

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.10354 OF 2017

ORDER:

This writ petition is a sequel to W.P.No.9083 of 2017 filed for consideration of the application of the petitioner in respect of Kidney Transplant Operation. When the said writ petition is pending and when an order was passed by the Committee and communicated to the petitioner through Government Pleader on 18.03.2017, the present writ petition is filed.

The impugned order reads as follows.

“This Office received application on 15.03.2017. Immediately constituted Kidney Transplantation Committee Meeting on 18.03.2017 at 12 Noon, consisting of Dr Kiranmayi Ismal, Prof. of Nephrology of Osmania Medical College/Osmania General Hospital, Hyderabad and Dr Sudarshan, Associate Prof. of Urology, Osmania Medical College, Hyderabad, and examined the Patient and Donor and submitted their report.”

The learned counsel for the petitioner submits that the constitution of a committee with only two members is contrary to Rule 15 of the Transplantation of Human Organs and Tissues Rules, 2014 (the Rules, for brevity), which reads as follows.

15. Quorum of Authorisation Committee:-

The quorum of the Authorisation Committee should be minimum four and the quorum shall not be complete without the participation of the Chairman, the presence of Secretary (Health) or nominee and Director of Health Services or nominee.

When the matter came up for consideration on 23.03.2017, it was adjourned to today in order to get instructions by the learned Government Pleader. The learned Government Pleader, on instructions, submits that in all cases, the Two Member Committee is examining and the Government has to give new Guidelines, which are under consideration at Government level. It is also stated that the Report given by the Two Member Committee holds good and the patient may approach Jeevandhan Programme to get Transplantation Surgery.

The Rules are very clear and the said Rules are binding on the second respondent.

In the circumstances and in view of the apparent violation of Rule 15 of the Rules, this Court is constrained to set aside the impugned order and remand the matter to the second respondent for constitution of the Committee in accordance with the Rules and take a decision on the application of the petitioner in accordance with law within 48 hours from the receipt of copy of this order.

The Writ Petition is accordingly allowed. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

24.03.2017
pln

A.RAMALINGESWARA RAO, J

