

In Chamber

Case :- WRIT - C No. - 11750 of 2023

Petitioner :- Harshit Kushwaha Thru. His Mother Mamta Kushwaha

Respondent :- State Of U.P. Thru. Prin. Secy. Medical And Health U.P. Lko.
And 2 Others

Counsel for Petitioner :- Sakshi Singh, Aishwarya Jaiswal, Pramod Kumar
Pandey, Prashant Tiwari

Counsel for Respondent :- C.S.C.

Hon'ble Saurabh Lavania, J.

Hon'ble Rajeev Singh, J.

Heard.

On urgency being indicated by petitioner's counsel, this Bench has been constituted during winter vacations in compliance of order of Hon'ble The Acting Chief Justice passed on administrative side. Therefore, the matter has been placed before us.

The main reliefs sought in this petition are extracted hereunder:-

"(i) Issue a writ order or direction in the nature of mandamus to permit the petitioner to donate part of his liver and perform the surgery as required on the petitioners ailing father.

(ii) Issue a writ order or direction in the nature of mandamus commanding the opposite parties to consider the application of the petitioner sympathetically contained as Annexure No. 4 to this Writ Petition and allow the petitioner to undergo the surgery for liver donation for his father, in the interest of justice."

The petitioner/Harshit Kushwaha (minor) aged about 17 years Through his mother Mamta Kushwaha has approached this Court with a prayer to permit him to donate his part of liver to his father namely Ram Bahadur Kurshwaha aged about 49 years, who is suffering from liver disease known as Cirrhosis with minimal ascites, for which, Dr. Abhai Verma, Medanta Hospital, Lucknow has advised him for immediate liver transplantation. Transplantation of Human Organs and Tissues Act, 1994 (in short "Act of 1994") and Transplantation of Human Organs and Tissues Rules, 2014 (in short "Rules of 2014") made thereunder particularly Rule 5(3)(g) of the same, provides as under:-

"5(3)(g)- living organ or tissue donation by minors shall not be permitted except on exceptional medical grounds to be recorded in detail with full justification and with prior approval of the Appropriate Authority and the State

Government concerned."

It is also indicated in the petition that the patient is the sole bread earner of his family, as such, after taking note of doctors' advice of immediate transplantation of liver, the petitioner preferred a representation dated 21.12.2023 before the State Government, which has yet not been disposed by the competent authority.

In view of aforesaid as also taking note of dire need of liver transplantation of petitioner's father, the competent authority is directed to decide the representation of the petitioner within two days' from the date of communication of this order strictly after taking note of Act of 1994 and Rules of 2014 made thereunder.

For the purposes of proper decision on the representation, the competent authority shall call for report from the Director, Medanta Hospital, Lucknow, who is expected to submit report in the matter as early as possible.

Chief Standing counsel is directed to communicate this order to the concerned forthwith for proper compliance of the same. It is in view of urgency in the matter.

Senior Registrar of this Court is also directed to inform the respondents for making proper compliance of this order forthwith.

The party shall file computer generated copy of this order downloaded from the official website of High Court Allahabad.

The computer generated copy of this order shall be self attested by the counsel of the party concerned.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

With aforesaid directions/observations, the petition stands ***disposed of***.

Order Date :- 23.12.2023

Arun/-