

Case Summary of
Rukshana Kapali v. Government of Nepal et al.

Petitioner's Name: Rukshana Kapali

Writ petition number: 077-WO-0973

1. Background and Facts in Brief:

- Petitioner is a 22-year-old trans woman.
- She came out after her 10th grade, after completing her then known School Leaving Certificate (SLC), in N.S. 1135 (2015). Until this point, her legal document birth certificate and her educational certificates grade 8 and grade 10 (School Leaving Certificate), marked her as ‘male’ and had her deadname.
- In N.S. 1135 (2015), she applied for citizenship certificate where she was denied to choose female gender marker. However, she could convince authorities to have her preferred name placed. She was provided a citizenship with her preferred name, but gender ascribed as “Others”.
- The same year, she enrolled in 11th grade, then known as +2, but discrepancy between her citizenship certificate and school documents brought issues in her registration. She had to seek an alternative method, of receiving a *certificate of recommendation* from her local ward office stating that Rukshana and *her deadname* are the names of the same person. Only then was she able to register for +2. She passed her +2 degree without any other hassle. In +2, not only was she able to register with her preferred name but she could also list her gender as female.
- In N.S. 1138 (2017), she enrolled in Tri-Chandra Multiple Campus, Kathmandu (affiliated with Tribhuvan University) for Bachelors in Arts (BA) majoring Linguistics and Sociology. However, her application for registration at the University was denied due to discrepancy in her educational certificates (+2 documents and SLC documents). She made multiple written and oral applications to the University, but her request was not met with any decision.
- She attempted to amend name and gender details in her SLC documents, registered an application in N.S. 1139 (2019) May, but the National Examinations Board rejected her request, and handed a letter of rejection in N.S. 1140 (2020) January.

- Neither could she amend her SLC documents, nor without the amendment she could register herself with the University. Also, without the University registration number, her degree would be invalid, although she is allowed to take classes and appear for examinations.
- She tried to access multiple academic courses, while the administrative procedure was ongoing, such as learning a foreign language at Campus of International Languages, Kathmandu, Sanskrit language classes by Sanskrit University, or programs by Council For Technical Education and Vocational Training – every of these courses required submission of a copy of SLC certificate – which was incongruent with her gender identity – and she was met with barriers as well as rejection including humiliating experience.
- She submitted applications to change the gender marker of her citizenship certificate as female, but she was denied (verbally).
- She submitted applications to change her birth certificate and Grade 8 certificate, but was only allowed to remove / replace her deadname, and the gender marker was ascribed as “Others”.
- She was able to receive a passport with gender marker F, but when she applied for another copy as all the pages were filled, she was ascribed gender marker O. The O gender passports is not even read by Nepal’s immigration desks in Tribhuvan International Airport, let alone any country else.
- The Election Commission has provided her voter identity card mentioning gender as “Third gender”.
- She met with immense amount of harassment and humiliation during the process. She petitioned to every related government authority and parliament committee, but it was either rejection or lack of any decision – she filed a writ petition on N.S. 1141/06/13 (31 March 2021).

2. Legal questions:

- Right to dignified life
- Right to health
- Right to freedom
- Right against torture
- Right to privacy
- Rights regarding women
- Right to equality

3. Rulings:

A. A show-cause order was issued on N.S. 1141/06/26 (13 April, 2021).

B. Interim Orders

1. To keep all personal/legal documents of the petitioner submitted along the petition, private.
2. Not to address the petitioner with her deadname, throughout the procedure of the writ petition, written or verbal.
3. Not to deny the petitioner from accessing or enrolling to any programs where she is expected to submit her SLC certificate, and allowing her to use her preferred name as well as gender marker.
4. To register the petitioner at the University on basis of her enrollment at the campus.
5. Later on N.S. 1141/06/15 (2 April, 2021), the petitioner filed an application of correction for the fourth point as mentioned above in the list, stating that she intended to demand a writ of mandamus and not interim order. However, the bench rejected the application of correction in N.S. 1141/06/18 (April 5, 2021).
6. The division bench N.S. 1141/11/19 (6 September, 2021) did not issue any interim order, marked the petition for the priority list, and called for a full hearing which is scheduled for N.S. 1142/03/29 (January 16, 2022).

C. Prayers

I. Writ of Mandamus:

1. All of petitioner's private documents submitted along the petition be kept private, and not provided to any other person, organization or media.
2. Amend the name and gender of petitioner's SLC certificate to mention gender as female and name *Rukshana*.
3. Amend the name and gender of petitioner's all identity documents and certificates to mention gender as female and name *Rukshana*.
4. To erase the petitioner's deadname from all the records in opponents' documentations.
5. To ensure privacy on petitioner's deadname and former information.
6. To issue a judicial interpretation to amend all the legal provisions that are barrier in any of the writ demands ascribed above.

II. Writ of Certiorari:

1. The decision of National Examination Board rejecting petitioner's amendment of SLC certificate to be nullified.
2. To nullify the local ward office's *letter of recommendation* stating *Rukshana* and *her deadname* are the name of the same person, allowing her to be able to use Rukshana as her only name.

Summary of the writ petition written on N.S. 1142/01/29 by writ petitioner Rukshana Kapali and reviewed by advocate Ayasha Sharma.
