

[Home » Politics](#)

Only transgenders are third gender: Supreme Court

A Supreme Court bench comprising justices A.K. Sikri and N.V. Ramana refused to modify a 2014 ruling on transgender rights

Last Published: Fri, Jul 01 2016. 08 27 AM IST

Apurva Vishwanath

[Sign Up](#)

Photo: AFP

New Delhi: The Supreme Court on Thursday clarified that only the transgender community would qualify as the “third gender”.

In doing so, a bench comprising justices A.K. Sikri and N.V. Ramana refused to modify a 2014 ruling on transgender rights.

On 15 April 2014 justices K.S. Radhakrishnan and A.K. Sikri granted legal recognition to transgenders or eunuchs as “third gender” and directed the centre and states to treat them as socially and educationally backward classes for the purposes of quotas in admission to educational institutions and public appointments.

However, in September 2014, the centre sought a clarification from the court on whether lesbians, gays and bisexuals qualify as “third gender”.

The centre also sought a clarification on the grant of Other Backward Class (OBC) status to transgenders, saying all such people cannot be clubbed under the OBC category as some of them belong to Scheduled Caste/Scheduled Tribe by birth.

“Why should we not dismiss your petition with costs? No clarification is required,” the bench said.

“The centre has delayed implementation of the 2014 ruling and the clarification is just to delay the process,” said senior advocate Anand Grover, who had earlier represented transgender activists in the case.

The court had, in its earlier verdict, directed all governments to take steps to resolve problems such as fear, shame, social pressure, depression and social stigma faced by transgenders.

Interestingly, the court had also clarified in 2014 that transgender does not include gays, lesbians and bisexuals. “The grammatical meaning of ‘transgender’, therefore, is across or beyond gender. This has come to be known as an umbrella term which includes gay men, lesbians, bisexuals and cross dressers in its scope. However, while dealing with the present issue, we are not concerned with this aforesaid wider meaning of the expression transgender,” the court said.

The apex court’s 2014 ruling on transgender rights was cited in February to seek a review of its 2013 decision upholding Section 377 of the Indian Penal Code which prohibits “carnal intercourse against the order of nature with any man, woman or animal”.

Lawyers seeking a review had then said that although the court has recognized the rights of the transgender community, their sexuality continued to be criminalized by Section 377. The law affects the rights of the LGBT population, in particular, but its provisions can also be applied to heterosexual citizens.

“Until Section 377 goes, any corrective measure the government takes for transgender community will be incomplete,” said Akkai Padmashali, a sexual minorities activist and founder member of Ondede, a human rights group for children, women and sexual minorities based in Bengaluru.

First Published: Fri, Jul 01 2016. 12 54 AM IST

TOPICS:

SUPREME COURT

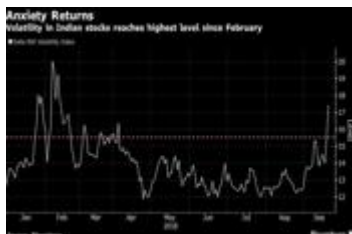
TRANSGENDERS

LGBT

SECTION 377

TRANSGENDER RIGHTS

EDITOR'S PICKS »

**Sensex, Nifty set to experience a more painful bear hug****What ails government health insurance schemes****Ayushman Bharat: An IV drip for healthcare in India**

Home**Lounge****Specials****Companies****Multimedia****Technology****Opinion****Money****Contact Us****Industry****Science****About Us****Politics****Education****Advertising****Consumer****Sports****Mint Apps****Sitemap****Brand Stories****DesiMartini****Livehindustan****Shine****Subscribe****Hindustantimes****HT Brand Studio****Syndication****HT Brand Leadership Series****HT Punjabi**

[Subscribe to our Newsletter](#)[Subscribe](#)

[Privacy Policy](#)[Terms of Use](#)[Mint Code](#)[RSS](#)

Copyright © 2018 HT Media Ltd. All Rights Reserved