



Republic of Trinidad and Tobago



Equal Opportunity Commission
Promoting Equality

55-57 Manic Street, Chaguanas, 500621, Trinidad and Tobago, W.I

Phone: (868) 672-0928 • Fax: (868) 671-8826 • E-mail: eoc@gov.tt • Website: www.equalopportunity.gov.tt

MEDIA STATEMENT

EOC is pleased with court's decision

14th April, 2018

In the year 2014 the Equal Opportunity Commission (the Commission) recommended to the Honourable Attorney General that the definition of sex in the Equal Opportunity Act Chap 22:03 (the Act) be amended to include sexual orientation. The Commission has advocated for this amendment to enable the LGBTI community to seek redress for complaints of discrimination under the four broad categories as stated in the Act which are employment, education, the provision of goods and services and the provision of employment.

On becoming aware of the claim filed by Mr. Jason Jones, the Commission sought and received permission to support the matter as an interested party in Claim No. CV2017-00720 Jason Jones -v- Attorney General of Trinidad and Tobago. The Claimant petitioned the court, pursuant to section 14 of the Constitution to strike down sections 13 and 16 of the Sexual Offences Act Chapter 11:28 (the "Act") and, by so doing, decriminalize consensual sexual relations between persons of the same sex. The Commission proceeded to file submissions wholly adopting the claimant's position and is pleased with the landmark judgment given by Justice Rampersad on Thursday 12th April, 2018. The Court came to the following conclusions:

- i. Sections 13 and 16 of the Sexual Offences Act, Chap 11:28 (SOA) are not saved by section 6 of the Constitution and are open to challenge;
- ii. The case fell to be determined on an application of section 13 of the Constitution;
- iii. Sections 13 and 16 of the SOA violate the claimant's fundamental rights especially his right to respect for his private and family life;
- iv. Sections 13 and 16 of the SOA have been proven **not to be reasonably justifiable** in a society that has a proper respect for the rights and freedoms of the individual.

In its judgment the court noted that the Commission adopted the Claimant's submissions and that the Sanatan Dharma Maha Sabha (SDMS) adopted the defendant's submissions making reference to the scriptural injunctions against homosexuality. All parties maintained that this matter was not a religious debate.

The court concluded that based on the evidence and other material before the court, the court was satisfied that the claimant had proven his case. The court stated further that this conclusion is a recognition that the beliefs of some, by definition, is not the belief of all and, in the Republic of Trinidad and Tobago, all are protected, and are entitled to be protected, under the Constitution. The court stated that it must and will uphold the Constitution to recognize the dignity of even one citizen whose rights and freedoms have been invalidly taken away.

The court ordered and granted the following relief:

COMMISSIONERS: Mrs. Lynette Seebaran-Suite (Chairman)
Dr. Beverly Ann Marie Beckles (Vice Chairman) • Dr. Emanuel Hosein
Mr. Eric Colin Cowie • Mr. James Chin Chuck

- i. The court declares that sections 13 and 16 of the SOA are unconstitutional, illegal, null, void, invalid and are of no effect to the extent that these laws criminalise any acts constituting consensual sexual conduct between adults;
- ii. The court will hear the parties on whether the offending sections should be struck down in their entirety along with the issue of costs.

The Commission hopes that the decriminalization of sections 13 and 16 of the SOA would now clear the way for positive remedies and avenues of combating discrimination such as access to our complaints procedure at the Commission.

The Commission has been advocating for and actively pursuing amendments to the Act and other relevant laws and policy reform, in the areas of sexual harassment, domestic violence, disability and sexual orientation.

We stand ready to work alongside policy makers at every level to appropriately address this issue of equality of persons of different status. We applaud the Honourable Attorney General for the support he has always given to the work of the Commission and look forward to collaborating with him on the legislative amendments needed to address this issue.

The Commission wishes to announce that it is pleased with the court's decision in Claim No. CV2017-00720 Jason Jones -v- Attorney General of Trinidad and Tobago and we look forward to working with all stakeholders in pursuing the next steps to afford the LGBTI community equal opportunities in Trinidad and Tobago.

**Lynette Seebaran Suite,
Chairman, Equal Opportunity Commission**

###

About the EOC

The primary task of the EOC is to oversee implementation of the Equal Opportunity Act Chapter 22:03, which prohibits certain kinds of discrimination and seeks to promote equal opportunity between persons of different status.

- The Act is concerned with discrimination in four broad categories - employment, education, provision of goods and services, and provision of accommodation - where someone has suffered less-favourable treatment because of their:
 - status, that is, because of one of the following personal characteristics: race, ethnicity, religion, sex, marital status, origin or disability;
 - Or by way of victimisation, that is, in retaliation for doing certain actions that are protected under the Act, for example, lodging a complaint with the Commission or giving evidence in support of someone who has lodged a complaint.

- A person who believes that they have been subjected to discrimination in any of the above areas may lodge a complaint with the EOC. The EOC is mandated to receive, investigate and as far as possible conciliate complaints.
- If the matter is unresolved, the complaint can be referred to the Equal Opportunity Tribunal (the 'EOT'). The EOT is a superior court of record, and its mandate is to hear and adjudicate on matters referred to it by the EOC. The EOT has the power to make orders, declarations, and awards of compensation as it determines to be appropriate.

The EOC would urge all persons to be mindful of these provisions and to refrain from discriminatory practices which infringe the human rights of others.

For more information, please visit www.equalopportunity.gov.tt.

Contact:

Ria Mohammed-Pollard (Mrs.)

Manager, Corporate Communications

Equal Opportunity Commission

55-57 Manic Street

Chaguanas

Tel:(868) 672-0928 Ext: 231 Mobile: (868) 388-1187 Fax: (868) 671-8826

E-mail: ria.mohammedpollard@eoc.gov.tt