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W.P.No.8861 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.8861 of 2024

1.G.Soundararajan
2.S.Sidharth

...Petitioners

Vs

1.The Government of Tamil Nadu
rep.by its Principal Secretary to Government,
Health ad Family Welfare Department,
Fort St. George,
Secretariat,
Chennai - 600 009.

2.The Authorization Committee of Tamil Nadu
for Liver Transplant,
Office of the Directorate of Medical Education,
No.162, EVR Peter Road,
Poonamallee High Road,
Kilpauk,
Chennai - 600 010.

3.The Member Secretary,
Transplant Authority of Tamil Nadu,
I Floor, Room No.1045, 1046,
Tamil Nadu Super Speciality Hospital,
Omandurar Government Estate,
Chennai - 600 002.



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4.The Tahsildar,
Coimbatore South,
Coimbatore.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Letter No.468/Transtan/2024 dated 28.02.2024 and quash the same and direct the respondents to forthwith allot the next cadaver liver with "A" blood group or "O" Blood group to the 1st petitioner in lieu of a live liver donation by the 2nd petitioner to such patient to whom a cadaver liver would have otherwise been allotted.

For Petitioners : Ms.AL.Gandhimathi,
Senior Counsel
for Mr.Kamalanathan

For Respondents : Mr.M.Bindran
Additional Government Pleader
for R1 and R2

Mr.V.Anilkumar for R3

Mr.N.Naveenkumar for R4

ORDER

The rejection of the request of the writ petitioner seeking permission for swap transplant in proceeding dated 28.02.2024 is under challenge in the present writ proceedings.



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2.The 1st petitioner is the father of the 2nd petitioner. The 1st petitioner is undergoing treatment for Hepatocellular Carcinoma (HCC) (Cancer) and on behalf of the 1st petitioner, the 2nd petitioner is submitting representations to the Authorities volunteering to donate his liver to any patient who is in need of the same so that the cadaver liver it may be allotted to such patient may be made available to the father of the 2nd petitioner.

3.Ms.AL.Gandhimathi, learned Senior Counsel for the petitioners would submit that the request for swap transplant was negated on the ground that there is no protocol for allocating the precious donated organs to ends stage of organ failure patient in a transparent and fair manner. The said rejection was passed by the Member Secretary, Transplant Authority of Tamil Nadu.

4.The learned Senior counsel for the petitioners would solicit the attention of this Court with reference to Section 9(3A) and (4) of the Transplantation of Human Organs and Tissues Act, 1994.



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WEB COPY 5.The learned counsel appearing on behalf of the 3rd respondent would also submit that the provisions of the Act would not permit such swap transplant and therefore, the decision of the Transplant Authority is in consonance with the provisions of the Act. However, under Section 9(4) of the Act, the Authorisation Committee is constituted and the Committee may consider the issue with reference to the provisions of the Acts and Rules and take a decision. In this context, the petitioners are at liberty to approach the Authorization Committee to redress their grievances. In the event of any such approach, the Authorization Committee/2nd respondent is directed to decide the issue within a period of one week from the date of receipt of a copy of the representation from the petitioners and communicate their decision to the petitioners immediately.

With the above direction, this Writ Petition is disposed of. No costs.

25.04.2024

Index : Yes/No

Speaking order :Yes/No

Neutral citation :Yes/No

mps

Note to office:

Issue order copy on 26.04.2024



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To
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S.M.SUBRAMANIAM, J.

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