

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

WP(C).No. 26939 of 2011 (S)

PETITIONER(S):

- 1. UMA PREMAN, W/O.LATE PREMAN TAIKKAD,
AGED 41 YEARS, SECRETARY, SANTHI MEDICAL
INFORMATION CENTRE, GURUVAYOOR, THRISSUR DISTRICT.**
- 2. SALIL V.B.,S/O.LATE BALAKRISHNAN,
VADAKKEPURATHIL HOUSE, P.O.KOTTAPPADI, THAMPURANPADI
GURUVAYOOR, THRISSUR DISTRICT.**

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, SECRETARIATE, THIRUVANANTHAPURAM.**
- 2. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, HEALTH & FAMILY
WELFARE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**
- 3. UNION OF INDIA, REPRESENTED BY
SECRETARY TO MINISTRY OF HEALTH AND FAMILY WELFARE
NEW DELHI.**

**R,R3 BY ADV. SMT.GOVINDA P.RENUKADEVI, CGC
R1&2 BY ADV. SRI.P.C.IYPE, ADDL. ADVOCATE GENERAL
R3 BY ADV. SRI.A.R.GANGADAS, CGC
BY SRI.N.NAGARESH, ASGI
BY SR GOVERNMENT PLEADER SRI.VIJU ABRAHAM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE CHECKLIST OF DOCUMENTS FOR CLEARANCE FOR ORGAN TRANSPLANTATION.

EXHIBIT P2: TRUE COPY OF THE NEWS ITEMS PUBLISHED IN MALAYALA MANORAMA DAILY DATED 15-9-2011 REGARDING THE DEATH OF DR.SUBHADRA.

EXHIBIT P3: TRUE COPY OF THE AMENDMENT TO THE TRANSPLANTATION OF HUMAN ORGANS RULES, 1995 PUBLISHED IN TAMIL NADU GAZETTE DATED 15-7-2009.

EXHIBIT P4: TRUE COPY OF THE DETAILS REGARDING THE WEBSITE OF TAMIL NADU TRANSPLANT PROGRAMME.

EXHIBIT P5: TRUE COPY OF THE DETAILS REGARDING THE TRANSPLANT PROGRAMME OF TAMIL NADU GOVERNMENT.

EXHIBIT P6: TRUE COPY OF THE REPORT OF THE TRANSPLANTATION PROGRAMME COMMITTEE OF TAMIL NADU ALONG WITH GOVERNMENT ORDERS ISSUED BY T.N.STATE IN THIS REGARD.

EXHIBIT P7: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND RESPONDENT ON 17-7-2011 ALONG WITH A DETAILED PROGRAMME FOR UTILIZING THE ORGANS FOR TRANSPLANTATION FROM THE BRAIN STEM DEATH CASES.

EXTS OF R2

EXT.R2 (a): A TRUE COPY OF GO(RT) NO.572/2011/H&FWD DATED 14.2.2011.

EXT.R2 (b): A TRUE COPY OF THE REPORT SUBMITTED BY THE GOVERNMENT OF TAMILNADU AND ANDHRA PRADESH.

EXT.R2 (c): A TRUE COPY OF GO(MS) NO.36/2012/H&FWD, TVM DATED 4.2.2012.

EXT.R2 (d): A TRUE COPY OF GO(MS) NO.37/2012/H&FWD, TVM DATED 4.2.2012.

EXT.R2 (e): A TRUE COPY OF GO(MS) NO.38/2012/H&FWD, TVM DATED 4.2.2012.

EXT.R2 (f): A TRUE COPY OF GO(MS) NO.39/2012/H&FWD, TVM DATED 4.2.2012.

EXT.R2 (g): A TRUE COPY OF THE CIRCULAR BEARING NO.32924/2011/H&FWD DATED 16.8.2011.

//True Copy//

PS to Judge

Rp

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 26939 of 2011

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Dated this, the 7th day of August, 2015

J U D G M E N T

Shaffique, J.

This writ petition is filed in the form of a Public Interest Litigation seeking the following reliefs;

“(i) To issue a writ in the nature of mandamus direction order directing the 1st and 2nd respondents to take immediate action for formulating/enacting Rules or character green channel programmes for utilizing the organs of the persons dying of brain-stem death for transplantation in order to sustain the lives of the needy patients.

(ii) To issue a writ in the nature of mandamus directing the 2nd respondent to consider and pass appropriate orders on Exhibit P7 representation submitted by the petitioner before the 1st & 2nd respondents forthwith.

(iii) To issue a writ in the nature of mandamus direction or order or any other writ directing the 1st and 2nd respondents to take immediate action for implementing the transplantation of human organs to the sick and essentially needed persons by make use of organs removed from brain-stem death cases, forthwith”.

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2. The main contention urged by the petitioners is that several formalities have to be observed in the matter relating to organ transplantation, which was causing severe hardship to the donees and persons who are waiting for organ transplantation.

3. In the counter affidavit filed by the 2nd respondent, it is stated that Government having considered the entire issue had formulated guidelines, by which, now the requirement of records had been reduced from 49 to 14.

4. Having regard to the fact that appropriate measures had been taken by the Government in this regard, which is evident from circular dated 16/8/2011, produced as Ext.R2(g), we are of the view that no further direction is required to be passed in the above case.

Accordingly, taking on record the counter affidavit filed by the State Government, this writ petition is closed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge