



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 15.04.2021**

**CORAM :**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P. (MD) .No.7196 of 2021**

H.Syeda Shaher Banu

...Petitioner

**Vs.**

1. The Appropriate Authority for Tamil Nadu,  
Directorate of Medical and Rural Health Services,  
361, DMS Complex, Anna Salai,  
Chennai- 600 006.

2. Authorization Committee for Tamil Nadu,  
Directorate of Medical Education,  
162, EVR Periyar Salai, Kilpauk,  
Chennai-600 010.

3. The Manager,  
Meenakshi Hospital,  
244/2, Trichy Main Road,  
Near New Bus stand, Thanjavur-613 005.

4. A.Thanveer Ahamed

5. H.Hameedha Banu

6. S.R.Trust,  
Meenakshi Mission Hospital and Research Centre,  
Lake Area, Melur Main Road,  
Madurai-625 107.

... Respondents

(The sixth respondent is *suo motu* impleaded as per order of this Court dated 15.04.2021 in W.P.(MD).No.7196 of 2021)

**Prayer:** This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent's Hospital to accept the joint application of the petitioner and her sister fifth respondent herein for kidney transplantation by donating one of the petitioner's kidney to her own sister the fifth respondent herein without written consent of the petitioner's husband the fourth respondent herein under Rule 10 of the Human Organ Transplantation Gazette Notification G.S.R.218 (E) dated 27.03.2014 and place the same before the respondent Nos.1 and 2 for proper approval within the period as stipulated by this Court.

For Petitioner

: Mr.A.Haja Mohideen

For R-3

: Mr.P.Paneerselvam

For R-6

: Mr.S.Ramesh



**ORDER**

S.R.Trust, Meenakshi Mission Hospital and Research Centre, Lake Area, Melur Main Road, Madurai-625 107, is *suo motu*, impleaded as the sixth respondent in this Writ Petition.

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2. This Writ Petition has been filed for the issue of a Writ of Mandamus directing the third respondent to act upon the joint application submitted by the petitioner and the fifth respondent, wherein, they have consented for a kidney transplantation.

3. The fifth respondent is the sister of the petitioner. The fifth respondent faced serious kidney problem during the year 2019 and her health condition deteriorated and it went to the extent of performing dialysis on a regular basis. Ultimately, the fifth respondent was advised to undergo a kidney transplantation.

4. The petitioner, who is the sister of the fifth respondent, came forward to donate one of her kidney to the fifth respondent. A joint application was made before the third respondent in this regard. It is alleged that the third respondent was insisting for a no objection / consent letter from the husband of the petitioner. Since this process was getting delayed, the present writ petition has been filed before this Court seeking for appropriate directions.

5. When the matter came up for hearing on 15.04.2021, the learned counsel appearing on behalf of the third respondent Hospital submitted that the Hospital does not have necessary infrastructure to carry out the kidney transplantation operation. The learned counsel specifically brought to the notice of this Court the Human Organ Transplantation Gazette Notification, dated, 27.03.2014 and submitted that the third respondent Hospital even though had recommended for renal transplantation, did not satisfy the requirements of Rule 26 of the Gazette Notification. It was therefore submitted that the third respondent cannot undertake the operation.

6. This stand taken by the third respondent Hospital was putforth by the learned Counsel appearing for the petitioner and the learned counsel appearing for the petitioner was directed to take instructions as to whether the operation can be performed in any other Hospital, which has necessary facilities and infrastructure.

7. When the matter was taken up for hearing today, the learned counsel appearing for the petitioner submitted that the newly impleaded sixth respondent regularly conducts such transplantations and it is a reputed Hospital in Madurai.



8. Heard Mr.A.Haja Mohideen, learned counsel appearing for the petitioner, Mr.M.Paneerselvam, learned counsel appearing for the third respondent.

9. On the submissions made by the learned counsel appearing for the petitioner, this Court *suo motu* impleaded S.R.Trust, Meenakshi Hospital and Research Centre, Lake Area, Melur Main Raod, Madurai-625 107, as the sixth respondent in this Writ Petition. This Court directed Mr.S.Ramesh, to take notice for the sixth respondent.

10. In the considered view of this Court, the third respondent Hospital has also taken into consideration, the precarious situation of the fifth respondent and has recommended for renal transplantation at the earliest. The petitioner, who is the sister of the fifth respondent, is willing to donate one of her kidney to the fifth respondent. If the same is in line with the prevailing Act and Rules, it will be more appropriate to give a direction to the Medical Institution, which is authorized to carry out such transplantations. This Court ascertained and found that the sixth respondent is a reputed Institution, which carries out regular renal transplantation operations.

11. In view of the above, there shall be a direction to the petitioner and the fifth respondent to submit a joint application to the newly impleaded sixth respondent Hospital along with all the necessary particulars immediately. The sixth respondent on receipt of the same, shall take an immediate decision with regard to conduct of renal transplantation. The sixth respondent need not insist for a no objection from the husband of the petitioner due to the strained relationship. If all the other parameters are fulfilled, the sixth respondent shall proceed further to conduct the renal transplantation operation. Since it involves precious life, the sixth respondent shall take an immediate action in this regard.

12. The learned counsel appearing for the petitioner made it clear that all the expenses will be borne by the petitioner and the fifth respondent.

13. This Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

**To**

S.R.Trust,  
Meenakshi Mission Hospital and Research Centre,  
Lake Area, Melur Main Road,  
Madurai-107.

+1 CC to M/s.M.PANNEERSELVAM, Advocate ( SR-16001[F] dated  
16/04/2021 )

**Order made in**  
**W.P. (MD) .No.7196 of 2021**  
**Dated: 15.04.2021**

NA (CO)  
TR(16.04.2021) 4P 3C