

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.W.P. No.20944 of 2017
Date of Decision:19.09.2017**

Mohinder Kumar and another Petitioners
Vs.
State of Haryana and others Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Rajat Mor, Advocate for the petitioners.
 Mr. Ashok Muthreja, DAG, Haryana.
 Mr. Amandeep Talwar, Advocate for respondent
 No.2.

Rakesh Kumar Jain, J. (Oral)

Petitioner No.1 is suffering from Kidney Disease- 5D, leading to complete failure of both the kidneys which is an End Stage Renal Disease. The petitioner has been on dialysis three times a week since April, 2017. He has been getting treatment from Medanta Hospital, Gurgaon under the guidelines of Dr. Adesh Kumar Dubey. Petitioner No.1 has to undergo kidney transplant for which petitioner No.2 has come forward to donate his kidney. Petitioner No.2 is not related to petitioner No.1. As per The Transplantation of Human Organs and Tissues Act, 1994 (for short, 'the Act') a person in blood relation can donate the organ for which no permission is required from any authority but in case of unrelated donor, the donation must be out of love and affection. In such a case, the matter has to be examined by the Authorisation Committee. Since petitioner No.1 is taking treatment at Medanta Hospital, Gurgaon, therefore, the Authorisation Committee of the said hospital was to consider his case. The petitioner had applied to the Authorisation Committee for its approval. Earlier, the Authorisation Committee did not take any action, therefore, the petitioner

had to file CWP No.16190 of 2017 – Mohinder Kumar and another v. State of Haryana and others, which was disposed of on 28.07.2017 when Dr. Adesh Kumar Dubey, Chairperson of the Authorisation Committee of the Medanta Hospital, Gurgaon himself had appeared and submitted that the application of petitioner No.1 has not been considered because it is not filed in the prescribed form. He has submitted that if petitioner No.1 files the application in accordance with the provisions of law, much less in the prescribed form, then the same would be considered and decided accordingly. Thus, the said writ petition was disposed of with a direction to petitioner No.1 to file the application within a period of one week and the Authorisation Committee was directed to decide the same within one week thereafter. Counsel for petitioner No.1 has submitted that the application was duly submitted and the same was considered but not decided by the Authorisation Committee, therefore, the petitioners have to approach this Court again for seeking a direction to the Authorisation Committee to grant necessary approval/ NOC. Counsel for respondent No.2 has put in appearance and has produced the evidence of approval of the Authorisation Committee.

In view of the fact that the Authorisation Committee has approved the case of petitioner No.1 for the purpose of donation of kidney by petitioner No.2 to him, the present petition has become infructuous.

Dismissed as infructuous.

September 19, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No