
RESHAPING THE RANKS: THE NCC CASE AND THE FUTURE OF GENDER-INCLUSIVE PUBLIC INSTITUTIONS

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ABSTRACT

The case of National Cadet Corps and Ors. v. Hina Haneefa and Ors. marks an important turning point in the development of transgender rights and statutory interpretation in India. In 2021, a single judge of the Kerala High Court determined that a transgender woman had the right to enrol in the National Cadet Corps (NCC) under the female category. The court also issued a writ of mandamus that required an amendment to Section 6 of the National Cadet Corps Act, 1948, to enhance its gender provisions toward inclusivity. This decision was consistent with the constitutional principles established in *NALSA v. Union of India* (2014) and the legal obligations set forth in the Transgender Persons (Protection of Rights) Act, 2019, which endorse the right to self-identified gender and forbid discrimination based on gender.

However, following an appeal, the Division Bench of the Kerala High Court in 2024 maintained the petitioner's right to partake in the NCC selection process but overturned the order to revise the statute. The appellate court highlighted the constitutional principle of separation of powers, asserting that a writ court cannot mandate the legislature to enact or modify laws. Instead, it expressed optimism that the Central Government would contemplate legislative changes to integrate transgender individuals into the NCC's framework.

This judicial path underscores an ongoing conflict between the judiciary's promotion of individual rights and the institutional reluctance to enact affirmative inclusion. The ruling not only affirms the relevance of gender self-identification within existing binary legal frameworks but also illustrates the limitations of judicial solutions in achieving substantial reform. Consequently, the ruling makes a significant contribution to the conversation surrounding gender inclusivity in public institutions and urges a proactive legislative approach to realize the constitutional commitment to substantive equality for all gender identities.

Keywords: Transgender, NCC, Gender identity

Introduction: Transgender Rights in India and the Hina Haneefa Case

The legal framework surrounding the rights of transgender individuals in India has significantly transformed, especially after the landmark Supreme Court ruling in the case of *National Legal Services Authority (NALSA) v. Union of India* in 2014. This pivotal decision officially acknowledged transgender persons as a 'third gender,' affirming their rights to fundamental protections equal to those of all other citizen.¹ The NALSA judgment highlighted the necessity of self-identification for establishing gender and directed both the Union and State governments to legally recognize the gender identities of transgender individuals. Additionally, it explicitly stated that any discrimination against transgender people constitutes a violation of their fundamental rights. This judicial declaration set the stage for later legislative measures aimed at safeguarding the rights and interests of the transgender community.

To advance the principles established in NALSA, the Parliament passed the Transgender Persons (Protection of Rights) Act, 2019.² This Act prohibits discriminatory practices against transgender persons across various domains, including education, employment, and healthcare.³ It also affirms the right of a transgender individual to their self-identified gender.⁴ While the Act has been lauded as a crucial step towards safeguarding the rights of transgender individuals, it has attracted criticism over specific provisions, such as the requirement for gender-affirming surgery to amend the gender marker in official documents. Regardless, the Transgender Persons Act, 2019, represents a meaningful legislative endeavour to convert constitutional rights and the directives from the NALSA judgment into tangible legal safeguards for the transgender community in India.

The case of Hina Haneefa arises within this advancing legal and societal framework. Hina Haneefa, a transwoman, sought to join the National Cadet Corps, a youth organization linked to the Indian armed forces.⁵ Her quest for recognition in accordance with her gender identity and to access opportunities available to other female students faced challenges due to existing NCC regulations. The rejection of her application highlighted the tension between older, gender-binary legislation like the National Cadet Corps Act, 1948,⁶ and the more recent,

¹ *National Legal Servs. Auth. v. Union of India*, (2014) 5 S.C.C. 438 (India).

² Transgender Persons (Protection of Rights) Act, No. 40 of 2019, India Code (2019).

³ Supra note 2, § 3, Ch. II, India Code (2019).

⁴ Supra note 2, § 4, Ch.III, India Code (2019).

⁵ *National Cadet Corps v. Haneefa, W.A.* No. 654 of 2021, 2024 Ker 15417, (2024) 3 KLT 126 (Ker.).

⁶ National Cadet Corps Act, No. 31 of 1948, § 6, India Code (1948).

inclusive legal framework created by the NALSA judgment and the Transgender Persons Act, 2019. Thus, this case transcends Hina's individual wish to join the NCC; it represents the broader fight for inclusivity and equal rights for transgender individuals in India, particularly in their efforts to participate in public institutions. The legal proceedings and the resulting judgment in the Hina Haneefa case provide important insights into the judiciary's role in interpreting and implementing these evolving legal standards to ensure that the rights and dignity of transgender citizens are protected. This paper intends to deliver a thorough analysis of the "National Cadet Corps and Ors. vs. Hina Haneefa and Ors." (2024) case⁷, exploring its factual background, the legal issues raised, the court's ruling and rationale, relevant legal and societal consequences, and to present recommendations based on this examination. The 2024 ruling appears to be the result of a legal journey that began in 2020 or 2021, reflecting ongoing efforts to tackle the issue of transgender inclusion in the NCC.

Case Details and Procedural History

Official Case Details:

The formal title of the case that reached its conclusion in 2024 is "National Cadet Corps and Ors. vs. Hina Haneefa and Ors.". This case is also identified by its equivalent/neutral citation as 2024/KER/15417 and 2024(3) KLT126. The specific legal proceeding that resulted in the 2024 judgment was a Writ Appeal, bearing the number 654 of 2021⁸. The decision in this appeal was rendered on February 22, 2024. The court that presided over this matter and delivered the judgment was the High Court of Kerala, located at Ernakulam.

Petitioners and Respondents:

In the Writ Appeal, the appellants were the National Cadet Corps and Ors., who were originally listed as Respondents 4 to 7 in the initial Writ Petition. The respondents in the appeal were Hina Haneefa and Ors., with Hina Haneefa being the original petitioner and the others listed as Respondents 1 to 3 in the primary legal challenge.

⁷ National Cadet Corps v. Haneefa, W.A. No. 654 of 2021, 2024 Ker 15417, (2024) 3 KLT 126 (Ker.).

⁸ Supra note 7

Procedural History:

The legal journey of Hina Haneefa's pursuit for enrolment in the NCC commenced with the filing of a Writ Petition (Civil) numbered 23404/2020 before the Kerala High Court. This initial petition sought to challenge the exclusion of transgender persons from the NCC based on Section 6 of the National Cadet Corps Act, 1948. On March 15, 2021, a judge from the Kerala High Court issued a ruling in favor of Hina Haneefa. The judge's decision permitted Hina Haneefa to take part in the NCC enrolment selection process and also instructed the concerned authorities to modify the enrolment requirements outlined in Section 6 of the NCC Act to incorporate transgender individuals.⁹ This early victory was important as it clearly acknowledged the rights of transgender individuals to apply for enrollment in the NCC based on their self-identified gender. However, this directive to revise the NCC Act was later contested. The National Cadet Corps and other involved parties appealed against the order from the single judge, resulting in a Writ Appeal that was resolved in 2024. The ruling announced on February 22, 2024, is the result of this appeal and marks the Kerala High Court's final decision on the issue. The fact that the initial judgment by Justice Anu Sivaraman in 2021 explicitly directed the amendment of the NCC Act signifies a strong stance in favor of transgender rights and inclusion. The appeal against this directive suggests a difference in opinion or concerns regarding the feasibility or scope of such an amendment, leading to the 2024 appellate decision which modified the earlier order.

Factual Background

Hina Haneefa's journey is marked by a clear self-identification as a woman, a process that included undergoing sex reassignment surgery. Initially assigned male gender at birth and named Muhammed Ashif Ali N., she underwent sex reassignment surgery to female at the age of 21 in October 2018, followed by a further surgery in May 2019.¹⁰ Subsequently, her name was legally changed to Hina Haneefa, and the Social Justice Department issued her a transgender identity card dated February 8, 2019, which recognized her gender as female.

⁹ Surabhi Shukla, *Hina Haneefa v. State of Kerala and Ors.* (W.P.(C) 23404/2020), *Law & Sexuality* (Aug. 12, 2021), <https://lawandsexuality.com/2021/08/12/hina-haneefa-v-state-of-kerala-and-ors-wp-c-23404-2020-a-kerala-high-court/> (last accessed May 10, 2025)

¹⁰ *Nat'l Cadet Corps v. Hina Haneefa*, W.A. No. 654 of 2021, MANU/KE/0636/2024, 2024 SCC OnLine Ker 15417, (2024) 3 KLT 126 (Ker. HC). underwent sex reassignment surgery from male to female at Vela Hospitals Pvt. Ltd., Coimbatore. The petitioner had also undergone another surgery as part of the sex reassignment on 27/05/2019 at Renai Medicity, Kochi. Despite gaining admission under the transgender category to a B.A. History program, her application to the NCC was rejected, prompting this constitutional challenge.

Building on her affirmed gender identity, Hina Haneefa submitted an application to join the National Cadet Corps (NCC) Girls Division at her college where she was enrolled in a B.A. History program under the special category for transgender individuals. However, the NCC authorities did not view her application favourably. The Associate NCC officer referenced the National Cadet Corps Act of 1948, specifically Section 6, which seemed to restrict enrolment to male and female students, as the basis for denying her application. In response to Hina Haneefa's petition, the NCC provided several justifications. They contended that the National Cadet Corps Act of 1948 lacked specific provisions for enrolling transgender students. Additionally, the NCC expressed concerns regarding the implications of admitting a candidate who did not fit within the male or female classifications without proper discussions among the relevant authorities. They argued that the responsibility to form a new division for the third gender lay with the Central Government, which would involve a significant review of infrastructure, training modules, and facilities. The NCC also noted that its main objective was to prepare cadets for a career in the Armed Forces, where there were no established provisions for the admission of transgender individuals at that time. Furthermore, they raised points regarding the gender-specific nature of the curriculum and training in both the Armed Forces and NCC, as well as issues surrounding close physical interactions, limited accommodations in field settings, and the use of shared facilities like housing and restrooms, which required gender-specific rules.

It is noteworthy that Hina Haneefa had previous experience as an NCC cadet during her school years, even earning an 'A certificate'. This background underscores her long-standing interest in and aptitude for the activities and values promoted by the NCC.¹¹ Hina Haneefa's pursuit of legal recourse in this matter highlights not only her individual desire to participate in the NCC but also represents a broader aspiration within the transgender community in India for equal access, recognition, and dignity in all aspects of society. Her case has become a focal point in the ongoing discourse surrounding transgender rights and inclusivity within public institutions in India.

¹¹ Ratan Priya, "I Want to Become an Inspiration for All": Hina Haneefa, Trans Woman Joins NCC, SheThePeople.TV (Mar. 18, 2021), <https://www.shethepeople.tv/news/hina-haneefa-transgender-woman-ncc-kerala-high-court-judgement/> (last accessed May 10, 2025).

Main Legal Issues Presented Before the Court

The legal proceedings in the case of National Cadet Corps and Ors. vs. Hina Haneefa and Ors. brought forth several key legal issues for consideration by the Kerala High Court. A central question was whether Section 6 of the National Cadet Corps Act, 1948, by limiting enrolment to students of the male and female sex¹², was discriminatory against transgender persons and thus in violation of the fundamental rights guaranteed under Articles 14 (equality before law), 15 (prohibition of discrimination on grounds of sex), and 21 (protection of life and personal liberty) of the Constitution of India. Another significant issue was whether a transwoman, who had undergone sex reassignment surgery to female and identified as a woman, was entitled to be enrolled in the Girls Division of the NCC under the existing legal framework, particularly in light of her transgender identity card recognizing her as female.

Furthermore, the court had to consider the extent of its power to issue a writ of mandamus directing the government or the NCC authorities to amend the National Cadet Corps Act to explicitly include transgender persons within its enrolment criteria¹³. This aspect touched upon the separation of powers between the judiciary and the legislature. The case also necessitated an examination of the interplay between the National Cadet Corps Act, 1948, which was enacted in a socio-legal context that largely adhered to a binary understanding of gender, and the more contemporary Transgender Persons (Protection of Rights) Act, 2019, which recognizes a broader spectrum of gender identities and prohibits discrimination against transgender individuals. Central to the arguments and the court's deliberation was the relevance and applicability of the Supreme Court's landmark judgment in *NALSA v. Union of India* (2014), which had already established significant legal precedents regarding the rights and recognition of transgender persons in India. The court had to navigate these interconnected legal issues to arrive at a just and equitable decision for Hina Haneefa while also considering the broader implications for transgender rights and the functioning of organizations like the NCC. The core of this legal battle lay in reconciling older legislative provisions with the evolving understanding of gender identity and the constitutional imperatives of equality and non-discrimination.

¹² Supra note 6

¹³ Supra note 10, page 5

Kerala High Court's Decision (Division Bench, 2024):

On February 22, 2024, the Division Bench of the Kerala High Court delivered its judgment in the Writ Appeal filed by the National Cadet Corps and Ors. against the earlier decision of the single judge. The court's decision was a partial allowance of the appeal. Significantly, the Division Bench upheld the single judge's directive that permitted Hina Haneefa to participate in the selection process for enrolment in the NCC Girls Division. This aspect of the judgment affirmed Hina Haneefa's right to be considered for enrolment based on her self-perceived gender identity as a woman, especially given her sex reassignment surgery and the female identity card issued to her by the Social Justice Department.

However, the Division Bench set aside the direction issued by the single judge to the respondents, specifically Respondents 4 to 7 (which included the NCC), to amend Section 6 of the National Cadet Corps Act, 1948, to include transgender persons. In its reasoning, the court emphasized the principle of separation of powers, stating that a Constitutional Court cannot issue a mandate to the legislature to enact or amend a law in a particular manner. The court clarified that its role is to interpret and apply the law, and while it can express its opinion or recommendation on the necessity of amending existing laws or creating new ones, it cannot directly order the legislature to do so.

Despite setting aside the directive to amend the Act, the Division Bench concluded its judgment by expressing its hope and confidence that the Central Government would take steps expeditiously to include the third gender within the scope of Section 6 of the NCC Act. This expression of hope was explicitly linked to the Supreme Court's dictum in the *NALSA v. Union of India* case and the provisions of the Transgender Persons (Protection of Rights) Act, 2019, indicating the court's recognition of the need for legislative alignment with the established principles of transgender rights.

Court's Reasoning:

The Division Bench's reasoning in arriving at its decision was multifaceted. The court acknowledged Hina Haneefa's affirmed female identity, which was supported by her sex reassignment surgery and the transgender identity card issued by the Social Justice Department recognizing her as female. Based on this recognition, the court held that Hina Haneefa was entitled to be considered for enrolment in the NCC under the existing provisions of Section

6(2) of the NCC Act, which allows any student of the female sex in any University or School to offer herself for enrolment as a cadet in the Girls Division. The court reiterated the principles laid down by the Supreme Court in the *NALSA* judgment, which affirmed the right of individuals to self-perceived gender identity and mandated legal recognition of the same.

Regarding the direction to amend the NCC Act, the Division Bench cited a catena of cases to underscore the established legal position that no Constitutional Court could issue a mandate to a legislature to enact a particular law or a law on a particular subject in a particular manner. The court emphasized that the power to legislate rests with the legislature, and the judiciary's role is primarily to interpret and apply the laws enacted by the legislature. While acknowledging the NCC Act's current limitations in explicitly recognizing the third gender, the court stated that this lack of recognition could not be a reasonable justification to deny entry to a transgender person who identifies as female, especially when that identity is legally recognized by the state. The court's reasoning thus focused on providing relief to the individual petitioner based on her recognized female identity within the existing legal framework, while leaving the broader issue of legislative reform to the Central Government, albeit with a strong expression of hope for future action.

Analysis of the Judgment

Interpretation of the NCC Act and the Transgender Persons Act:

The judgment of the Kerala High Court in "National Cadet Corps and Ors. vs. Hina Haneefa and Ors." demonstrates a thoughtful effort to harmonize the National Cadet Corps Act, 1948, with the more modern and inclusive Transgender Persons (Protection of Rights) Act, 2019. Although Section 6 of the NCC Act predominantly utilizes the binary classifications of "male" and "female" for enrolment purposes, the court interpreted this within the context of the Transgender Persons Act, which acknowledges the right to self-identify one's gender. The court's focus on Hina Haneefa's female identity card, granted by the Social Justice Department, was essential in permitting her to enrol under the "female" category of the NCC Act. By emphasizing the legal acknowledgment of Hina Haneefa's female gender, the court adeptly navigated the limitations presented by the binary language of the NCC Act. This perspective is in line with the objectives of the Transgender Persons Act, which seeks to uphold the rights and dignity of transgender individuals.

Nonetheless, the judgment did not explicitly require the inclusion of a "third gender" category within the NCC Act at this moment. Although the court expressed optimism for such a legislative change, it chose not to issue a direct mandate, thereby respecting the separation of powers. This ruling may affect transgender individuals who do not identify strictly as male or female or those who have not undergone sex reassignment surgery and secured a gender identity card that reflects a binary classification. For these individuals, the path to enrolment in gender-specific organizations such as the NCC could remain ambiguous under the existing legal framework. The court's reasoning appears to prioritize granting relief to the petitioner based on her particular circumstances, while simultaneously recognizing the necessity for broader legislative changes to tackle the systemic exclusion of all transgender individuals.

Application of the NALSA Judgment

The Kerala High Court's justification was largely based on the principles set forth in the landmark *NALSA v. Union of India* judgment. The *NALSA* ruling established the right of transgender individuals to identify their gender and required the government to legally recognize this identity. In the *Hina Haneefa* case, the Kerala High Court highlighted this principle by validating Hina Haneefa's self-identified female gender, especially considering she had undergone sex reassignment surgery and possessed a female identity card. The court's choice to permit her enrolment under the "female" category of the NCC Act can be viewed as a direct application of the *NALSA* judgment's insistence on acknowledging and respecting an individual's chosen gender identity.

However, some legal commentators have noted a potential nuance or limitation in the application of *NALSA* in the initial single judge's judgment (upheld in part by the Division Bench). The single judge had observed that Hina Haneefa had undergone sex-reassignment surgery, which 'aided' her self-perception as female. This observation has been interpreted by some as potentially undermining the *NALSA* ruling, which categorically stated that the right to self-determination of one's gender identity as male, female, or transgender is irrespective of medical reassignment. The emphasis on surgery in the context of recognizing Hina Haneefa's female identity might inadvertently suggest that medical intervention is a prerequisite for such recognition, which contradicts the spirit of self-determination espoused in *NALSA*. Nevertheless, the overall reliance on the principles of self-identification and the recognition of

transgender rights established in *NALSA* was fundamental to the Kerala High Court's decision in allowing Hina Haneefa's participation in the NCC selection process.

Arguments Presented by Both Sides:

Hina Haneefa's counsel argued that the exclusion of a transgender woman from enrolling in the NCC solely based on her gender identity was discriminatory and violated her fundamental rights guaranteed under Articles 14, 15, 19, and 21 of the Constitution of India. It was contended that the denial of enrolment was unsustainable in light of the *NALSA* judgment and the Transgender Persons (Protection of Rights) Act, 2019, both of which recognize the rights and self-perceived gender identity of transgender individuals. The petitioner's side emphasized that the NCC Act's provisions, which only recognized male and female genders, were outdated and could not be used to deny the rights of transgender persons in the present context.

On the other hand, the National Cadet Corps and the central government presented counter-arguments. They contended that the NCC Act, 1948, did not have any provisions for the enrolment of transgender persons. Concerns were also raised about the gender-specific nature of the NCC's training modules and curriculum, which are sometimes based on physical, biological, and psychological differences between male and female cadets. The respondents also highlighted potential practical challenges related to infrastructure, such as separate accommodation and toilet facilities, and the integration of transgender individuals into existing gender-specific divisions. Furthermore, it was argued that the primary aim of the NCC is to groom cadets for potential careers in the armed forces,¹⁴ where, at the time of the initial petition, there were no provisions for the entry of transgender individuals. The NCC maintained that any decision regarding the inclusion of transgender persons, especially the creation of a new division for the third gender, was a policy matter that fell within the purview of the Central Government.¹⁵

The court, while acknowledging the concerns raised by the NCC, ultimately sided with the petitioner on the issue of allowing her participation based on her recognized female identity.

¹⁴ National Cadet Corps, Aim of NCC, National Cadet Corps Official Website (2024), <https://indiancc.nic.in/aim-of-ncc/> (last accessed June 1, 2025).

¹⁵ *Amend law to help transgenders join NCC: Kerala High Court to Centre*, *Indian Express*, Mar. 15, 2021, <https://indianexpress.com/article/india/kerala-high-court-asks-centre-to-amend-ncc-act-to-allow-transgender-persons-to-join-7229283/> (last accessed may 20, 2025).

However, it also respected the principle of separation of powers by not directly ordering the amendment of the NCC Act, leaving that to the discretion of the legislature.

Potential Implications and Impact of the Judgment

News Articles and Legal Commentary

News reports from various credible organizations highlighted the Kerala High Court's decision, emphasizing its significance for transgender rights in India. Many reports framed the judgment as a progressive step towards gender inclusion and equality, acknowledging the court's recognition of the rights of transgender individuals to participate fully in all aspects of society. The news coverage often noted the court's upholding of the single judge's decision to allow Hina Haneefa's participation in the NCC selection process,¹⁶ while also highlighting the setting aside of the directive to amend the NCC Act. Hina Haneefa's own reactions, expressing her happiness and hope that this would pave the way for better mainstreaming of transgender persons, were also widely reported.

Legal analyses from various journals and websites provided expert perspectives on the judgment's legal significance and implications. A recurring theme in the commentary was the progressive nature of the judgment in allowing a transwoman to participate in the NCC based on her self-identified gender. Many experts noted the court's reliance on the Transgender Persons (Protection of Rights) Act, 2019, and the *NALSA* judgment as crucial in arriving at this decision. However, some analyses also pointed out the limitations of the judgment in not mandating legislative change to the NCC Act¹⁷. While the court expressed hope for the government to take action, the absence of a direct order to amend the Act leaves room for continued ambiguity regarding the inclusion of all transgender individuals, particularly those who may not identify within the binary or have undergone surgery.

Overall, the legal commentary largely viewed the judgment as a positive step towards transgender inclusion in India, particularly within the context of educational and youth organizations. "It is a historic verdict. Equal opportunity is a constitutional right. This will open

¹⁶ Shukla, *supra* note 9

¹⁷ Onmanorama Staff, Kerala HC allows transgender to enroll as NCC cadet, Onmanorama (Mar. 4, 2024), <https://www.onmanorama.com/news/kerala/2024/03/04/high-court-transgender-enroll-ncc-cadet.html>.

many eyes,” said Shyma S Praha, state transgender cell nodal officer.¹⁸ However, there was also a recognition that further legislative reforms are necessary to ensure comprehensive rights and access for all transgender individuals, irrespective of their specific gender identity or medical history. Some legal experts also noted a potential contradiction in the initial judgment's emphasis on sex reassignment surgery as 'aiding' self-perception as female, which could be seen as undermining the principle of self-determination established in the *NALSA* ruling.

On the Rights of Transgender Individuals:

The judgment in "National Cadet Corps and Ors. vs. Hina Haneefa and Ors." has immediate and broader implications for the rights of transgender individuals in India. For Hina Haneefa, the judgment upholds her right to participate in the selection process for the NCC as a female candidate, paving the way for her potential enrolment in the organization. This is a significant personal victory and a validation of her self-identified gender. More broadly, the judgment sets a precedent for transgender individuals, particularly transwomen who have undergone sex reassignment surgery and possess legal recognition as female, seeking enrolment in gender-specific organizations. The court's reliance on the Transgender Persons Act, 2019, and the *NALSA* judgment reinforces the principle of self-perceived gender identity and the right to non-discrimination for transgender persons.

Nonetheless, the ruling may not offer adequate understanding for transgender individuals who do not align exclusively with male or female identities, or for those who have not had surgery and possess a gender identity card that indicates a binary gender. The court's emphasis on Hina Haneefa's female identity card as the basis for allowing her enrolment under the "female" category of the NCC Act could leave some transgender individuals without a clear legal pathway to similar opportunities under the current interpretation. This highlights the continued need for a more comprehensive legal framework that explicitly addresses the diverse gender identities within the transgender community.

On the National Cadet Corps and Similar Organizations:

The judgment necessitates that the National Cadet Corps and similar gender-specific

¹⁸ Ramesh Babu, Allow Trans Persons, Amend National Cadet Corps Act: Kerala High Court, Hindustan Times (Thiruvananthapuram), Mar. 15, 2021, <https://www.hindustantimes.com/india-news/allow-transgenders-amend-national-cadet-corps-act-kerala-high-court-101615800294065.html> (last accessed May 10, 2025).

organizations in India consider revising their enrolment policies to be more inclusive of transgender individuals. While the court did not mandate an immediate amendment to the NCC Act, its strong expression of hope for the Central Government to include the third gender within the Act's scope signals the judiciary's view on the need for such a change. The court also noted the Central Government's prerogative to constitute a new division for the third gender, suggesting a potential avenue for future policy development within the NCC.

This ruling may encourage other organizations that focus on gender to reassess their policies and infrastructure to ensure they are not biased against transgender people. This could include creating explicit guidelines for enrollment, offering gender-neutral facilities where necessary, and training staff and members on issues related to gender identity and inclusion. The concerns raised by the NCC regarding gender-specific training and shared facilities will need to be considered carefully to promote both inclusivity and the welfare of all participants.

Regarding the Discourse of Gender Identity and Inclusion in India

The Hina Haneefa case and its resulting ruling play a crucial role in the ongoing societal and legal conversations surrounding gender identity and inclusion in India. This case has highlighted the topic of transgender rights and the necessity for inclusivity within public institutions, bringing it to the forefront of societal awareness. The court's progressive viewpoint, while not necessitating legislative reform, conveys a powerful message about the significance of acknowledging and upholding the rights of transgender individuals.

This ruling has the potential to affect future legal disputes and policy changes related to transgender rights across various fields, not limited to youth organizations. It affirms the need to reassess outdated laws and regulations that maintain a rigid binary view of gender in light of the constitutional tenets of equality, dignity, and personal liberty, alongside the specific stipulations of the Transgender Persons Act, 2019, and the precedents set by the Supreme Court in NALSA. The case serves as a reminder of the continuous necessity for both judicial interpretation and legislative initiatives to guarantee the comprehensive inclusion and safeguarding of transgender individuals' rights in India. While the judgment gives immediate support to Hina Haneefa, it also emphasizes the urgent need for more extensive policy and legislative reforms to ensure the full assimilation of transgender individuals into all facets of public life.

Conclusion and Recommendations

The case of “National Cadet Corps and Ors. vs. Hina Haneefa and Ors.” marks a significant milestone in the ongoing effort to secure equal rights and dignity for transgender individuals in India. The Kerala High Court's ruling, delivered in 2024, presents a nuanced outcome, affirming the right of a transwoman who identifies as female and has undergone sex reassignment surgery to take part in the selection process for the National Cadet Corps Girls Division. The court's rationale was based on the principles of self-identified gender and the right to non-discrimination, heavily referencing the Transgender Persons (Protection of Rights) Act, 2019, and the landmark NALSA ruling. However, the court stopped short of mandating amendments to the National Cadet Corps Act, 1948, honouring the separation of powers and leaving this critical change to the legislative body.

While the ruling provides immediate support to Hina Haneefa and establishes a positive precedent for transwomen with acknowledged female identities, it also demonstrates the limitations of depending solely on judicial interpretations to achieve comprehensive inclusivity for all transgender individuals. The absence of a required legislative amendment to the NCC Act implies that individuals who do not conform to the male/female binary or who have not had surgery might still encounter obstacles in accessing similar opportunities.

In order to achieve complete equality and inclusion for transgender individuals in India, especially within organizations like the National Cadet Corps, the following suggestions are proposed:

- **Revise the National Cadet Corps Act, 1948:** The Central Government should take the initiative to amend Section 6 of the NCC Act to clearly encompass transgender persons. This could entail introducing a "third gender" classification or adopting more inclusive terminology that acknowledges the various gender identities within the transgender community. Such legislative measures would establish a clear legal foundation for the enrolment of all transgender individuals who satisfy the other criteria for joining the NCC.
- **Create Inclusive Guidelines and Facilities:** The National Cadet Corps should formulate explicit guidelines and implement necessary infrastructural changes to accommodate transgender individuals in a respectful and equitable manner. This includes providing gender-neutral facilities when appropriate and ensuring that training programs are inclusive and

considerate of the needs of transgender cadets.

- **Encourage Awareness and Education:** Ongoing efforts are essential to enhance awareness and promote education regarding transgender rights and gender diversity within the NCC, as well as in the wider community. Training sessions for cadets and staff can facilitate the cultivation of an inclusive and respectful atmosphere for transgender individuals.
- **Investigate the Possibility of Separate Divisions:** According to the court's suggestion regarding the prerogative of the Central Government, it may be worthwhile to examine the creation of distinct divisions within the NCC for transgender individuals. Nonetheless, this should align with the tenets of equality and inclusion, ensuring that such divisions do not result in segregation or marginalization. The Hina Haneefa case exemplifies the strength and determination of transgender individuals in their quest for equality. While the judicial result represents progress, enduring and comprehensive change necessitates legislative reforms and a persistent commitment to facilitating an inclusive society that honours and values the rights and dignity of all its constituents.