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Zahhad vs State of Kerala

Suhana singh

The Kerala high court's Ruling in Zahhad Vs state of Kerala marks a significant moment in the legal recognition of transgender parenthood in India. It is not merely about correcting a birth certificate, It's about asserting dignity, identity and equality in the most personal domain. The family while the LGBTQ+ individuals in India still face legal restrictions in term of marriage, adoption and family planning. This judgement is strong affirmation that the right to parenthood and recognition is not bound by traditional gender binaries.

Factual Background

The petitioners in the case, Zahhad and Ziya Paval, are a transgender couple in Kerala. Zahhad gave birth to a child, becoming the first known trans man in India to do so. When the child was born, the Kozhikode corporation issued a birth certificate listing Zahhad as "Mother (Transgender)" and "Ziya as Father (transgender)".

The labelling was problematic for two reasons. First it did not reflect the couple's self-identified genders. Second, it imposed binary labels that are not necessary for the legal purpose of the birth certificate. The couple approached the high court seeking direction to the corporation to issue a gender-neutral certificate naming both as "parent".

Issue before the law

Whether the state can label (mother, father) against the will and identity of transgender individuals.

Whether a gender-neutral term like "parent" can be used in officials documents such a birth certificate.

Whether denying the recognition violates constitution rights.

Judgement Summary

The Kerala high court, through justice Ziyad Rahman A.A, ruled in favour of the petitioners. The court directed the Kozhikode corporation to issue a revised birth certificate that uses the gender-neutral term “parent” instead of “mother” or “father”.

Key observation included

Identity and gender are fundamental aspects of dignity.

Forcing trans persons to accept gender labels that do not align with their identity is discriminatory and unconstitutional.

The state must evolve its documentation practices to be inclusive and respectful of non-binary identities.

Legal and Constitutional principals involved

Article 14- Right to Equality

The court emphasized that equality before the law includes not just treating like cases alike but also recognizing differences the transgender individuals are entitled to equal treatment under the law, which includes official recognition identities.

Article 15- Non discrimination

Denying proper gender recognition in official documents can amount to discrimination on the basis of sex and gender identity, which is prohibited u under Article 15.

Article 19(1)(A) Freedom of Expression

Gender identity is an expression of personal choice and dignity. Suppressing it through state documentation violates the right to self-expression.

Article- 21 Right to life and dignity

The core of the judgement lies here. The right to life under Article 21 includes the right to live with dignity. Misidentify someone’s gender on a birth certificate causes emotional harm and legal confusion, both of were infringe on personal dignity.

Transgender persons (Protection of Rights) Act 2019

This law affirms the right of every transgender identity. The court reinforced this principle, stating that the Act supports gender-neutral approaches in legal recognition.

Significance of the judgement

This is the first case in India where a high court has directed authorities to recognize both trans parents as a “parent” not “mother” or “father”. It opens the door for non-binary, queer and transgender parents to rights without compromising their identities.

While the ruling applies to a single birth certificate, it sets a strong precedent that can impact:

- Passport and Aadhar documentation.
- School admission records.
- Healthcare access for trans parents and their children.
- Adoption and guardianship rights (when legalised)

It also sends a powerful message: family is not defined by gender roles but by love, care and legal recognition.

The elephant in the room: No legal recognition of LGBTQ+ marriage.

AS groundbreaking as this judgement is, it exists in a legal system that denies full family rights to LGBTQ+ people. In October 2023, the supreme court of India declined to legalise same-sex marriage in the *Supriyo Chakraborty v. Union of India* case. The court said that marriage is a matter for parliament to decide, not the judiciary.

Here's what means:

Same-sex couples still cannot marry legally.

They cannot jointly adopt children.

They do not have inheritance rights as a couple.

They are not considered next of kin in hospitals or legal matters.

LGBTQ+ relationships are recognised only socially not legally.

This creates a frustrating contradiction. Trans people can be recognised as parents but if a gay or lesbian couple has a child through surrogacy or adoption, they may not receive joint legal gaps continue to isolate queer families from full citizenship rights.

Limitations of Judgement

While the Kerala high court's ruling is progressive, it is limited scope.

1. Does not apply nationally
2. It relies on the unique facts of Zahhad and Ziya's case
3. It does not challenge marriage, adoption or spousal rights.

In short, it recognizes within the existing legal structure but does not transfer the structure itself.

Way Forward

For a meaningful change, several things need to happen:

A gender-neutral policy official documents across India should allow for gender-neutral terms like, "parent", "guardianship" or "spouse" where appropriate.

Marriage Equality

Parliament must take up the issue of same-sex marriage. Legalizing marriage would grant LGBTQ+ individuals access t a wide range of family rights.

Inclusive Adoption Laws

Current adoption laws only allow heterosexual couples or singles individuals to adopt. This must change to include queer couples.

Sensitization of local authorities.

Local government official bodies need training on trans rights, legal identity and how to implement inclusive policies without delay or prejudice.

Conclusion

The judgement in *Zahhad v. State of Kerala* is a rare and courageous move by the dignity and identity of trans persons as legal parents. It proves that even within a restrictive legal framework progress is possible but to fully honor the spirit of equality, India must move toward comprehensive legal recognition of LGBTQ+ relationships, and family rights. Until then, victories like this, while inspiring, will remain the exception rather than the rule.

Source:-

1. Indian Constitution
2. *Zahhad vs State of Kerala* on 2 June 2025 (indiankanoon.org)

