

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C). No.11225 of 2022

Chinmaya Kumar Jena

....

Petitioner(s)
Mr.D.Mohapatra,
Advocate

-versus-

State of Odisha & Ors.

....

Opp.Party(s)
Mr.S.Ghose, ASC

CORAM:
JUSTICE BISWANATH RATH

ORDER
06.05.2022

Order No.

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1. Heard learned counsel appearing for the parties.
2. This writ petition involves immediate kidney transplantation. Petitioner claims the donor being matrimonial grandmother, there is rejection of such candidature by Hospital involved. Looking to the provision at Rule 2 (i) of the Transplantation of Human Organs and Tissues Rules, 1994 an application is made after bringing the donor to the Hospital Authority for its decision in the matter. For the advise dated 28.02.2022, declining to entertain such donor with advise to come with related suitable donor. This Court here takes into account the definition of Rule 2 (i) of the Transplantation of Human Organs and Tissues Rules, 1994, which reads as follows:

“2. Definitions.- In this Act, unless the context otherwise requires.-

xxx xxx xxx
xxx xxx xxx

(i) “near relative” means spouse, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson or granddaughter;”

xxx xxx xxx
xxx xxx xxx”

2. Reading the above and also the other provisions in the Act, this Court nowhere finds there is any restriction in utilizing kidney of a matrimonial grandmother. For the opinion of this Court, unless there is clear restriction, the benefit coming through the

provision should be taken positively. In the process, this Court directs the Medical Authority to refer the request of the petitioner pending before it to the Committee to take decision in the matter of kidney transplantation finally at least within two days of service of authenticated copy of this order. Decision of the Committee shall also be taken by further two days thereafter considering the criticality in the position of the petitioner.

3. Issue urgent certified copy of this order in course of the day on proper application.

(Biswanath Rath)
Judge

Sks

