government, around 80% told us that they have no bank accounts," said Tinesh Chopade, advocacy manager at Humsafar Trust, an organization working to advance health, advocacy, capacity building and research for the LGBTQIA+ community. "This is simply because they have no documentation."

The lack of identity cards in their preferred names and recording their preferred gender identities means that many Indians who identify as transgender are excluded from various social security benefits. The countrywide census conducted in 2011 had three options to declare a person's sex--'Male', 'Female' and 'Other'. This was India's first attempt at collecting data on people with non-binary gender identities. Despite issues of exclusion and accuracy, the census provided an estimate of India's transgender population--487,803. However, most other official data sources continue to collect and provide data in binary format, excluding transgender and intersex persons. While there are no countrywide surveys or reports, multiple qualitative reports highlight ostracisation and stigma faced by India's transgender community. Transgender children are forced to quit their education due to harassment and bullying, impacting their chances of employment and societal integration. Individuals who identify as transgender often face discrimination from healthcare workers, limiting their access to health services. They are subjected to higher rates of gender-based violence, especially by police personnel.

### **VIII.1% Reservation specialties in Karnataka State:**

Karnataka became the first state in India to reserve jobs in public employment in favor of transgender persons. The state government informed the division bench of the Karnataka high court of Chief Justice Abhay Shreeniwas Oka and Suraj Govindaraj that it has amended the Karnataka Civil Services (General Recruitment) Rules, 1977 to provide for 1% horizontal reservation for transgenders.

A draft notification issued on May 13 proposed to amend Rule 9 for the purpose. The proposed amendment to Rule 9 Sub Rule was inserted to provide for 1% of vacancies to be filled in any service or post by the state government from among the transgender candidates in each category of general, Scheduled Castes, Scheduled Tribes and in each of the categories among the Other Backward Classes. The state government informed the high court on Wednesday that it did not receive any objections to the draft notification in so far as the amendment to Rule 9 is concerned within the stipulated time. Subsequently, on July 6, it amended it inserted sub-rule to the Rules.

### **IX. Findings**

1. In India total transgender population is 4,87,803 that Uttar Pradesh has a maximum population of 1,37,465 followed by Andhra Pradesh (43,769) and Maharashtra (40,891) but Karnataka is in the 9<sup>th</sup> place with 20,266 and very few transgender people are in Lakshadweep with only 2 people.
2. The maximum literacy rate of transgenders are in the Indian state of Mizoram with 87.14%, followed by Kerala and Daman & Diu with 84.61% and 75.51% respectively but Karnataka is in the place of 21<sup>st</sup> with a 58.82% literacy rate and very less literacy rate has Bihar with 44.35% only.
3. In Karnataka state 1915 transgender people applied for ID cards but only 277 people got and 220 members were rejected and 1418 are pending.
4. Transgender's are not getting houses on rent by landlords because of their identity. They normally stay with their seniors, and documents are in their seniors' names, Akkai said. "We are planning to reach out to our community members across Karnataka, from where the heads of our communities will reach the districts, urging our people to enroll as voters. Let our voice be heard."
5. Karnataka became the first state in India to reserve jobs in public employment in favor of transgender persons.

## **X.Suggestions**

1. Every transgender must have their ID card (Adhaar, Voter ID, PAN Card, etc.) to get government reservation and any schemes so as soon as possible apply for these IDs.
2. Government should issue all applied ID cards from transgender people then they can apply for the government schemes as well as Life Insurance.
3. Transgender should educate properly without getting any agitation and utilize what Karnataka government providing 1% reservation in government jobs.
4. Government should give them 2% reservation in education seat allotments, also provide scholarships, separate hostel specialties in universities and other educational institutions, and make less fee structure in higher education.
5. Transgender's are not getting houses on rent by landlords because of their identity, so government should make a scheme for transgender own houses like 'Janata houses'.

## **XI.Conclusion**

The article concludes by giving a policy framework for the same in education and job, as it provides historically marginalized sections of the society to have a better opportunity in transgender people's life, by providing them the right to get legal institutions, in case they find their rights being violated. Moreover, historical discrimination has made their mind handicapped to pursue fundamental rights, what are fundamental rights without the right to dignity? Affirmative action has given them the right to live a life of dignity and a life worth living. I strongly support affirmative action, as it has given individuals the right to treatment equal. I believe the Karnataka government's 1% reservation would help society as a whole to come closer to "One man, one value by B.R. Ambedkar". So Karnataka government put a step ahead of other Indian states to get 1% reservation in jobs.

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