

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.14527 OF 2017

ORDER:

This writ petition is filed challenging the order dated 06.04.2017, passed by the Chairman of Authorisation Committee for Organ Transplantation for the State of Telangana, Hyderabad, and to direct the respondents to pass appropriate orders for granting permission to transplant kidney setting aside the order under challenge.

The petitioner is suffering from chronic kidney disease at 5th stage and also hypertension. He underwent kidney transplantation in the year 2002, but the kidney was rejected and therefore, he has to undergo costly treatment through out his life i.e., critical Haemodialysis, three times a week, along with other medication. On account of hypertension, he is facing lot of problems even to undergo necessary treatment for Haemodialysis and applied for permission to the Authorisation Committee for organ transplantation and the Committee passed an order dated 18.03.2017 rejecting the permission.

The said order was passed by Two Member Committee without complying the Transplantation of Human Organs and Tissues Rules, 2014 (for short 'the Rules') and the same was set aside by order dated 24.03.2017 in W.P.No.10354 of 2017 directing the respondents to constitute Committee in accordance with the Rules and take a decision in accordance with law within 48 hours from the date of receipt of a copy of the order. But the respondents, instead of taking decision as directed by this Court, passed the impugned order dated 06.04.2017, informing the petitioner that the case was referred to

higher authority for opinion. Patient has three options viz., dialysis, Jeevandan transplant or live transplant. Till the issue is decided, the patient can continue on life long dialysis or can register for cadaver transplantation under Jeevadan.

The order under challenge is totally in violation of the directions issued by this Court in earlier Writ Petition No.10354 of 2017 as the respondents were required to decide the application within 48 hours from the date of receipt of a copy of the said order, without adhering to the direction issued by this Court for one reason or the other, the respondents are protracting passing of order on the ground that the matter was referred to higher authority for opinion, which is not contemplated either under Rules or under the provisions of the Act.

Even today learned Government Pleader for Medical and Health (Telangana) represented that the matter is pending with the higher authority.

As seen from the provisions of the Act and Rules framed thereunder, the Committee alone has to take decision and pass appropriate orders under Rule 23 in the prescribed Form No.18 of the Rules, and no higher authority is contemplated for reference to seek opinion either under Rules or under the Act to pass appropriate orders. Therefore, the respondents are directed to place the matter before the Authorisation Committee constituted under Rule 10, adhering to Rule 15 of the Rules and pass appropriate order under Rule 23 in the prescribed Form No.18 of the Rules, within 72 hours from today. Learned Government Pleader for Medical and Health (Telangana) is directed to report compliance to this Court by next week by filing an affidavit of respondent No.1.

With the above direction, the Writ Petition is disposed of.

M.SATYANARAYANA MURTHY, J

Dt.11.05.2017
ssp

