

श्री सर्वोच्च अदालतमा पेश गरिएको
निवेदन पत्र

विषय : नेपालको संविधानको धारा ४६ तथा १३३ (२) (३) बमोजिम परमादेश लगायत
उपयुक्त आज्ञा, आदेश वा पुर्जी जारी गरिपाउँ ।

ललितपुर जिल्ला ललितपुर महानगरपालिका वडा नं २० यल धवाखा स्थित क्वयेर
युथ ग्रुपबाट अख्तियारी प्राप्त ललितपुर जिल्ला ललितपुर महानगरपालिका वडा नं
१६ पतक्व टोल बस्ने वर्ष २४ को रुक्शना कपाली (सम्पर्क :
९८०८२६२६९९) १

निवेदक

विरुद्ध

गृह मन्त्रालय, सिंहदरबार, काठमाडौं १

विपक्षी

मुद्दा : परमादेश समेत ।

हामी निवेदक नियमानुसार लाग्ने निवेदन दस्तुर यसैसाथ संलग्न गरि नेपालको संविधानको
धारा १३३(२)(३) तथा सर्वोच्च अदालत नियमावली, २०७४ को नियम ४० बमोजिम
निम्नलिखित निवेदन गर्दछौं ।

- हामी निवेदकहरू नेपाली नागरिक हौं । निवेदक क्वयेर युथ ग्रुप (Queer Youth Group)
संस्था नेपालमा सिमान्तकृत यौन अभिमुखिकरण, लैङ्गिक पहिचान तथा यौन विशेषताका
व्यक्तिहरू (PoMSOGIESC) अथवा लैङ्गिक तथा यौनिक अल्पसङ्ख्यक व्यक्तिहरूको
अधिकारका निम्ति कार्यरत छौं । निवेदक संस्थाद्वारा अख्तियारी प्राप्त म रुक्शना कपाली

एक पारलैङ्गिक महिला (Transgender woman) हुँ । म हाल पूर्वाञ्चल विश्वविद्यालयको आङ्गिक क्याम्पसमा कानून विषयमा स्नातक अध्ययन गर्दैछु । गृह मन्त्रालयले नेपालमा नागरिकता प्रमाणपत्रमा नाम तथा लैङ्गिक विवरण संशोधन गरेका व्यक्तिहरूको सूचनालाई मिडियालाई उपलब्ध गराएको हुनाले गोपनीयताको मौलिक हकको रक्षार्थ यस अदालतको शरणमा आएका छौं ।

२. शिलापत्र मिडिया नेटवर्क प्रा.लि.द्वारा सञ्चालित अनलाइन पत्रिका शिलापत्रमा मिति २०८० असोज ८ गते *"पहिचानसहितको नागरिकता बनाउन पाठेघर फालेका उनको जब मृत्यु भयो"* भन्ने शीर्षकमा एक लेख प्रकाशन भएको थियो । उक्त लेखमा प्रकाशित एक सामाग्रीले हाम्रो ध्यानाकर्षण गरायो । उक्त लेखमा *"हाल सम्म लिङ्ग परिवर्तन भएका व्यक्तिहरूको विवरण"* भन्ने शीर्षक सहित एक कागजातको तस्वीर प्रकाशन भएको छ । उक्त कागजातमा मन्त्रीपरिषद्को निर्णय मिति, नागरिकता जारी गरेको जिल्ला प्रशासन कार्यालयको नाम, नागरिकहरूको संशोधन पूर्व तथा पश्चात्को नाम, लिङ्ग, परिवर्तित लिङ्ग, लिङ्ग परिवर्तनको प्रकार भन्ने शीर्षकहरूमा सबै विवरण उल्लेख भएको कागजात रहेको छ । शीलापत्रले आफ्नो वेबसाइटमा अपलोड गर्दा व्यक्तिहरूको नामलाई लुकायो, गोप्य राख्यो । तर यसरी नागरिकहरूको यस्तो संवेदनशील तथा गोप्य सूचना उपलब्ध गराउने कार्य गृह मन्त्रालयको गैर-जिम्मेवारीपूर्ण एवं गैर-कानूनी कार्य देखिन्छ । शीलापत्रले आफ्नो बुद्धिमत्ताको प्रयोग गरी नीज व्यक्तिहरूको नाम नदेखिने गरी कागजात प्रकाशन गर्यो, तर यस्तो संवेदनशील सूचना नेपाल सरकारको आधिकारिक निकायबाट बाहिरिनु भनेको हामी पारलैङ्गिक व्यक्तिहरूको गोपनीयताको रत्तिभर पनि वास्ता नगर्नु हो ।

३. नेपालको संविधान धारा २८ ले गोपनीयताको हकलाई मौलिक हकका रूपमा सुनिश्चित गरेको छ । कुनै पनि व्यक्तिको जीउ, आवास, सम्पत्ति, लिखत, तथ्यांक, पत्राचार र चरित्र सम्बन्धी विषयको गोपनीयता कानून बमोजिम बाहेक अनतिक्रम्य हुने प्रावधान संविधानमा स्पष्ट उल्लेख छ । कुन व्यक्तिले आफ्नो नागरिकता प्रमाणपत्रमा लिङ्ग परिवर्तन गर्यो भन्ने नीज व्यक्तिको नितान्त व्यक्तिगत सूचना हो । यसमा राज्यले गोपनीयताको संरक्षण गर्न नसक्दा नीजहरूको गोपनीयता हनन भयो भयो, साथै हामी समस्त पारलैङ्गिक जनसमुदाय आफ्नो मौलिक हक हनन हुने त्रासमा बाँचिरहेका छौं । कुनै पनि व्यक्तिको वैयक्तिक लैङ्गिक इतिहास (personal gender history) नीजको नितान्त वैयक्तिक सूचना हो । त्यसै

गरी नीजको पारलैङ्गिक स्थिति (Transgender status) पनि नीजको नितान्त वैयक्तिक सूचना हो । यसमा गोपनीयता कायम गर्नु राज्यको संवैधानिक दायित्व हो ।

४. वैयक्तिक गोपनीयता सम्बन्धी ऐन, २०७५ को दफा ३ (३) ले लैङ्गिक पहिचानको विषयमा गोपनीयताको हक सुनिश्चित गरेको छ । ऐनको दफा १ ले शारीरिक तथा मानसिक अवस्थाको गोपनीयताको हक सुनिश्चित गरेको छ । ऐनको दफा ११ ले लिखित सम्बन्धीको गोपनीयता सुनिश्चित गरेको छ । कुनै पनि व्यक्तिको वैयक्तिक लैङ्गिक इतिहास (personal gender history) नीजको नितान्त वैयक्तिक सूचना हो । त्यसै गरी नीजको पारलैङ्गिक स्थिति (Transgender status) पनि नीजको नितान्त वैयक्तिक सूचना हो । यसमा गोपनीयता कायम गर्नु राज्यको कानूनी दायित्व हो ।

५. कुनै पनि व्यक्तिको वैयक्तिक लैङ्गिक इतिहास (personal gender history) एवं नीजको पारलैङ्गिक स्थिति (Transgender status) सूचनाको हक सम्बन्धी ऐन, २०६४ बमोजिम दफा २ (ख) तथा (ग) मा परिभाषा गरिए अनुसार प्राप्त हुन सक्ने सार्वजनिक महत्वको विषय होइन । त्यसै गरी ऐनको दफा ३ (३) को (ड) मा व्यवस्था भए अनुसार सार्वजनिक निकायमा रहेको यस्ता सूचना प्रवाह नगरिने उल्लेख गरिएको छ ।

६. नेपालले अनुमोदन गरेको तथा नेपाल सरकारको अन्तर्राष्ट्रिय कानूनी दायित्वका रूपमा रहेको International Covenant on Civil and Political Rights को धारा १७ (१) ले पनि गोपनीयतामा अतिक्रमण गर्ने कार्यलाई निषेध गरेको छ ।

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

७. पारलैङ्गिक व्यक्तिहरूसँग सम्बन्धित रही यिनै अन्तर्राष्ट्रिय कानूनी दस्तावेजको रोहमा संयुक्त राष्ट्र संघबाट हुने गरेको व्याख्या विश्लेषण अन्तर्गत Human Rights Council मा मिति 12 July 2018 मा पेश भएको दस्तावेज नं A/73/152 को Protection against violence and

discrimination based on sexual orientation and gender identity को प्रकरण 81 (d) (iii) मा यस्तो व्याख्या गरिएको छ ।

81. Furthermore, the Independent Expert urges States, through all appropriate and relevant means at its disposal, to:

(d) Enact gender recognition systems concerning the rights of trans persons to change their name and gender markers on identification documents. The procedure involved should ensure due respect for free and informed choice and bodily autonomy. In particular, taking into account identified best practices, the processes should:

(iii) Be confidential;

८. त्यसै गरी एवं Human Rights Council मा मिति 12 February 2020 मा पेश भएको दस्तावेज नं A/HRC/43/52 को Report of the Special Rapporteur on the right to privacy मा देहाय अनुसारको व्याख्या भएको छ ।

17. The work undertaken reveals deeply disturbing infringements of privacy related to, or arising from individuals' gender:

(a) Gender-based breaches of privacy are a systemic form of denial of human rights, discriminatory, in nature and frequently perpetuating unequal social, economic, cultural and political structures;

(b) These harms extend beyond individuals to impact society as a whole. Losses of privacy weaken the universality of human rights and corrode societies and democracy;

(c) Privacy infringements happen in multiple, interrelated and recurring forms facilitated by digital technologies, in both private and public settings across physical and national boundaries. Online privacy infringements, reflect and extend offline privacy infringements. Digital technologies amplify their scope and intensify their impact;

(d) Privacy offers protection against gender-based violence discrimination, and other harms that disproportionately affect women, intersex and gender non-conforming individuals;

18. A robust international 'privacy and gender' framework was identified as comprising:

(d) A contemporary understanding of 'gender' based on recognition that:

(i) cis-normativity; biological sex; sexual orientation and expression gender identity and expression, and sex characteristics, and societal norms are elements of gender;

(ii) *gender, for some individuals, can change throughout their life;*

(iii) *gender identity is integral to personality and important to self-determination, dignity and freedom;*

(iv) *gender intersects with ethnicity, indigeneity, age, disability, health, migration, marital or family status amongst other factors, to heighten the importance of human rights to dignity and quality of life.*

(g) *Redress for victims of infringements of privacy based on gender.*

19. *These recommendations are intended to cover both State and non-State actors and are relevant to the privacy of all individuals, inclusive of binary female and male, and individuals of diverse sexual orientation, gender identity, gender expression and sex characteristics.*

20. *Their implementation should be informed by consideration of other internationally-recognised instruments such as the Convention on the Elimination of all Forms of Discrimination Against Women, the Convention on the Rights of the Child, the Yogyakarta Principles updated and the Rights of Indigenous Peoples, amongst other instruments.*

21. *Nothing in these recommendations should be interpreted as restricting or in any way limiting the rights and freedoms of individuals as recognised in international, regional or domestic laws or standards. Nor are the provisions designed to restrict the collection of sex and gender information where this data is necessary for the performance of lawful responsibilities.*

1. *Development of personality and the person*

22. *State and non-State Parties to:*

(a) *Recognise that:*

(i) *the right to privacy also includes gender identity and the freedom of individuals to make autonomous decisions with regard to their bodies;*

(ii) *the privacy needs and aspirations of people and populations of cis-normativity, diverse sexual orientations, gender identities, gender expressions and sex characteristics while having common ground, are distinct from each other;*

(iii) *other factors such as disability, age, indigeneity, social origins, intersect with gender to typically intensify privacy–gender experiences;*

(iv) *an intersectional approach is necessary to address the gender aspects of privacy.*

(b) *Respect, protect and facilitate the right to privacy to enable individuals' enjoyment of other rights such as the right to assemble and to express opinions irrespective of gender:*

(ii) *Reduce infringements of privacy based on gender by:*

- *adopting robust privacy, and data protection law and policies;*
- *making public commitments on addressing gender differences in the enjoyment of the right to privacy;*
- *running public awareness campaigns, training and continuing professional development programs with comprehensive, affirmative and accurate material on sexual, biological, physical and psychological diversity, and human rights;*
- *adopting all measures necessary to eliminate the stigma associated with gender diversity including ensuring internal and external communications constructively address privacy and gender issues;*
- *requiring gender-aware privacy impact assessments prior to the introduction of new products, services, strategies, legislation, procedures and other initiatives.*

(c) *Ensure requirements for individuals to provide sex/gender information:*

(i) *are relevant, reasonable and necessary as required by the law for a legitimate purpose in the circumstances where it is sought;*

(ii) *respect the right to self-determination of gender;*

(iii) *protect against arbitrary or unwanted disclosure or threatened disclosure of such information;*

(iv) *support research into the right to privacy and gender to better understand the benefits, prevention and mitigation of harms arising from infringements of privacy.*

23. *States to take all necessary legislative, policy, administrative and other measures in line with international human rights norms and standards, to ensure:*

(a) *all individuals have information about their civil, political, economic, social and cultural rights, in relation to gender, by:*

(i) *ensuring access to international and regional treaties and instruments; national constitutions, laws and regulations; research studies, reports, data, archives; reports and information submitted by the State to international and regional bodies and mechanisms; and other relevant information to enable the exercise of the right to privacy and remedy for violation of this right;*

ii) *providing and supporting education and public information programs to promote the right to privacy and gender inclusiveness, including relevant*

training of judicial and law enforcement officers and other public officials in relation to their human rights obligations regarding gender.

(b) Prevent privacy infringements based on gender whether by public or private actors, by ensuring:

(i) the applied legal bases to prevent and penalise privacy breaches align with relevant laws and treaties at global, regional and domestic levels and incorporate provisions to enhance privacy regardless of gender;

(ii) consistency between laws relating to privacy and gender, such as consumer safety, employment, healthcare, anti-discrimination and corporate regulations, amongst others;

(iii) the full inclusiveness of gender in anti-discrimination laws in relation to 'sex characteristics';

(iv) recognition of the responsibility to protect and warn due to patterns of extraterritorial outreach of States that violate the right to privacy;

(v) policies and procedures are up to-date and adequately serve their obligation to protect and warn, and prevent surveillance and harassment based on gender, by foreign States and non-State actors against their citizens or non-citizens on their territories;

(vi) the right to privacy of all, regardless of gender, is embedded in policy development; legislative reform; service provision; regulation; programs for CSO support, and education and training;

(vii) adoption of best practice data protection, such as the EU's General Data Protection Regulation and the 'modernised' Convention 108 of the Council of Europe, or better;

(viii) comprehensive protection for secure digital communications, including by promoting strong encryption and anonymity-enhancing tools, products and services, and resisting requests for 'backdoors' to digital communications.

(c) Eradicate, investigate, prosecute, penalise, provide remedies for infringements of privacy based on gender by State and non-State actors, whether committed in public or private spheres, and establish support services for victims;

(d) Prevent victimisation, re-victimisation, criminalisation, on the basis of gender, by:

(i) taking action against those, State and non-State, actors who use digital technologies, to subject the users to

**cruel and degrading treatment, extortion
blackmail;**

or

**(ii) refraining from using laws such as vagrancy and
loitering, to target certain genders;**

**(iii) preventing forced labour, human trafficking, abuse
and violence in the context of commercial sex;**

**(iv) ensuring the participation of sex workers in the
development of law and policies directly affecting their lives
and safety, and enabling equal access for them to justice,
health care and other services;**

**(e) introducing laws and policies to protect sex workers' health and
safety;**

**(f) not disclosing in any way, the identity of victims except with
court authorisation;**

**(g) not imposing the death penalty for consensual same-sex
relations;**

**(h) ensuring legal provisions, including those in customary,
religious and indigenous laws, whether as explicit provisions, or the
application of general punitive provisions, do not criminalise or penalise on
the basis of gender;**

(i) providing access to justice and protection for complainants.

**(j) Provide redress for victims whose privacy has been infringed
due to their gender, including public apology; application to expunge
historical criminal convictions and records concerning consensual adult
same sex relations or cross-dressing; rehabilitation and recovery services;
adequate compensation, and guarantees of non-recurrence.**

**(k) Support research into privacy and gender including the
experiences of all of the LGBTQI community, on the extent, causes
(including attitudes, beliefs, customs and practices) and effects of
infringements of privacy.**

**(l) Assess the type, prevalence, trends and patterns of complaints
concerning gender differentiated privacy experiences using rights-based
data collection procedures and best practice privacy and data protection
standards and law, and make publicly available disaggregated, de-identified
data of privacy infringements based on gender.**

९. उच्च अदालत पाटनद्वारा पारलैङ्गिक व्यक्तिहरूको लैङ्गिक पहिचान सम्बन्धी जारी भएका रिट निवेदनहरू रिट नं ०७९-WO-१०९८, रिट नं ०७९-WO-११०१, रिट नं ०७९-WO-१२५१, रिट नं ०७९-WO-१०९९, रिट नं ०७९-WO-११००, रिट नं ०७९-WO-१२५२ तथा रिट नं ०७९-WO-१२५३ को रोहमा भएको कानूनको व्याख्यानसार

(प्रकरण १९) नीजको विरुद्धमा मुद्दा परी निर्णय गर्नुपर्ने अवस्थामा बाहेक अन्य अवस्थामा खुला गर्न नसकिने भन्ने जिकिर उल्लेख छ ।

१०. नेपाल वातावरणीय कानून व्यवसायी संघ (नेला) समेत वि. प्रधानमन्त्री तथा मन्त्रिपरिषद्को कार्यालय समेत, निर्णय नं. ८७०३ - परमादेशसमेत, भाग : ५३, साल : २०६८, महिना : माघ, अंक : १०, फैसला मिति : २०६६/०१/३०, संवत् २०६३ सालको रिट नं. ०२८७ ।

- व्यक्तिका कतिपय गोप्य कुराहरू अन्य व्यक्तिले थाहा पाएको अवस्थामा थाहा पाउने व्यक्तिले अर्को व्यक्तिलाई नियन्त्रणमा राख्न सक्ने हुन्छ । यसको परिणामस्वरूप व्यक्तिगत सूचना प्रवाह हुने व्यक्तिको व्यक्तिगत स्वतन्त्रतामा नै आघात पुग्न जाने हुन्छ । त्यसकारण व्यक्तिको व्यक्तिगत स्वतन्त्रताको रक्षाको लागि निजको गोपनीयता सम्बन्धी अधिकारको संरक्षण गर्नुपर्ने ।

११. गोपनीयताको हक अन्तर्गत विस्मृतिको हक (Right to be forgotten) को कानूनी प्रश्नमा Court of Justice of the European Union ले **Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González** को मुद्दामा निम्नानुसार फैसला गरेको छ ।

The Court observes in this regard that, whilst it is true that the data subject's rights also override, as a general rule, that interest of internet users, www.curia.europa.eu this balance may however depend, in specific cases, on the nature of the information in question and its sensitivity for the data subject's private life and on the interest of the public in having that information, an interest which may vary, in particular, according to the role played by the data subject in public life.

Finally, in response to the question whether the directive enables the data subject to request that links to web pages be removed from such a list of results on the grounds that he wishes the information appearing on those pages relating to him personally to be 'forgotten' after a certain time, the Court holds that, if it is found, following a request by the data subject, that the inclusion of those links in the list is, at this point in time, incompatible with the directive, the links and information in the list of results must be erased. The Court observes in this regard that even initially lawful processing of accurate data may, in the course of time, become incompatible with the directive where, having regard to all the circumstances of the case, the data appear to be inadequate, irrelevant or no longer relevant, or excessive in relation to the purposes for which they were processed and in the light of the time that has elapsed. The Court adds that, when appraising such a request made by the data subject in order to oppose the processing carried out by the operator of a search engine, it should in particular be examined whether the data subject has a right that the information in question relating to him personally should, at this point in time, no

longer be linked to his name by a list of results that is displayed following a search made on the basis of his name. If that is the case, the links to web pages containing that information must be removed from that list of results, unless there are particular reasons, such as the role played by the data subject in public life, justifying a preponderant interest of the public in having access to the information when such a search is made.

१२. European Union द्वारा जारी गरिएको गोपनीयता सम्बन्धीको ऐन **General Data Protection Regulation (GDPR)** को Art. 17 मा Right to erasure ('right to be forgotten') भन्ने प्रावधान नै छ ।

1. *The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:*
 - a) *the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;*
 - b) *the data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or point (a) of Article 9(2), and where there is no other legal ground for the processing;*
 - c) *the data subject objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2);*
 - d) *the personal data have been unlawfully processed;*
 - e) *the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject;*
 - f) *the personal data have been collected in relation to the offer of information society services referred to in Article 8(1).*
2. *Where the controller has made the personal data public and is obliged pursuant to paragraph 1 to erase the personal data, the controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.*
3. *Paragraphs 1 and 2 shall not apply to the extent that processing is necessary:*
 - a) *for exercising the right of freedom of expression and information;*
 - b) *for compliance with a legal obligation which requires processing by Union or Member State law to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;*

- c) *for reasons of public interest in the area of public health in accordance with points (h) and (i) of Article 9(2) as well as Article 9(3);*
- d) *for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or*
- e) *for the establishment, exercise or defence of legal claims.*

१३. नेपाल संवत् १९४३ कौला १० गते तदनुसार विक्रम संवत् २०८० असोज ११ गते हामीले यस विषयमा गृह मन्त्रालयको ध्यानाकर्षण गराउँदै मन्त्रालयको अभिलेखमा गोप्य ढङ्गले सुरक्षित हुनुपर्ने विवरणलाई जथाभावी अरूलाई प्रदान गर्ने, विशेष गरी आम जनमासमा व्यापक फैलन सक्ने गरी सञ्चारमाध्यमलाई प्रदान गर्ने कार्यबाट हामी चिन्तित भएको, त्रसित भएको तथा यसको घोर निन्दा गरेको अवगत गरायौं । त्यसपछि यस्तो संवेदनशील तथा गोप्य विवरण कसरी एवं कोबाट बाहिर प्रदान गरियो, यसको अनुसन्धान गरी नीज व्यक्तिलाई कारवाहीको दायरामा ल्याइपाउँ भनि निवेदन गर्यौं । साथै अबका दिनहरूमा यसरी विवरण बाहिरिन नपाउने गरी आवश्यक उचित व्यवस्था सुनिश्चित गरिपाउँ भन्ने पनि निवेदन गर्यौं । हाम्रो निवेदनमा मन्त्रालयले कुनै कार्य गरेन ।

१४. यसरी सरकारी निकायबाट पारलैङ्गिक व्यक्तिहरूको गोप्य तथा संवेदनशील विवरण बाहिरिने क्रम नरोकिने हो भने यसले नेपालमा बसोबास गर्ने समग्र पारलैङ्गिक जनसंख्याको संविधान प्रदत्त गोपनीयताको हकको निरन्तरत हनन भई अपूरणीय क्षती पुर्याउने भएकाले पारलैङ्गिक व्यक्ति (Transgender persons) हरूले नागरिकता प्रमाणपत्र लगायत व्यक्तिगत कागजातहरूमा आफ्नो नाम तथा लैङ्गिक विवरण संशोधन परिवर्तन गरेको व्यहोराको विवरणको अभिलेखलाई सुरक्षित तथा गोप्य राख्न राख्न लाउनु एवं व्यक्तिको पहिचान हुन सक्ने गरी यस्ता विवरण सार्वजनिक हुने वा नीज व्यक्तिहरूको गोपनीयता भङ्ग हुने गरी कुनै कार्य नगर्नु नगराउनु भनि सर्वोच्च अदालत नियमावली, २०७४ को नियम ४९ बमोजिम प्रत्यर्थीको नाममा अन्तरिम आदेश जारी गरिपाउँ ।

१५. नेपालको संविधानको धारा १३३ (२) (३) बमोजिम पारलैङ्गिक व्यक्ति (Transgender person) हरू पारलैङ्गिक व्यक्तिहरू आफ्नो लैङ्गिक पहिचान अनुसार खुलेर आउन सक्ने सामर्थ्य हुन अगाडीको भूतपूर्व जीवनावस्था बारे ज्ञात हुने विवरण, नीजको वैयक्तिक लैङ्गिक

इतिहासमा गोपनीयता कायम गर्नका लागि आवश्यक उचित प्रबन्ध गर्नु गराउनु भनि विपक्षीको नाउँमा परमादेश लगायत अन्य उपयुक्त आदेश जारी गरिपाउँ ।

१६. यस विषयमा समानान्तर क्षेत्राधिकार ग्रहण गर्ने अन्य कुनै अड्डा अदालतमा उजुरी तथा निवेदन दिइएको छैन ।

१७. यसमा हाल कानून व्यवसायी नियुक्त गरिएको छैन । पछि नियुक्त हुने कानून व्यवसायीद्वारा प्रस्तुत गरिने बहस बुँदालाई समेत यसै निवेदनको अभिन्न अङ्ग मानीपाउँ ।

१८. यस निवेदन साथ देहायका कागजात मिसिल साथ संलग्न गरिएको छ ।

(क) निवेदक संस्थाद्वारा प्राप्त अख्तियारी तथा पत्र - पाना २ ।

(ख) निवेदक संस्थाको प्रबन्धपत्र - पाना ९ ।

(ग) अख्तियारी प्राप्त व्यक्तिको परिचयपत्र - पाना १ ।

(घ) शिलापत्रबाट खिचिएको screenshot - पाना २ ।

(ङ) संयुक्त राष्ट्र संघको दस्तावेज नं A/73/152 - पाना १५ ।

(च) संयुक्त राष्ट्र संघको दस्तावेज नं A/HRC/43/52 - पाना ३० ।

(छ) प्रकरण ९ मा उल्लेख उच्च अदालतका आदेश - थान ७ ।

(ज) Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González को फैसला - थान १ ।

(झ) General Data Protection Regulation (GDPR) - थान १ ।

(ञ) नेपाल संवत् १९४३ कौला १० गते तदनुसार विक्रम संवत् २०८० असोज ११ गते गृह मन्त्रालयलाई पठाएको पत्र तथा पठाइएको प्रमाण - पाना ३ + १ (४) ।

निवेदक

निज रुक्शना कपाली

नेपाल संवत् १९४४ साल कछला महिना १० गते ।

इति संवत् २०८० साल कार्तिक महिना १२ गते रोज १ शुभम् ।