

September 30, 2022
Sl. No.SL1
Court No.1
s.biswas

MAT 1682 of 2022
With
CAN 1 of 2022
Dr. Pijush Kanti Dey and another
vs.
State of West Bengal and others

Mr. Ujjwal Ray,
Mr. Arpa Chakraborty,
Mr. Ivan Roy,
Mr. Sk. Abdur Rahim, Advocates

... for the appellants

Mr. Tapan Kumar Mukherjee, Sr. Advocate
Mr. Somnath Naskar, Advocate

... for the State

This intra-Court appeal is at the instance of the writ petitioners challenging the order of the learned Single Judge dated 29th September, 2022 whereby the State has been directed to file the affidavit within a fortnight and leave has been granted to move before the Vacation Bench for appropriate orders.

Record reflects that the appellant No.1 has been advised renal transplantation and that the appellant No.2 has voluntarily agreed to donate one of his kidneys to the appellant No.1 being a distant relative. Further case of the appellants is that the issue relating to the permission for transplantation was taken up in the Board meeting held on 10th August, 2022 and the outcome of that meeting was not intimated. Hence, the appellants had filed the petition with a direction to the respondents to grant permission to the appellant No.2 to donate one of his kidneys to the appellant No.1.

Submission of learned counsel for the appellants is that the appellants apprehend that due to pendency

of the criminal case against the appellant No.2, the permission has not been granted and that the appellant No.1 is in urgent need of the kidney transplantation.

Learned counsel for the State has submitted that in the meeting held on 10th August, 2022 the Board had sought the clearance from the District Magistrate. Learned counsel for the State has informed that now the District Magistrate has granted the clearance, therefore the case of the appellants will be considered by the Board expeditiously. Learned counsel for the State has fairly stated before this Court that pendency of criminal case is not a legal bar to grant permission for kidney transplantation.

Hence, in the above circumstances of the case, we dispose of the present appeal with a direction to the Board to consider the case of the appellants as expeditiously as possible but not later than 10 days from today. In case of any urgency, appellants are permitted to move before the first Vacation Bench.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)