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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.29140 of 2019

N.Krishnan

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of Health and Family Welfare,
Secretariat,
Fort St. George,
Chennai - 600009.
2. The Advisory Committee,
Department of Health and Family Welfare,
Secretariat,
Fort St. George,
Chennai - 600009.
3. The Transplant Authority of Tamil Nadu,
Tamil Nadu Government Multi Super Speciality Hospital,
Omandurar Government Estate,
Anna Salai, Chennai - 600002.
4. The Miot International Hospital,
No.4/112, Mount - Poonamallee Road,
Manapakkam,
Chennai - 600089.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the respondents 1 to 3 to authorize the fourth respondent to conduct renal transplant surgery (cadaver kidney) to the petitioner from MIOT Hospital (4th respondent) in house cadaver donor or any other kidney which would be received by the fourth respondent.



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For Petitioner : Mr.G.T.Subramaniam

For Respondents: Mr.R.Govindasamy [R1 & R2]
Special Government Pleader
Mr.S.R.Rajagopal
Additional Advocate General
for Mr.V.Anil Kumar [R3]

ORDER

The writ petition has been filed in the nature of Mandamus seeking a direction against the respondents 1 to 3 to authorize the fourth respondent to conduct renal transplant surgery (cadaver kidney) to the petitioner from MIOT Hospital (4th respondent) in house cadaver donor or any other kidney which would be received by the fourth respondent.

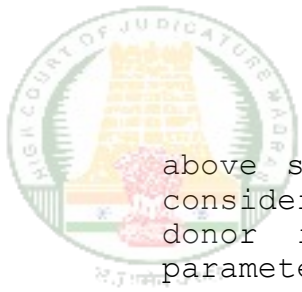
2. The petitioner is aged about 62 years. He is suffering from Chronic Kidney disease from 1991. His kidney function started deteriorating from 2015. He has been under dialysis process for the past four years and undergoing dialysis for thrice every week. He registered for cadaver renal transplant on 18.02.2016 in UID No.15042 with the third respondent. Human organs should be transplanted after getting approval from the third respondent. The petitioner had registered with the fourth respondent.

3. Today, Ms.N.Niraimathi, learned counsel appearing for the fourth respondent stated that the petitioner is in priority No.1 insofar as the fourth respondent Hospital's register is concerned for cadaver transplant.

4. The petitioner claims that when he registered, his age was 56. At any rate, it was less than 60 years. A policy decision has been taken by the first to third respondents that cadaver transplantation must be afforded only to those patients who are less than 60 years of age. However, since the petitioner had registered when he was less than 60 years, the Court holds that he must be given the favour of transplant provided all other medical reports and tests reflected that the donor kidney can be transplanted to him.

5. A memo has been filed today in Court by Mr.V.Anil Kumar, learned counsel for the third respondent, in which it has been stated as follows :-

"As per the 4th respondent (MIOT Hospital Seniority List) the petitioner is ranked 1st, however in the common pool (Considering all the age group) the petitioner stands 57 and



above sixty years pool he stands 32. The petitioner will be considered on priority as and when the in-house (Local) cadaver donor is available based on the suitability of the other parameters."

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6. It is stated by the learned counsel that in Tamil Nadu, there are three zones and the fourth respondent Hospital falls within the north zone. It is stated that whenever any cadaver is available for transplant, it will be the first respondent who will search in particular zone where the cadaver is originated and it would be circulated among the Hospitals in the zone.

7. In the present case, since the petitioner being No.1 seniority insofar as the fourth respondent Hospital is concerned, it is directed that whenever a cadaver kidney is available in north zone and if other parameters are proper and the petitioner herein is certified that he can be a recipient of the said cadaver kidney, then the respondent may bestow their personal attention and endeavour afford continuity of life to the petitioner by granting the said cadaver kidney for the benefit of the petitioner whenever the opportunity arises. The fourth respondent may also join in this endeavour as and when a cadaver kidney is available in the north zone, seek the same and subject to suitability, transplant the same to the petitioner.

8. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Department of Health and Family Welfare,
Secretariat,
Fort St. George,
Chennai - 600009.



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2. The Advisory Committee,
Department of Health and Family Welfare,
Secretariat,
Fort St. George,
Chennai - 600009.

3. The Transplant Authority of Tamil Nadu,
Tamil Nadu Government Multi Super Speciality Hospital,
Omandurar Government Estate,
Anna Salai, Chennai - 600002.

4. The Miot International Hospital,
No.4/112, Mount - Poonamallee Road,
Manapakkam,
Chennai - 600089.

+1cc to the Government Pleader Sr.3227
+1cc to M/s.V.AnilKumar, Advocate Sr.2494
+2cc to M/s.G.T.Subramanian, Advocate Sr.2447

W.P.No.29140 of 2019

sai[co]
srg 20/01/2020