

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.6724 of 2022

Dillip Kumar Nayak

....

Petitioner(s)

Mr. T.K. Misha, Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. U.K. Sahoo,
Addl. Standing Counsel

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
17.03.2022**

Order No.

2.

1. As it appears from this writ petition, Opposite Party No.5- Mamata Barik (the donor) expresses her willingness to donate kidney to the petitioner benevolently.

2. Heard learned counsel for the parties. The petitioner, Dillip Kumar Nayak, in this writ petition seeks for a direction to the opposite parties, particularly opposite party nos.1 to 4 to accept the petitioner's application under Form-10 and release the requisite permission for kidney transplantation on donation by O.P.5 in the prescribed format to the Chairman, State Level Authorization Committee-cum-Director, Capital Hospital, Bhubaneswar, i.e. Opposite Party No.2, under the Transplantation of Human Organs and Tissues Act, 1994, for consideration.

3. Shorn of unnecessary details, it appears from the pleadings that, the petitioner is suffering from a disease of kidney and requires urgent kidney transplantation. It appears, O.P.5-Mamata Barik is intending to donate her kidney to the petitioner benevolently. The petitioner presented such donor (opp. party no.5) before the S.C.B. Medical College and Hospital, Cuttack, for verification and testing.

4. It is not in dispute that S.C.B. Medical College and Hospital, Cuttack has issued an advice to the petitioner for immediate transplantation of kidney of the petitioner, as it appears under Annexure-4 and a condition has been imposed as “come with suitable and relating donor”.

5. Since Opposite Party No.5, i.e. the proposed donor of the petitioner is the mother-in-law of the petitioner, in terms of the advice given by the S.C.B. Medical College & Hospital, Cuttack the matter was forwarded to the State Level Authorization Committee, i.e. O.P.2.

6. This Court in W.P. (C) No.13087 of 2013 (disposed of on 31.07.2013) has taken into consideration the condition in Clause No.1 in the Certificate granted under Transplantation of Human Organs Rules, 1995. Rule 4(e) of the said Rules, 1995, Rule 4(A)(4) of the said Rules and has ruled that in Clause No.1 of the Certificate of Registration granted under Transplantation of Human Organs Rules, 1995, the words “related transplantation only” stand deleted from the Certificate of Registration. Taking into consideration all the aspects, this Court in the aforesaid Writ Petition and some other Writ Petitions has allowed transplantation of kidney even of non-related donor.

7. Taking all such facts into consideration and in view of the urgency, as stated at the Bar and noted in the petition for transplantation of the kidney of the petitioner, Opposite Party No.3 i.e. the Superintendent, S.C.B. Medical College & Hospital, Cuttack is directed to evaluate the donor, whom the petitioner will produce before him along with a copy of this order. Upon receipt of the same, the donor’s case shall be evaluated strictly in terms of the Transplantation of Human Organs and Tissues Act, 1994 and Transplantation of Human Organs Rules, 1995 and the application of the petitioner shall be forwarded immediately thereafter to the State Level Authorization Committee (Opposite Party No.2) for its consideration. The Authorization Committee is at liberty to consider all the aspects, as required by law, prior to granting such permission, and the petitioner’s case be

expeditiously dealt with upon receipt of the application from the 3 Superintendent, S.C.B. Medical College & Hospital, Cuttack (Opp. Party No.3). The entire exercise shall be completed within a period of five days from the date of communication of this order by the petitioner.

8. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biswanath Rath)
Judge

Sks

