

Amendment to NCC Act proposed

March 18, 2021

In news : Recently, the High Court of Kerala asked National Cadet Corps (NCC) to amend its act to allow transwomen to apply for enrolment into NCC

A brief note on the issue

- Hina Haneefa, a student at the University College in Thiruvananthapuram had filed a writ petition questioning her exclusion from the NCC unit at the college on the basis of her gender.
- In her petition she challenged Section 6 of the National Cadet Corps Act, 1948 which only allows either 'male' or 'female' cadets.
- Hina Haneefa argued that the 'inclusion of sexual minorities like transgender persons' is important to address the 'rampant marginalisation and discrimination' that they face.
- In November 2020, when the Centre told the High Court that transgender persons cannot be allowed into the NCC as there is no provision for the same, the court took exception to the position and stressed that it goes contrary to Kerala's Transgender Policy and other applicable statutes.
- The court also told the university authorities to keep a seat vacant for Haneefa till the disposal of the writ petition.

The recent Judgment of Kerala High Court

- A single bench of the High Court said the fact that NCC Act does not recognise the third gender or that detailed guidelines are required to be drawn up for integration of persons of the third gender into the armed forces or the NCC cannot be a justification to deny the petitioner's entry into the NCC.

- The judge said the provisions of the NCC Act, 1948 cannot preclude the operation of the Transgender Rights Act, 2019.
- The bench also said that the petitioner is entitled to enrol in the NCC Senior Girls Division. The denial of enrolment is unsustainable.
- The Court also ordered the NCC to amend Section 6 of the Act within six months so that the law offers equal opportunities for everyone.

The Transgender policy of Kerala

- In 2015, Kerala became one of the first states in the country to formulate and implement a welfare policy for transgender persons
- The move followed the Supreme Court verdict in 2014 in which the right to equality and equal protection for transgender persons under articles 14, 15 and 16 was upheld and the bracket of a 'third gender' allotted to transgender persons
- **Transgender Justice Board:** The policy formed this board aiming to monitor and address concerns where necessary in the implementation of the policy
- Under the ambit of right to equality, the policy asked for all government offices and public functionaries to extend non-discriminatory treatment to transgender and help provide them with easy access to education, health, transport and social security.
- Providing free legal aid to those fighting discrimination, recording statistics at the local police station level for crimes against transgenders, a 24x7 helpline and crisis management centre, a monthly pension scheme for destitutes and those above the age of 55 and establishing shelter homes were some of the policy promises.
- For those undergoing surgeries, an allowance of Rs 5 lakh would be given by the government.

- In 2017, the Medical College Hospital in Kottayam district opened a clinic that catered exclusively to transgender persons.
- In 2018, the government decided to set aside two additional seats for all transgender applicants for courses in universities and arts and science colleges under it.
- There is also a literacy aid programme for transgender under which a monthly scholarship of up to Rs 1,250 and shelter home accommodation is provided.

National Cadet Corps (NCC)

- The National Cadets Corps came into existence under the National Cadet Corps Act XXXI of 1948 (passed in April, 1948; came into existence on 16th July, 1948).
- NCC is a youth development movement.
- The NCC provides opportunities to the youth of the country for their all-round development with a sense of Duty, Commitment, Dedication, Discipline and Moral Values so that they become able leaders and useful citizens.
- The NCC provides exposure to the cadets in a wide range of activities., with a distinct emphasis on Social Services, Discipline and Adventure Training.
- The NCC is open to all regular students of schools and colleges on a voluntary basis. The students have no liability for active military service.