IN THE SUPREME COURT OF INDIA
CIVIL WRIT JURISDICTION
WRIT PETITION (C) NO. 519 OF 2026

IN THE MATTER OF:

MANVEER YADAV & ORS. ……. PETITIONER(S)

VERSUS

UNION OF INDIA & ORS. ……. RESPONDENT(S)

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		Total	**Rs. 20**

Date: 14.08.2026

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IN THE HON'BLE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

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PAPERBOOK

ADVOCATE FOR THE RESPONDENT: [MR. ASHUTOSH KUMAR SHARMA]

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Place: New Delhi

Date:14.08.2026

Filed by,

(Ashutosh Kumar Sharma)

Advocate for the State of Uttarakhand /

Respondent No. 28

NOTARY Rajendra Singh Negi Advocate Dehradun District Reg.No. 10(U)2002 GOVT. OF UTTARAKHAND

THE HON'BLE SUPREME COURT OF INDIA
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WRIT PETITION (C) No. 519 of 2026

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COUNTER AFFIDAVIT ON BEHALF OF THE STATE OF UTTARAKHAND/ RESPONDENT NO. 28

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS LORDSHIP'S COMPANION JUSTICES OF THE SUPREME COURT OF INDIA AT NEW DELHI.

MOST RESPECTFULLY SHOWETH: -

I, Sunder Lal Semwal, S/o Late Mahanand Semwal, aged about 59 years, posted as Additional Secretary, Social Welfare, Government of Uttarakhand, Dehradun, Uttarakhand, do hereby solemnly affirm and state as under: -

1. That I am the Officer-in-Charge appointed in the above captioned case, and as such I am conversant with the facts of the case on the basis of knowledge derived from the official records maintained in the department.

2. That, the Petitioner herein has preferred the abovementioned Writ Petition under Article 32 of the Constitution of India invoking

civil original jurisdiction of this Hon'ble Court with the following prayers: -

"a. Issue writs, order, or direction in the nature of certiorari declaring Section 2(k) as substituted by the Transgender Persons (Protection of Rights) Amendment Act, 2026, to be ultra vires Articles 14, 15, 19(l)(a), and 21 of the Constitution of India, and to strike down the same;

b. Issue a writ, order, or direction declaring the omission of Section 4(2) of the Transgender Persons (Protection of Rights) Act, 2019 by the 2026 Amendment Act to be unconstitutional and void, and directing that Section 4(2) be read as continuing in force;

c. Issue a writ, order, or direction declaring the amendments to Section 6(1) of the Transgender Persons (Protection of Rights) Act, 2019 by the 2026 Amendment Act to be ultra vires the Constitution and void;

d. Issue a writ, order, or direction declaring amendments to Section 7 of the Transgender Persons (Protection of Rights) Act, 2019 by the 2026 Amendment Act, including the insertion of Section 7(1A) and the substitution of "may" for "shall" in Section 7(1) & (2), to be ultra vires Articles 14, 15, 19(l)(a), and 21 of the Constitution of India, and void;

e. Issue a writ, order, or direction, declaring that the penal provisions under Section 18(a)-(d) as unconstitutionally disproportionate and the provisions under Section 18(e)- (h) as void for vagueness arid overbreadth, and direct that appropriate graded and proportionate penalties, be prescribed.

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f. Issue a writ, order, or direction, declaring that the right' to self-perceived gender identity is a fundamental right protected under Articles 14, 15, 19(l)(a), and 21 of the Constitution, and directing the Union of India and all State Governments to give effect- to that right in accordance with the directions of this Hon'ble Court in National Legal Services Authority vs. Union of India^ (2014) 5 see 438;

g. Issue appropriate writ(s), order(s), or direction(s), including a writ in the nature of mandamus, directing the Respondents to frame, notify, and effectively implement comprehensive and inclusive welfare schemes for transgender and gender diverse persons, including healthcare, with access to gender-affirming care, education, employment, housing, and social security, and to ensure continuity of and non-discriminatory access to existing -entitlements, without, arbitrary or invasive conditions, in consonance with Articles 14, 15, 19, and 21 of the Constitution of India;

h. Issue an appropriate writ(s), order(s), or direction(s) directing the' Respondents to design and implement mandatory sensitisation and awareness programmes, and to establish effective monitoring and grievance redressal mechanisms, for public officials, law enforcement agencies, healthcare providers, and educational institutions, so as to secure the full and effective realisation of the rights recognised in NALSA (supra);

i. Grant such other reliefs as this Hon'ble Court may deem fit and proper in light of the facts and circumstances of the case."

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3. That, the answering Respondent most respectfully submits that save and except those contentions which have been specifically admitted by the Respondent herein all other contentions made in the present Writ Petition shall be deemed to be denied.

4. That, in the instant Writ Petition, Petitioner herein has challenged the constitutional validity of Transgender Persons (Protection of Right) Amendment Act, 2026 in particular the substituted Section 2(k), the omission of Section 4(2), the amended Sections 6, 7, and 7(1A), and the newly inserted Section 18(e)-(h) which is alleged to be in violation of Articles 14, 15, 16, 19 and 21 of the Constitution of India.

5. That, the above captioned matter was came up for hearing before this Hon'ble Court on 04.05.2026, wherein, this Hon'ble Court was passed to pass the following order: -

> "1. Issue notice, returnable on 03.08.2026.
>
> 2. Mr. M.K. Maroria, learned counsel, accepts notice on behalf of the Union of India.
>
> 3. Let notices be issued to all the States and Union Territories through their Advocates General/standing counsels. Counter-affidavits to be filed before the next date of hearing.
>
> 4. These matters shall be placed before a Three-Judge Bench to be constituted by Hon'ble the Chief Justice of India."

6. That, the Transgender Persons (Protection of Right) Amendment Act, 2026 is a Central Act enacted by the Government of India in

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Parliament, and the Petitioner herein has challenged the said Amendment Act by arraying Union of India as well as all the States and Union Territories as party/Respondents, on which, this Hon'ble Court vide order dated 04.05.2026, has issued Notice to all the States and Union Territories through their Advocates General/ Standing Counsels calling upon to file Counter Affidavit. This Hon'ble Court was also pleased to direct that these matters shall be placed before a Three-Judge Bench to be constituted by Hon'ble the Chief Justice of India. The present counter affidavit is being filed in compliance with the said order dated 04.05.2026.

7. That, at the very outset it is respectfully submitted that the legislation under challenge, namely the Transgender Persons (Protection of Rights) Amendment Act, 2026, is a Central legislation enacted by the Parliament of India, which received the assent of the President of India on 30.03.2026 and was thereafter notified in the Gazette of India by the Ministry of Law and Justice, Government of India. The answering respondent – State of Uttarakhand has no role whatsoever in the enactment of the said Amendment Act, and the constitutional validity thereof is a matter which falls to be defended by the Union of India, being respondent no.1 in the present writ petition. The answering respondent is, therefore, not a necessary party for the adjudication of the challenge to the vires of the said Amendment Act, and is before this Hon'ble Court in obedience to the notice issued vide order dated 04.05.2026.

8. That it is further respectfully there is not even a whisper of an averment in the entire Writ Petition attributing any act, omission, illegality, arbitrariness or violation of any fundamental right to the State of Uttarakhand or to any of its officers or authorities, nor is there any allegation that the answering Respondent has failed to

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give effect to the law declared by this Hon'ble Court. No cause of action, therefore, arises against the answering Respondent.

9. That, it is well settled that there is always a presumption in favour of the constitutionality of an enactment made by a competent legislature, and the burden lies upon the person who assails it to establish that there has been a clear transgression of constitutional principles. A law made by Parliament cannot be struck down merely because a different or better scheme could have been devised, or because it is felt that the legislature ought to have made some other or further provision. Reliance in this regard is placed upon the judgments of this Hon'ble Court in Ram Krishna Dalmia Vs. Justice S.R. Tendolkar, AIR 1958 SC 538 and State of Bihar Vs. Bihar Distillery Ltd., (1997) 2 SCC 453.

10. That the role of the answering respondent under the Transgender Persons (Protection of Rights) Act, 2019, as amended, is that of the "appropriate Government" within the meaning of Section 2(a) thereof in relation to its own establishments, and that of an implementing agency of the said Act and of the Transgender Persons (Protection of Rights) Rules, 2020. The State of Uttarakhand is a welfare State and is fully committed to implementing the said Act and the Rules framed thereunder in their letter and spirit, and shall faithfully abide by and comply with whatever orders and directions may be passed by this Hon'ble Court in the present batch of matters.

11. That without prejudice to the aforesaid preliminary objections, it is respectfully submitted that it is true that the rights and healthcare needs of transgender persons may differ from those of the general population; these matters cannot be governed solely by government regulations but are also influenced by social norms and existing systems. The claim that intersex individuals

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invariably undergo medical treatment against their will during childhood, thereby violating human right, is incorrect. Rather, if parents observe any atypical physical characteristics in their child, it is often necessary for them to seek medical treatment to help the child attain a 'normal' physical stat, which is a common practice within the Indian social context.

12. It, further most respectfully submitted that a transgender person is not identified solely on the basis of physical characteristics, in fact, in reality, if an individual presents the fact of their transgender status to a competent authority, they can be recognized as transgender under the Act. Following this, the Act stipulates provisions for granting them an identity certificate for the transgender category and access to facilities such as health check-ups, alongside other government benefits.

13. That, it is incorrect to say that all the rights given to a transgender person are vested in the Hon'ble Supreme Court and the High Court, rather the correct position is that the Constitution of India vests only the Parliament of India with the right to make all rules and laws in relation to all the citizens of India, which includes transgender persons. Thus, in relation to transgender persons, an Act has been passed in the Parliament itself in the year 2019 and 2026.

14. That, it is most humbly submitted by the Act of the year 2019 and 2026, all the rights have been given to the State for disposal in relation to transgender persons, but the actual situation is that if a person appears from his physical appearance and characteristics that the person belongs to transgender category, then he can also appear before the competent authority and get himself declared as transgender person.

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15. It is further submitted in the Act of year 2026, the Government of India, has framed detailed rules for the social, economic, educational and personal rights of transgender community, so that they can live their lives safely and with dignity.

16. That, the Petitioner's contention that the amended Act does not grant rights to transgender persons is incorrect. It is most humbly submitted that the Act of 2026, safeguards the rights of all transgender persons and the community, ensuring they can live with dignity and security.

17. That, it is incorrect to say that the Amended Act of 2026 infringes upon the rights of transgender persons, regarding personal privacy; in fact, the reality is that the rights concerning personal privacy guaranteed by the Constitution of India have been extended to members of the transgender community, and the said Act does not infringe upon these rights in any way.

18. That, is wrong to say that the Amended Act-2026 is harmful in relation to Transgender Persons and that this Act curtails the rights due to Transgender Persons, whereas the situation is quite the opposite. This Act also makes available to transgender persons the rights afforded to all citizens of India, without any kind of inequality.

19. That the aforesaid facts demonstrate that no instance of denial of a certificate of identity, or of denial of any benefit or entitlement, on account of the impugned Amendment Act has been brought to the notice of the answering respondent, and that the impugned Amendment Act has not, in its actual working within the State of Uttarakhand, resulted in any denial, dilution, erosion or abridgement of the rights of transgender persons. On the contrary, the process of identification, certification, welfare and

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rehabilitation of transgender persons is being carried forward by the answering respondent in a continuous manner.

20. That it is respectfully submitted that the object of the Transgender Persons (Protection of Rights) Act, 2019 and the Transgender Persons (Protection of Rights) Amendment Act, 2026, is to ensure that persons falling within the transgender class or category receive physical safety, protection within the family, governmental benefits and all other facilities in a regular manner and without any obstruction, and further to secure to them personal dignity and social security. The said enactments are, in their object and effect, ameliorative and beneficial in nature.

21. That, it is further submitted that under the said Act, as amended, subjecting a transgender person to bonded or forced labour, denying or obstructing the free movement of a transgender person in public places, compelling a transgender person to leave his, her or their household, village or other place of residence, and harming, injuring or endangering the life, safety, health or well-being, whether mental or physical, of a transgender person, including by physical, sexual, verbal, emotional or economic abuse, have been made punishable. Similarly, provision has been made enabling a person recognised as a transgender person to change his, her or their first name in official documents, the procedure in that behalf having been prescribed at the level of the District Magistrate. Further, the scheme of the said Act, as amended, contemplates that in the matter of change of gender under Section 7, the competent authority shall proceed upon the certificate of the Medical Superintendent or the Chief Medical Officer of the medical institution in which the person concerned has undergone the procedure. It is respectfully submitted that such provisions operate for the benefit, protection and social security

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of transgender persons, and cannot be characterised as being violative of Part III of the Constitution of India.

22. That the present affidavit is being filed by the answering Respondent in compliance with the order dated 04.05.2026 passed by this Hon'ble Court and in order to bring the correct facts on record. The answering respondent, however, craves the leave of this Hon'ble Court to file an additional or supplementary affidavit, as and when the need may arise, and to place further material and documents on record at the time of hearing.

23. That, the present Affidavit is being filed bonafidely and in the interest of justice.

DEPONENT

VERIFICATION

Verified at Dehradun, Uttarakhand on 12th day of August, 2026 that the content of the above paras is true and correct to the best of my knowledge and belief and on the basis of knowledge derived from the official record maintained in the Office, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

S.No-3296/26

This affidavit is sworn before me by Shri ..... who is identified by Shri ..... at Dehradun on 13/8/26

NOTARY Rajendra Singh Negi Advocate Dehradun District Reg.No.13(01)2002 GOVT. OF UTTARAKHAND

(Rajendra Singh Negi)
Advocate & Notary
13/8/26