Proposition

1ST MOHAMMAD OSMAN GONI – MABIJS NATIONAL MOOT COURT COMPETITION, 2026

The Petitioner, **Ms. X**, a transgender woman and dedicated educator, moves the Hon'ble Supreme Court of Happyland under the Constitution of Happyland. She seeks redress for systemic discrimination and humiliation in the private education sector, which resulted in her termination from two separate institutions across two States within a single year.

ACADEMIC AND PROFESSIONAL BACKGROUND OF MS. X

- **2019:** Completed undergraduate studies in Parkland with **First Division** honours.
- **2020:** Obtained an **Advanced Diploma in Nursery Teacher Training (NTT)** from Green State.
- **2022:** Completed **Post-Graduate studies in History** in Jhangar State.
- **2024:** Enrolled in a **Bachelor of Education (B.Ed.)** program in Pithland State.

THE TRANSITION AND GRIEVANCE

In **2021**, Ms. X underwent **Gender Affirmative Surgery**. Thereafter, she sought to enter the workforce as her authentic self but met with hostility. She alleges that her services were **illegally and arbitrarily terminated** by the private respondents (the two institutes), not for incompetence but out of prejudice against her gender identity, violating her fundamental rights to equality and dignity.

TERMINATION FROM THE FIRST INSTITUTE

Petitioner's case

i. After a selection process including interviews and teaching demos, Ms. X was found eligible for the post of Trained Graduate Teacher (TGT) in History and received an appointment letter on **22.11.2022**.

ii. She worked for 8 days, from **25.11.2022 to 02.12.2022**, during which she was allegedly subjected to name-calling, harassment and body shaming by colleagues and students for not conforming to the gender norms of a 'female' body. On **01.12.2022**, she informed the Principal, who took cognizance of one specific faculty member's hostile behaviour and assured her that management would speak to that teacher and give her all support.

iii. On **03.12.2022**, she was allegedly forced to resign after revealing her identity to a student; the institute threatened to withhold her compensation for the eight days worked. Her resignation letter stated that the administration was not inclined to employ or continue with an "openly transgender" person.

iv. On **05.12.2022**, she received an e-mail acknowledging her resignation, citing her poor performance in Social Science as the reason for termination, but also noting her good command of History and that the institute would welcome her back when a 'Core History Language' vacancy arose.

MABIJS MOOT SOCIETY

v. The termination was reported in national daily newspapers. On **08.12.2022**, the First Institute issued her a defamation notice claiming Rs. 1 crore. By press note dated **10.12.2022**, its Principal stated that the institute never knew her identity and learnt of it only after her termination, through media reports.

vi. On **28.12.2022**, she replied to the legal notice. In its rejoinder, the First Institute stated that termination was necessary due to the "forthcoming Board Examinations and in larger interest of the students".

vii. Having failed to secure any job, Ms. X wrote to the First Institute, which agreed to re-hire her subject to an assessment test. In January–February 2023, they exchanged correspondence on the test syllabus, and the test date was deferred several times at her request. A test scheduled for **25.02.2023** was not attended by her, and the institute warned it could not delay further. On **29.07.2023**, she e-mailed to enquire about vacancies; on **31.07.2023**, the institute replied that there were none, but she would get first priority if one arose.

First Institute's case

i. Her candidature was initially rejected for not meeting the selection criteria, but on her repeated insistence and undertaking to prepare and perform well, she was selected on a conditional basis. The administration accommodated all her requests.

ii. On her physical joining, the institute was informed that her educational documents reflected her name as Mr. X, that she had undergone Gender Affirmation Surgery and identified as a 'transgender woman'; she also presented her gender identity certificate.

iii. The institute placed her in the women's hostel, gave her access to female washrooms and treated her as a biological woman in all respects, with respect and dignity, reasonably accommodating her.

iv. She was unable to meet the required teaching standards and was underprepared for lessons, causing dissatisfaction among students.

v. There were incidents of misbehaviour and temperamental issues involving staff and hostel students; the institute alleges she was ill-tempered, which ultimately led to her termination.

vi. The last straw: she was allegedly late one day and forgot her charger. Told that no staff member had one, she started misbehaving; even after the administration arranged a charger, she alleged it was deliberately withheld. She then took leave without completing her lessons and behaved very poorly with a student in the hostel. After the student complained, the institute decided to terminate her and asked her to resign.

vii. About a month after being relieved, she asked to be re-hired as she could not find another job. The institute agreed, subject to a subject-specific assessment test, to which she agreed with certain stipulations. After e-mail exchanges, the institute accepted certain requests on modalities and organised the test on **25.02.2023**, which she did not attend. The institute e-mailed asking about her absence and well-being. She replied only after almost 4.5 months, on **10.07.2023**, disclosing her mental health ailments and requesting that the test be held on **10.08.2023**. The institute responded that, in the absence of any communication in the interim, it was constrained to fill the vacancy as the subject was important for board examinations.

viii. Thereafter, the petitioner levelled charges of discrimination against the First Institute.

TERMINATION FROM THE SECOND INSTITUTE

Petitioner's case

i. On **19.06.2023**, the Second Institute published an online advertisement for a History teacher; she applied on **25.06.2023**.

ii. After video-conference interviews on **15.07.2023** and **24.07.2023**, she was offered the position by letter dated **24.07.2023**.

iii. While she was travelling to Jigsu, Heartland, where the Second Institute is located, the authorities phoned her to share her identity proofs for formalities. She contends that once it was revealed she was a transgender woman, the institute denied her the employment, refused her entry and issued no formal termination letter.

iv. On **29.07.2023**, she served a legal notice on the Second Institute, which went unanswered.

Second Institute's case

i. The offer letter of **24.07.2023** required her to submit all relevant documents on joining for verification and stated that she would be on probation for one month, with a permanent appointment made only thereafter.

ii. The change of decision was an administrative action considering various factors; no document on record shows that her gender identity was a relevant factor.

iii. Offer letters were issued to other candidates as well, so as to consider comparative merits, qualifications and document verification before any appointment letter; hence she cannot claim entitlement to employment solely on the strength of the offer letter.

iv. Not all candidates issued offer letters were finally granted permanent employment, and no vacancy remained for the petitioner.

REMEDIES PURSUED BEFORE APPROACHING THIS COURT

Ms. X approached different fora to redress her grievances, but none came to her aid:

i. The **National Commission for Women (NCW)**, by press note dated **08.12.2022**, took suo moto cognizance of her allegations.

ii. On **09.12.2022**, she is said to have filed a criminal complaint against the First Institute's functionaries before the police.

iii. By letter dated **29.12.2022**, she approached the **National Council for Transgender Persons (NCTP)**, a body authorized under Sections 16 and 17 of the 2019 Act, but received no reply.

iv. Her complaint to the **National Human Rights Commission (NHRC)** was ordered closed on **12.10.2023** on the ground that the NCW was considering the issue.

v. The NCW constituted a four-member Inquiry Committee on **14.12.2022**. On **16.12.2022**, she submitted her written complaint, stating that on the day of joining, when the administration

learnt of her gender identity, she was asked not to disclose it to students or staff, and that her termination was purely because a student learnt of it.

vi. On **17.12.2022**, the Committee conducted an on-site investigation; Ms. X could not be present as she had no means to travel.

vii. The Committee's report recorded that the institute had no service rules for teaching and non-teaching staff and failed to adduce evidence that due procedure was followed before terminating her.

viii. The Committee noted the institution's stance that it knew her gender identity when appointing her and, given that she was provided female hostel accommodation and cab service, concluded that no case of discrimination was made out and closed the inquiry, holding her allegations not well-founded.

ix. Ms. X objected by letter to the NCW, stating that the Committee had deviated from the crucial investigation by focusing on her performance as a teacher rather than on whether gender discrimination had occurred.

RELIEF SOUGHT

Finding no other option left, Ms. X seeks, through the present petition, enforcement of Fundamental Rights and the statutory recognitions of those rights and the corresponding duties of the Respondents.

ISSUES

a. Whether the writ petition under the Constitution is maintainable against the private institutes, and whether it can be decided on the disputed facts?

b. Whether a positive obligation is cast upon the Union of Happyland and the States to prevent discrimination against transgender persons?

c. Whether the actions and inactions on the part of Respondents have led to discrimination against the petitioner on the ground of her gender identity?

NOTE

1. The Constitution of India may be referred to as the Constitution of Happyland for the purpose of the competition.
2. Other laws of India may be referred to as the laws of Happyland for the purpose of the competition.