

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-24108-2022

Date of decision: 19.10.2022

AMANDEEP SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Prateek Pandit, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Mandamus directing the respondent No.2-Authorization Committee, Medical Education and Research, Punjab to expeditiously take a decision on the renal/kidney transplant operation of the petitioner after approving the respondent no.4 as the donor.

Briefly summarized, the facts of the instant case are that the petitioner is stated to be a farmer and who has been diagnosed with renal failure of both the kidneys and has been advised to undergo kidney transplantation. The petitioner is currently stated to be undergoing dialysis thrice a week for removal of intoxicants from his blood as both the kidneys have stopped functioning completely. The doctors treating the petitioner at Sardar Satnam Singh Memorial, Innocent Hearts Multispeciality Hospital, Nakodar Road, Jalandhar have recommended a kidney transplant as the only procedure to save

the life of the petitioner.

Respondent No.4 who is stated to be cousin of the petitioner inasmuch as the grand father of the petitioner and respondent No.4 were brothers. He further contends that the petitioner and respondent No.4 reside in the same house and are in joint cultivation of the agricultural land owned by their family. Having grown up together, they have natural love and affection not only by blood but also on account of natural fondness. Owing to the above-said relationship and fondness, respondent No. 4 has agreed to donate one of his kidneys to the petitioner voluntarily, without any pressure and for no consideration motivated solely with an object to save the life of the petitioner.

He thus submits that the appropriate approval has to be granted by the authorization Committee constituted under Section 9 of the Transplantation of (Human Organs and Tissues) Act, 1994.

Learned counsel appearing on behalf of the petitioner fairly concedes that on account of paucity of time they could not approach the Authorization Committee for taking an appropriate decision, however, given the medical emergent circumstances, they had to approach this Court directly. He however contends that he would not press the instant petition at this stage in case the respondent-State/Authorization Committee so constituted under the Act of 1994 by the State is directed to examine the case of the petitioner for granting approval of renal transplant, in a time bound manner, after treating the present petition as a representation.

The said prayer tends to redress the question of examination of the factual aspects as well as the genuineness of the

claim of the petitioner so made in the present petition without necessitating this Court to go into the questions of fact. It is also evident that the members of the Bar are otherwise abstaining from work today.

Consequently, in order to balance the equities and to prevent any unnecessary delay and also to ensure that the petitioner is afforded an appropriate opportunity to take steps to protect his life, it is deemed necessary that the present petition be disposed of without going into the merits of the present case or commenting thereupon, with a direction to respondent No.2-Authorisation Committee, Medical Education and Research, Punjab, Medical Education Bhawan, Sector-69, District SAS Nagar, Mohali to treat the present petition as a representation and to take a considered and expeditious decision within a period of 10 days of receipt of certified copy of this order alongwith present petition and all the annexures.

Needless to mention that respondent No.2-Authorisation Committee, Medical Education and Research, Punjab shall also grant an opportunity of hearing to the petitioner to represent his case and establish his assertions.

The present petition is accordingly disposed of in the aforesaid terms.

(VINOD S. BHARDWAJ)
JUDGE

OCTOBER 19, 2022

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No