

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C).No. 28427 of 2015 (C)

PETITIONER(S):

1. SHAJAHAN K., S/O.MUHAMMED, AGED 34 YEARS,
KAITHAKKAL HOUSE, OTHUKKUNGAL,
MATTATHUR POST, MALAPPURAM DISTRICT.
2. THANKACHAN, S/O. PAPPAN, AGED 42 YEARS,
EETTICHUVATTIL HOUSE, MANIYARANKUDY P.O,
IDUKKI VILLAGE, IDUKKI DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO HEALTH DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. THE PRINCIPAL SECRETARY,
DEPARTMENT OF HEALTH, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
3. THE DISTRICT LEVEL AUTHORIZATION COMMITTEE
FOR TRANSPLANTATION OF HUMAN ORGANS THRISSUR,
REPRESENTED BY ITS CHAIRMAN,
POST THRISSUR, PIN - 680 001.

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1 : THE TRUE COPY OF THE FAMILY MEMBERSHIP CERTIFICATE OF THE
1ST PETITIONER DATED 9-4-2015.
- EXHIBIT P2 : THE TRUE COPY OF THE UNSUITABILITY CERTIFICATES ISSUED BY
THE PRIMARY HEALTH CENTRE, OTHUKKUNGAL DATED 27-04-2015.
- EXHIBIT P3 : THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE DEPUTY
SUPERINTENDENT OF POLICE, THODUPUZHA DATED 27-02-2015.
- EXHIBIT P4 : THE TRUE COPY OF THE AUTHORIZATION SUBMITTED BY THE
SECOND PETITIONER DATED 28-03-2015.
- EXHIBIT P5 : THE TRUE COPY OF THE RELATIONSHIP CERTIFICATE OF THE
2ND PETITIONER DATED 24-02-2015.
- EXHIBIT P6 : THE TRUE COPY OF THE AFFIDAVIT OF THE 2ND PETITIONER
DATED 28-03-2015.
- EXHIBIT P7 : THE TRUE COPY OF THE AFFIDAVIT OF THE WIFE OF 2ND PETITIONER
DATED 28-03-2015.
- EXHIBIT P8 : THE TRUE COPY OF THE JOINT APPLICATION OF THE PETITIONERS
DATED 13-04-2015.
- EXHIBIT P9 : THE TRUE COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT
DATED 29-05-2015.
- EXHIBIT P10 : THE TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT
DATED 08-09-2015.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C).No.28427 of 2015

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Dated this the 18th day of September, 2015

J U D G M E N T

The 2nd petitioner on account of his acquaintance with the first petitioner has agreed to donate one kidney to the first petitioner. They approached the third respondent authorization committee by Ext.P9. The request has been rejected. There upon, the petitioner preferred an appeal before the Government. This also was rejected as per Ext.P10.

2. As seen from the impugned orders that the main ground of rejection is that the petitioner was unable to explain the relationship between them and the petitioner fail to produce any documentary evidence to show the link between them.

3. The petitioner's case is that the 2nd petitioner worked in the house of the first petitioner as a maison.

4. The altruism is the ground on which the 2nd petitioner has agreed to donate kidney to the first petitioner. There cannot be any documentary evidence to prove altruism. It cannot be

demonstrated by a documentary evidence. It is only when contrary is established to show involvement to a commercial aspect, such gesture can be doubted.

Therefore this Court is of the view that the impugned orders are not sustainable. Accordingly, the writ petition is allowed. There shall be a direction to the third respondent to issue necessary authorization to the petitioners within one week from the date of receipt of the copy of this judgment.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE