

Government undecided on plea against legalising gay sex

The government is yet to formulate its view on how to react to a Delhi High Court judgment legalising consensual homosexuality, Information and Broadcasting Minister Ambika Soni said here Thursday.

The issue was to have been discussed at Thursday's cabinet meeting chaired by Prime Minister Manmohan Singh but was not taken up in the absence of Home Minister P. Chidambaram, who is currently in the US, Soni added.

'The home minister was not present and so the matter was not discussed,' she told reporters after the cabinet meeting.

The high court decision has been challenged in the Supreme Court, which has asked the government for its point of view.

Asked how the government would now respond to the Supreme Court query, Soni said: 'The law ministry will take up the matter now.'

The Supreme Court had July 9 sought the respective stands of the union and the Delhi governments on a lawsuit challenging the Delhi High Court verdict that also partly scrapped the penal provisions against homosexuality framed during the British Raj.

A bench of Chief Justice K.G. Balakrishnan issued notices to the two governments, besides seven others, including NGO Naz foundation which had originally moved Delhi High Court to scrap the penal provision against homosexuality, seeking their respective stands.

The bench, which also included Justice P. Sathasivam, issued notices on a lawsuit filed by Delhi-based astrologer-cum-advocate Suresh Kaushal and sought the respondents' replies by July 20.

At the hearing July 20, the Supreme Court refused to suspend the high court verdict after Attorney General Goolam E. Vahanvati indicated the government's lack of keenness in seeking a stay on the ruling.

'There are three ministries involved in the matter. We need some more time to formulate our view,' said Vahanvati, also indicating that the government was not keen on having the verdict suspended.

'We don't exactly want a stay,' Vahanvati maintained.

Kaushal contended before the bench that the high court had delivered a 'perverse ruling' that would threaten the natural balance of society.

Kaushal's lawsuit urges the apex court to overturn the high court's July 2 ruling legalising carnal interaction in private between any two consenting adults of the same sex.

Defined as unnatural sex under section 377 of the Indian Penal Code, 1860, homosexuality was punishable with imprisonment up to life.

Appearing for Kaushal, his counsel Praveen Agrawal contended before the bench that the high court should not have delivered this verdict legalizing homosexual acts as even otherwise the cases registered under section 377 of the Indian Penal Code happen to be few and far between.

Agreeing to this contention, the bench observed: 'True. We too have not seen many cases in our career spanning over three decades.'

Alluding to the possibilities of social anomalies like men marrying men and women marrying women as a result of the high court ruling, Agrawal urged the bench to suspend the ruling till a decision on his petition. The bench, however, declined the plea.

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