

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.18882 of 2016

D.P.Suresh Kumar

... Petitioner

Versus

- 1.The Principal Secretary
Health and Family Welfare Department
Government of Tamil Nadu
Fort St George, Chennai 600009.
 - 2.The Secretary
Social Welfare Department
Secretariat, Tamil Nadu.
 - 3.The Director of Medical Education
162, EVR Periyar Salai, Kilpauk,
Chennai 600010.
 - 4.The Convenor Cadaver Transplant Programme,
TRANSTAN [Transplant Authority of Tamilnadu
Cadaver Transplant programme, Govt. of
Tamil Nadu, Tamil Nadu New Work for Organization
Sharing], No.165 A, Tower Block I, 6th Floor
Rajiv Gandhi Government General Hospital
EVR Periyar Road, [Poonamallee High Road]
Chennai 600 003.
 - 5.The State Commissioner for the Differently Abled
Jawaharlal Nehru Inner Ring Road, KK Nagar
Chennai 600 078.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, to direct the respondents herein for immediate course of action for kidney transplantation by giving due privilege of preference for the petitioner as a priority, being a Handicapped in nature, so as to save the life of the petitioner within the stipulated period prescribed by this Court with reference to the proceeding of the 4th respondent dated 20.05.2016.

For Petitioner : Mr.G.Thangavel

For RR 1 to 3 : Mr.R.Govindasamy,
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner is aged about 35 years and is otherwise abled [physically disabled] with Post Polio Residual Paralysis on both lower limbs with disability percentage of 80%. The petitioner was admitted at Abhijay Private Hospital at Peravallur, Chennai-11, with a complaint of abnormal discomfort on 08.09.2015 and was discharged on 10.09.2015 against medical advise and thereafter got himself admitted at Sri Ramachandra Medical Centre and vide Discharge Summary dated 16.09.2015, the petitioner was diagnosed with "severe renal failure with creatinine of 9.5 with lost CMD, with presence of anemia and CKD MBD in view of which diagnosis of chronic kidney disease stage V was made". The petitioner was advised to undergo Hemodialysis twice a week on Wednesday and Saturday and also counseled regarding RRT options including HD and PD and also renal transplant.

3. The learned counsel for the petitioner would submit that the petitioner has already undergone Hemodialysis for 103 times and it is extremely difficult to trace the veins to undergo the medical process and therefore, the petitioner is in immediate requirement of renal transplant and in this regard, the petitioner has submitted a representation dated 02.05.2016 to the respondents and the 4th respondent, vide communication dated 20.05.2016, has requested the 1st respondent to take all measures to ensure that the petitioner get a renal transplant as per the established guidelines. It is the submission of the learned counsel for the petitioner that in the light of the said urgency, the case of the petitioner may be taken out of turn for renal transplant from and among the donors and prays for appropriate orders.

4. Mr.R.Govindasamy, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 to 5, has drawn the attention of this Court to G.O.Ms.No.287, Health and Family Welfare [Z1] Department, dated 05.09.2008 and would submit that the details of the guidelines have been prescribed in the said Government Order and it will be followed in letter and spirit, considering the difficult situation in which the petitioner is placed.

5. This Court has carefully considered the rival submissions and also perused the materials placed on record.

6. This Court, in the light of the above facts and circumstances and without going into the merits of the claim made by the petitioner in the representation dated 02.05.2016, directs the 4th respondent to consider the emergent need of the petitioner for renal transplant, in the light of the above cited Government Order and take appropriate action within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7. The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP
To

- 1.The Principal Secretary
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Chennai 600 078.

+2cc'S to Mr.G.Thangavel, Advocate, S.R.No.29869
+1cc to the Government Pleader, S.R.No.30158

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GJ II(CO)

CA(15/06/2016)