



CNR: KAHC010279642026

NC: 2026:KHC:54615
WP No. 12855 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 12855 OF 2026 (GM-RES)

BETWEEN:

MR. KALPESH N THAKKAR,
S/O MR. NARAYAN PURUSHOTTAM THAKKAR,
AGED ABOUT 52 YEARS,
R/AT#818/7, KALPESH MARKETING
BANBOO BAZAR, DAVANGERE 577 001.

...PETITIONER

(BY DR. SRIPADA VENKATA JOGA RAO, ADVOCATE)

AND:

1. THE CHAIRPERSON,
HOSPITAL BASED AUTHORIZATION COMMITTEE (HBAC),
[CONSTITUTED UNDER RELEVANT PROVISIONS
OF 'THE TRANSPLANTATION OF HUMAN
ORGANS AND TISSUES ACT, 1994
AND RULES, 2014']
GLENEAGLES BGS HOSPITAL,
UTTARAHALLI MAIN ROAD,
KENGARI, BENGALURU - 560060.
2. GLENEAGLES BGS HOSPITAL,
UTTARAHALLI MAIN ROAD,
KENGARI, BENGALURU - 560060,
REP. BY ITS AUTHORIZED REPRESENTATIVE.
3. STATE OF KARNATAKA,
REP. BY THE COMMISSIONER,
HEALTH AND FAMILY WELFARE SERVICES
AROGYA SOUDHA, 5TH FLOOR,
MAGADI ROAD, BENGALURU 560023.

[AMENDMENT CARRIED OUT AS PER THE ORDER

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DATED 25.8.2026]

...RESPONDENTS

(BY SRI D BHANU PRADEEP, ADVOCATE FOR R-1 & R-2 V/O

DATED 25/08/2026;

SRI RANJITH KUMAR N, AGA FOR R-3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) DIRECT, TO THE RESPONDENT TO GRANT APPROVAL TO PETITIONER TO DONATE ONE OF HIS KIDNEYS ALTRUISTICALLY TO ANY DESERVING PATIENT AT RESPONDENT'S HOSPITAL AND ETC.

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this court seeking for the following reliefs:

- I. Issue a writ of certiorari or any other appropriate writ or direction, to the Respondent to grant approval to petitioner to donate one of his kidneys altruistically to any deserving patient at Respondent's Hospital.*
- II. Declare that absence of relatives positive consent is not a mandatory condition for altruistic organ donation under the governing statute;*
- III. Pass such other order(s) as this Hon'ble Court deems fit in the interest of justice and equity.*

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2. The petitioner, aged about 52 years, is a bachelor and has been living independently for more than 16 years. His mother and brother are his immediate family members. The petitioner had, in the past, expressed his intention to altruistically donate one of his kidneys to any deserving recipient, irrespective of caste, religion, financial status or personal relationship, while maintaining confidentiality of the identities of the donor and recipient. In furtherance of the said intention, during the years 2015–2016, the petitioner approached respondent No. 2-Hospital, where a compatible recipient was identified on 04.06.2016. However, the petitioner's brother objected to the proposed donation, on account of which the transplantation could not proceed. Subsequently, contending that his brother and mother have now consented to his altruistically donating his kidney,

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the petitioner has approached this Court by filing the present petition, seeking the aforesaid reliefs.

3. It is in that background that this court had on 25.08.2026 passed the following order:

ORAL ORDER

1. *This is one another case where a person has come forward to altruistically donate his kidney. This Court has dealt with another altruistic donation in **Dr Thankam Subramonian v. The Chairperson, Hospital Based Authorisation Committee & Anr.**¹*
2. *Ordinarily, it is not expected that a person would come forward to donate a body organ to a third party, with whom the donor has no familial or other recognised relationship, without seeking or expecting any monetary consideration or other benefit in return. An altruistic donation of an organ to a person with whom the donor has no relationship is, therefore, an exceptional circumstance which requires to be examined with due care, while at the same time ensuring that a genuine donor is not put to unnecessary difficulty or delay.*
3. *Since this is the second such case that has come before this Court, and having regard to the submission of Prof. S V Joga Rao, learned counsel for the Petitioner that there are many more such person willing to come forward to donate organs altruistically, taking into account the possibility of similar cases arising in future, this Court is of the considered view that the State ought to be heard*

¹ W.P.No. 29161 of 2025 dt. 25.11.2025



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and its views ascertained as to whether any mechanism is presently available to deal with such cases and, if not, whether an appropriate procedure or policy needs to be put in place.

- 4. In view of the above, the State of Karnataka, represented by the Commissioner, Family and Health, is impleaded as respondent No.3. Learned counsel for the petitioner is directed to carry out the necessary amendment and file the amended cause title. Learned AGA accepts notice on behalf of respondent No.3.*
- 5. Learned AGA is directed to obtain instructions as to whether any process, procedure or policy has been formulated by the State in relation to altruistic donation of organs, particularly in cases where the proposed donor and recipient have no familial or other recognised relationship. If any such process, procedure or policy has been formulated, the same shall be placed on record.*
- 6. The submission of Prof. S.V. Joga Rao, learned counsel appearing for the petitioner, that a similar policy is in force in the State of Kerala, is taken on record. He is also permitted to furnish a copy of the said policy to the learned AGA so that appropriate instructions may be obtained from the State.*
- 7. If no such policy or procedure has been formulated, respondent No.3 may consider the need for formulating an appropriate policy governing cases of altruistic organ donation. The need for such a policy assumes significance since a person who voluntarily comes forward to donate an organ to another person, without any familial or other recognised relationship and without seeking any monetary or other consideration, ought not to be left without a clear mechanism through which such a bona fide offer can be considered and processed.*

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8. *At present, in the absence of a clearly defined procedure, a willing donor may be required to approach this Court for appropriate directions before the proposed donation can be considered by the competent authorities. While the jurisdiction of this Court would always remain available in an appropriate case, requiring every such donor to approach the Court may result in avoidable delay and may place an additional burden on the donor, the recipient and the authorities concerned.*
9. *The issue assumes particular importance in cases of organ transplantation because the availability of an organ and the suitability of a recipient are matters which may be time-sensitive. The process of approaching the Court, obtaining necessary orders, completing the statutory and administrative formalities and thereafter harvesting and transplanting the organ may consume valuable time. A delay which may appear insignificant from an administrative standpoint could, in a particular case, have serious consequences for a patient awaiting transplantation. A deserving patient may thereby lose the opportunity of receiving an organ which could potentially save or substantially prolong that person's life.*
10. *The State may, therefore, consider putting in place a clear, transparent and time-bound mechanism for dealing with cases of altruistic organ donation. Such a mechanism may prescribe the manner in which an offer of donation is to be made, the authority competent to examine the donor and the proposed recipient, and the medical and legal requirements to be satisfied. The procedure may also provide for an appropriate assessment of the bona fides and altruistic nature of the proposed donation, having regard to the circumstances in which the donor and proposed recipient have come into contact with each other, their respective family backgrounds, the nature of any relationship or association between them, if*

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any, and such other circumstances as may be relevant for determining whether the proposed donation is genuinely altruistic.

- 11.** *The authority may also ascertain whether the donor's decision is free, voluntary and informed, and is not the result of coercion, undue influence, pressure, inducement or any direct or indirect promise or expectation of monetary or other benefit. Such assessment may, wherever considered necessary, include interaction with the donor and the relevant family members and verification of the circumstances surrounding the proposed donation, so as to satisfy the competent authority as to the bona fides and altruistic nature of the proposed donation.*
- 12.** *The medical suitability of the donor, the proposed recipient and the organ sought to be donated, including the question of compatibility or matching, would necessarily fall within the domain of the competent medical and transplant authorities and would have to be determined in accordance with the applicable medical parameters, protocols and legal requirements. The administrative or authorisation process should, therefore, not substitute its own assessment for that of the competent medical authorities in matters falling within their specialised domain.*
- 13.** *The procedure may further prescribe the safeguards to be followed at each stage and the manner in which the final decision is to be taken by the competent authority. The object should be to adequately verify the bona fides and altruistic nature of the proposed donation, ensure compliance with the applicable legal and medical requirements, and facilitate expeditious processing of a genuine case while safeguarding the integrity of the organ transplantation process.*
- 14.** *Such a procedure would also ensure that a genuine donor is not subjected to repeated visits to different authorities or compelled to navigate an*

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uncertain administrative process. At the same time, the existence of a defined procedure would enable the authorities to carefully examine each case and ensure that altruistic donation is not being used as a means of circumventing the statutory safeguards governing organ transplantation.

- 15. The object should, therefore, be to create a mechanism which is sufficiently rigorous to protect the integrity of the transplantation process, while at the same time being sufficiently expeditious so that a genuine and willing donor and a deserving recipient are not prejudiced by procedural delay.*
- 16. The policy may also consider providing for an appropriate and transparent system of prioritisation of recipients, subject always to the applicable law and the medical criteria governing the allocation and transplantation of organs. Such prioritisation need not necessarily be based merely on the date on which a person was placed on a waiting list. The medical urgency of the patient, the suitability of the organ for the particular recipient, the likelihood of successful transplantation and other relevant medical considerations may also require to be taken into account by the competent authority.*
- 17. At the same time, where two or more patients are similarly placed on the relevant medical criteria, the period for which a patient has been awaiting an organ may be an appropriate factor to be considered. The object should be to ensure that the availability of an organ through altruistic donation does not result in an ad hoc or arbitrary selection of a recipient, but is dealt with through a system which is transparent, objective and capable of being understood by all concerned.*
- 18. The policy may accordingly provide for appropriate criteria for determining priority, the authority responsible for applying those criteria, the manner in which the decision is to be recorded and, where*

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necessary, the manner in which such decision may be reviewed. Such a mechanism would reduce the possibility of individual discretion operating without adequate safeguards and would also ensure that similarly situated patients are treated consistently.

- 19.** *It may also be appropriate for the State to consider maintaining an updated database or waiting list, subject to the applicable law relating to confidentiality and protection of medical information, so that the availability of an organ can be matched expeditiously with suitable recipients. The mechanism should enable the competent authority to act within the limited period during which an available organ can be utilised.*
- 20.** *The underlying object should be to ensure that an organ voluntarily made available by an altruistic donor is not lost because of the absence of a defined procedure or because of avoidable administrative delay. At the same time, the policy must ensure that the interests of the donor, the recipient and other patients awaiting transplantation are balanced in accordance with law and established medical principles.*
- 21.** *A well-defined policy would, therefore, serve two purposes: it would protect the altruistic donor and the intended recipient by providing a clear and time-bound process, and it would protect the larger public interest by ensuring that the allocation and transplantation of organs take place in a fair, transparent and medically appropriate manner.*
- 22.** *The State may, therefore, consider putting in place an appropriate institutional mechanism so that a genuine offer of altruistic organ donation is dealt with expeditiously, transparently and in accordance with law, while ensuring that the organ so made available reaches a deserving recipient without avoidable loss of time.*

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23. Re-list on **29.08.2026**.

4. Subsequently, since only partial compliance had been made, the Order dated 31.08.2026 had been passed, which reads as under:

ORAL ORDER

1. *The petitioner is before this Court seeking permission to altruistically donate one of his kidneys to a deserving patient at the respondent's hospital.*
2. *Prof. S. V. Joga Rao, learned counsel for the petitioner would submit that the petitioner is a bachelor who has no other person who depends on him. Though he has a brother and mother, they do not depend on the petitioner and they are independent.*
3. *On an earlier occasion when the petitioner had made an application for altruistic donation of his kidney, his brother had opposed. However, now the brother has no such opposition and in that background he submits that a person requiring only one kidney to survive, the petitioner wishes to donate one of his kidneys altruistically without any financial benefit so as to be of aid and assistance to any third person who requires such a kidney.*
4. *On noticing that the petitioner had specifically mentioned respondent No.2 hospital, this Court enquired with Prof. S. V. Joga Rao, learned counsel as to whether the petitioner*

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wishes to donate only to that hospital or is willing to donate anywhere else.

5. *On instructions, Prof. S. V. Joga Rao, learned counsel submits that there is no particular affinity of the petitioner to the said hospital. The petitioner would be willing to altruistically donate his kidney at any other hospital to any deserving patient. The name of respondent No. 2 was only included since the petitioner was availed of consultation with respondent No.2.*
6. *It is in that background that on 25.08.2026, this Court had called upon learned AGA to ascertain if there is any scheme or policy for such altruistic donation since the submission of Prof. S. V. Joga Rao, learned counsel for the petitioner was that the State of Kerala has implemented such altruistic donation policy.*
7. *Learned AGA today submits that there is no such policy which is in force as of now but the same would be considered by the State. Insofar as the petitioner's case is concerned, his submission is that the petitioner could file an application with the Organ Transplant Authorization Committee, who would consider the case of the petitioner and take it forward.*
8. *Prof. S. V. Joga Rao, learned counsel for the petitioner would submit that the Institute of Nephro Urology at Victoria Hospital is one of the hospital which is authorized to conduct organ transplants by the Government of Karnataka. His submission is that if a direction could be issued for the petitioner to appear before the Director of the said Institute, the Director could examine the petitioner in respect of all issues relating to organ donation and process the request of the petitioner. His submission is that the petitioner would be willing to appear before the said director on any date fixed by this Court.*

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9. *In that view of the matter, learned AGA is directed to inform the Director of the Institute of Nephro Urology at the Victoria Hospital, about the case of the petitioner and to consider the same as an altruistic donation. If it is found that the petitioner is fit to donate his kidney and that there is no harm or injury that is going to be caused to the petitioner on account of such donation of the kidney, if such kidney could be required by any other person awaiting donation of a kidney, who is a completely unrelated party, who satisfies the requirement of the Transplantation of Human Organs and Tissues Act, 1994, to process the said request, identify a suitable donee on account of seniority matching and criticality of the requirement.*
 10. *The petitioner shall appear before the Director of the Institute of Nephro Urology at the Victoria Hospital on 08.09.2026 at 08.00 a.m. in the morning.*
 11. *The Director of the Institute to examine and submit a report by next date.*
 12. *Re-list on **16.09.2026** at **2.30 p.m.** for further hearing.*
5. Today, a report dated 21.09.2026 submitted by the Institute of Nephro-Urology has been placed before the Court and is taken on record. From the contents of the said report, it is evident that the petitioner has been medically examined with reference to his expressed desire to donate one of his kidneys altruistically. Upon such examination, the petitioner has been found medically fit for kidney donation, and no contraindication to the proposed donation

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has been noticed by the medical authorities. Thus, from the medical perspective, there does not appear to be any presently identifiable medical impediment to the petitioner donating a kidney.

6. At the same time, the report makes it clear that the petitioner has been duly counselled regarding the nature and consequences of living kidney donation. In particular, the petitioner has been apprised of the potential risks associated with such donation, including the possibility of future renal and cardiovascular complications, renal failure and the eventual requirement of renal replacement therapy. He has also been advised regarding the necessity of maintaining adequate control of his health parameters and the importance of regular medical follow-up. The said aspect assumes significance, particularly having regard to the fact that the proposed donation is altruistic and is not being undertaken for the benefit of a near relative or a person having a pre-existing personal relationship with the petitioner.
7. The report further records that, notwithstanding the petitioner having been found medically fit, the decision to proceed with the donation must

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necessarily be an informed and voluntary decision on the part of the petitioner, after fully understanding the risks and consequences associated with living kidney donation. It is only if, after being appropriately counselled and informed of the attendant risks, the petitioner continues to voluntarily desire to proceed with the donation, that he may approach Jeevan Sarthakate (SOTTO), Office of the Joint Director (Medical), Aarogya Soudha, 6th Floor, Leprosy Hospital Premises, 1st Cross, Magadi Road, Bengaluru – 560023.

8. It is stated in the report that Jeevan Sarthakate (SOTTO) is the competent authority for taking forward the process relating to prospective donors and for further processing of cases in accordance with the applicable procedure, including seniority matching and the criticality of requirement across the State. Therefore, the medical fitness of the petitioner, by itself, does not constitute an automatic authorisation for transplantation. The further course of action would necessarily be subject to the procedure prescribed by the competent authorities, the applicable statutory and regulatory framework, and such scrutiny and

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approvals as may be required before any organ donation and transplantation can actually be undertaken.

9. Learned Additional Government Advocate, on instructions, submits that the State Health Department is also in the process of formulating comprehensive guidelines governing altruistic living organ donation. It is submitted that the formulation of such guidelines has become necessary in order to provide an appropriate framework for dealing with cases where a person, who is not a near relative of the proposed recipient, voluntarily expresses an intention to donate an organ purely on altruistic considerations. Learned Additional Government Advocate submits that a first draft of the proposed guidelines has already been prepared and that the same is presently under consideration by the Department. He further submits that the said guidelines would be finalised within a period of eight weeks.
10. The submission made by the learned Additional Government Advocate regarding the formulation of guidelines is placed on record. The Court considers the proposed formulation of guidelines to be of

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significance, particularly in view of the nature of the present case, where the petitioner claims to have voluntarily offered to donate a kidney to a deserving recipient without reference to caste, religion, financial status or personal relationship. At the same time, any such altruistic donation must necessarily be processed within the safeguards contemplated under the governing statutory framework, so as to ensure that the consent of the donor is free, informed and voluntary, that there is no element of coercion, undue influence, commercial consideration or exploitation, and that the interests and long-term health and well-being of the donor are adequately protected.

11. The medical report presently placed on record indicates that the petitioner has been found fit for kidney donation and that he has been counselled regarding the possible risks and the requirement of continuing medical supervision. The report, however, also indicates the appropriate institutional mechanism through which the petitioner's request is required to be processed. Consequently, the petitioner's expressed willingness to donate cannot be considered in isolation from the safeguards and

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procedures prescribed under the applicable law and by the competent authorities.

12. In view of the aforesaid, the Court is of the considered opinion that the petitioner's request deserves to be considered by the competent authority in accordance with law, keeping in view both his expressed and informed willingness and the safeguards governing living organ donation. The fact that the petitioner has been found medically fit may be taken into consideration by the competent authority, subject, however, to compliance with all other statutory, medical and procedural requirements. The petitioner shall be at liberty to approach Jeevan Sarthakate (SOTTO) for further processing of his request in accordance with the applicable procedure.
13. The undertaking of the State Health Department to finalise the guidelines for altruistic living organ donation within a period of eight weeks is also placed on record. The competent authorities shall, while finalising the said guidelines, duly consider the need to balance the autonomy of an individual who voluntarily seeks to make an altruistic donation with the necessity of ensuring adequate safeguards

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against coercion, exploitation, inducement and commercialisation, and also ensuring appropriate long-term medical follow-up and protection of the donor.

14. It is clarified that nothing contained herein shall be construed as directing the competent authority to permit or facilitate transplantation contrary to the applicable statutory or regulatory requirements. The competent authority shall consider the petitioner's request independently and in accordance with law, after undertaking such verification, counselling, medical assessment and other procedures as may be prescribed.
15. In view of the aforesaid report filed by the Institute of Nephro-Urology, this Court passes the following:

ORDER

- (i.) The petitioner is permitted to proceed with his expressed intention to altruistically donate one of his kidneys, subject to his continuing to remain medically fit and subject further to compliance with all applicable statutory,

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medical and procedural requirements, and to obtaining the necessary approvals from the competent authority, namely, Jeevan Sarthakate (SOTTO). It is made clear that the present order shall not be construed as dispensing with any approval, scrutiny or procedure required to be undertaken by the competent authority under the applicable law.

- (ii.) Having regard to the petitioner's expressed desire to make an altruistic donation while maintaining confidentiality of the identity of the recipient, it is directed that the identity and personal particulars of the proposed recipient, his or her family members, or any other information by which the identity of the recipient or the recipient's family may be ascertained, shall not be disclosed to the petitioner prior to the transplantation. The petitioner shall, accordingly, be permitted to proceed with the proposed donation without being provided with such particulars.

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(iii.) After the donation has been completed, the identity or other particulars of the recipient may be disclosed to the petitioner only in accordance with the applicable law and with the informed consent of the recipient. Likewise, if the petitioner, after being duly informed of the implications thereof, voluntarily desires that his identity and particulars be disclosed to the recipient, he shall be at liberty to furnish an appropriate declaration/consent to Jeevan Sarthakate (SOTTO) authorising such disclosure.

(iv.) Jeevan Sarthakate (SOTTO) shall, upon the petitioner approaching it pursuant to this order, follow the due procedure prescribed under the applicable statutory and regulatory framework, including such safeguards as may be necessary to ensure that the consent of the donor remains free, informed and voluntary and that there is no element of coercion, undue influence, inducement or commercial consideration.

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(v.) Re-list on 08.12.2026 for the purpose of reporting compliance with regard to the formulation and finalisation of the proposed guidelines/policy governing altruistic living organ donation. The learned Additional Government Advocate shall obtain appropriate instructions and place before the Court the status of the said exercise.

(vi.) Before parting with the matter, this Court places on record its appreciation for the assistance rendered by Sri. Mohamad Jafer Shah, learned Additional Government Advocate, who, upon being apprised of the issues arising in the present matter, followed up with the Health Department and facilitated the necessary action being taken by the concerned authorities.

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(SURAJ GOVINDARAJ)
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