



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

JANE KAUSHIK V. UNION OF INDIA : ENFORCING WORKPLACE RIGHTS FOR TRANSGENDER PERSONS

~Anika Rawal

BENCH :

Justice J. B. Pardiwala

Justice R. Mahadevan

DATE OF JUDGEMENT : 17 October 2025

COURT : Supreme Court

CITATION OF THE CASE : 2026 (1) SCC 336 / W.P. (C) No. 1405 of 2023

SUBJECT OF THE CASE : Recognition and enforcement of transgender rights

INTRODUCTION OF THE CASE

The Supreme Court delivered a monumental judgement on October 17th, 2025 in the *Jane Kaushik v. Union of India*¹ case. In 2014, the *NALSA v. Union of India*² case recognised the rights of transgender persons and gender identity as constitutional rights. Other landmark judgements including *Justice Puttaswamy v. Union of India* (2017)³ and *Navtej Singh Johar v. Union of India*

¹ *Jane Kaushik v. Union of India*, (2025) INSC 1248

² *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438

³ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, AIR 2017 SC 4161 (India)

(2018)⁴ has led to the current judgement that recognises the lack of proper enforceability of rights. These judgements have also led to the enactment of the *Transgender Persons (Protection of Rights) Act, 2019*.

The Jane Kaushik case has pushed the system to take responsibility and actually enforce the rights instead of just giving them recognition. This is an important judgement after the NALSA case as it shifts the focus from recognition to accountability.

FACTS OF THE CASE

The petitioner, Jane Kaushik, is a qualified transgender woman. She holds three degrees, using which she chose the path as a teacher and an educator. For her first employment, she joined as a teacher in a private school in Uttar Pradesh, where she submitted all necessary documents disclosing her gender identity. During her recruitment, she was strictly asked to not disclose her gender identity to any of the teaching staff and students. Shortly after her appointment, a student discovered her trans identity and she was compelled to resign.

After this, Ms. Kaushik joined another private school in Gujarat, where her employment was terminated when they found out about her gender identity. She was dismissed and discriminated solely based on her trans identity and her qualifications were not taken into consideration.

When she sought legal remedy, there were no Officers or Transgender Protection Cells to file her grievance. Following this, Ms. Kaushik approached the Supreme Court under *Article 32* of the Indian Constitution alleging the violation of her fundamental rights under *Article 14, 15, 16 and 21*⁵ and also the failure of the *Transgender Persons (Protection of Rights) Act, 2019*.⁶

ISSUES OF THE CASE

1. Whether the Central and State Governments are obligated to prevent discrimination and ensure equal working opportunities for transgender persons in both the private and public sector.

⁴ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, AIR 2018 SC 4321

⁵ INDIA CONST. art. 14, 15, 16, 21

⁶ The Transgender Persons (Protection of Rights) Act, No. 40 of 2019, § 4 (India)

2. Whether the denial of employment based on gender identity violates the fundamental rights of Ms. Kaushik under Article 14, 15, 16 and 21.
3. Whether the Transgender Persons (Protection of Rights) Act, 2019 effectively implemented or has it failed to prevent discrimination?
4. Whether private educational institutions are bound by fundamental rights and constitutional principles against discrimination.

ARGUMENTS BY THE PARTIES

PETITIONER (JANE KAUSHIK) :

- Ms. Kaushik was well qualified for the teaching appointment and was terminated both times solely due to prejudice against her transgender identity.
- Such discriminatory acts violated the Transgender Persons (Protection of Rights) Act and also her fundamental rights under Article 14, 15, 16 and 21.
- The Act failed to prohibit discrimination in employment. The State failed to implement safeguards of rights as well.

RESPONDENT (UNION OF INDIA) :

- The Government stated that they had already taken all the necessary measures to prevent discrimination by enacting the *Transgender Persons (Protection of Rights) Act, 2019*.
- Individual employment disputes, especially in the private education sector, shall not be labeled as a violation by the state.

JUDGEMENT OF THE COURT

The judgement in this case was delivered by a two-judge bench composed of Justice J.B. Pardiwala and Justice R. Mahadevan. The Supreme Court held that discrimination based on gender identity is violative of the fundamental rights. The Court observed that even when the Transgender Persons (Protection of Rights) Act was enacted, it remained inadequately implemented as it failed to protect the transgender persons from discrimination. The Court read this as a lack of bureaucratic will to implement the rules and regulations of the Act effectively.⁷

⁷ *Jane Kaushik v. Union of India – A Watershed Moment for Transgender Rights in India*, October 30, 2025

The Court ordered to set up an eight-member committee, headed by former Delhi High Court judge Asha Menon. This committee was assigned to formulate a policy that suggests measures to accommodate transgender persons in workspaces with equal treatment. It was a necessary step as the Court followed that the 2019 Act only lays down the rights of the transgender persons, but takes no actual steps to provide the benefit of the Act to the aggrieved. This judgment mainly highlights the failure of the State in successfully implementing the Act and falling short on preventing discrimination against transgender persons.

The Court traced the evolution of transgender rights from 2014 when we got revolutionary judgement in the NALSA v. Union of India case to the TG Act of 2019, but the rights guaranteed remain empty promises.

The Court ordered both the private schools of Uttar Pradesh and Gujarat to pay Rs. 50000 as compensation to Ms. Jane Kaushik for the violation of her fundamental rights. Even the Union Government was liable to pay compensation due to their failure of providing adequate redressal mechanisms.

It was established by the Court that the State is obligated to provide “reasonable accommodation” under the TG Act, 2019. It is the responsibility of both State and Non-State actors to provide reasonable accommodation to vulnerable persons and prevent any kind of discrimination against them. The Court held that Section 3 of the Transgender Persons (Protection of Rights Act) 2019 provides a constitutional guarantee against any sort of discrimination which prevents the Private entities from hiding behind their character to perform transphobic acts. Further, all states have been directed to mandatorily set up Transgender Protection Cells to address the grievances of transgender persons.

ANALYSIS OF THE CASE

This case mainly highlights the failure of the bureaucratic system in implementing the rules and regulations of the Transgender Persons (Protection of Rights) Act 2019. This case displays that the gap between promise and practice remains vast. It can be observed that the Court has extended the doctrine of Reasonable Accommodation from disability and human rights to gender

identity rights. Though the Court did clarify that gender identity is not a disability, but it is a group of vulnerable persons for whom structural adjustments have to be made. These accommodations can be made through the inclusion of gender-neutral washrooms and inclusive employment recruitment portals.⁸

The Jane Kaushik case has put the TG Act to test and has helped in expanding the scope of reasonable accommodation on both private and public entities. It has moved the right to equality and dignity of transgender persons from an expectation to implementation.

⁸ Naik, Yeshwant, *Jane Kaushik Judgment: A Paradigm Shift Towards Substantive Equality for Transgender Persons in India* (November 27, 2025)