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WP No. 24172 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2025

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

WP No. 24172 of 2025
and W.M.P.No.27196 of 2025

Jothimani

W/o.Ravaneshwarar, 204, Muniyappan Kovil Street,
Ravaneshwarar Nagar, Pallapatti, Salem District.

..Petitioner

Vs

1. The Authorization Committee (transplanation)
Rep. By Its Chairman, Coimbatore Medical College
And Research, Kilpauk, Chennai-600 010.
2. The State Of Tamil Nadu
Rep. By Its Principal Secretary, Department Of
Health And Family Welfare, Secretariat, Fort St.
George, Chennai-600 009.
3. The Tahsildar
Office of The Tahsildar, Salem West, Salem
District.
4. K.G.Hospital,
Rep. By Its Chairman, No.5, Government Arts
College Road, Coimbatore District.
5. Kongunad Kidney Centre,
No.206, 207, 11th Street, Tatabad, Coimbatore-
641 012, Coimbatore District.



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6. Mariyammal

W/o.Rajendran, 5/210, Kaliyammal Kovil
Backside, Dasanaickenpatty, Salem.

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 3rd respondent in O.Mu. No.1655/ 2024/ A2 dated 17.12.2024 rejecting the application of the petitioner for issuance of family friend certificate to effect transplantation of human organ and quash the same as illegal and consequently direct the respondents 1 to 3 to consider the petitioners application dated 04.11.2024 which is submitted through the 4th respondent for granting approval and permission for urgent kidney transplantation surgery by this Court.

For Petitioner :	Ms.M.Benazir Begum
For Respondents :	Mrs.M.Sneha Special Panel Counsel - fpr RR 1 and 2 Mr.E.Sundaram Government Advocate - for R 3

ORDER

This writ petition has been filed challenging the proceedings of the third respondent dated 17.12.2024 rejecting the application submitted by the petitioner for issuance of family friend certificate in order to enable the sixth respondent to donate her kidney to the petitioner through the fourth respondent hospital by undergoing kidney transplantation surgery.

2. When this writ petition came up for hearing on 04.07.2025, the learned counsel for the petitioner submitted that the petitioner was initially taking

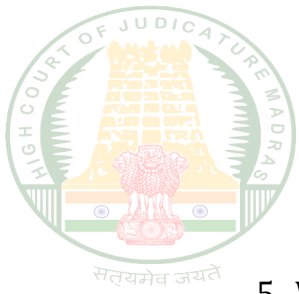


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treatment in the fourth respondent hospital and was undergoing dialysis in that hospital. Both her kidneys had failed and hence the sixth respondent had voluntarily come forward to donate one of her kidneys to the petitioner. Immediately, the relevant test was conducted by the fourth respondent hospital and since the sixth respondent is not a near relative of the petitioner, a supporting affidavit was submitted by the sixth respondent and the petitioner also submitted all the relevant documents as required by the fourth respondent. However, the fourth respondent forwarded the same to the third respondent seeking for issuance of family friend certificate. The same has been rejected by the third respondent through proceedings dated 17.12.2024.

3. Learned counsel submitted that there was no need for the fourth respondent hospital to send the relevant documents to the Tahsildar and it ought to have been sent to the Authorization Committee to take a decision.

4. This Court directed the learned Government Advocate to take instructions from the third respondent and in the meantime also directed the learned counsel appearing on behalf of the respondents 1 and 2 to take instructions.

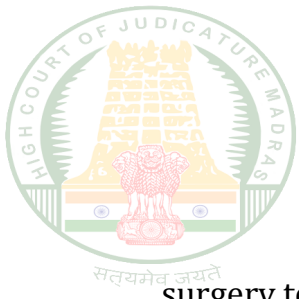


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5. When the matter was taken up for hearing today, the learned Special Panel Counsel for the respondents 1 and 2 brought to the notice of this Court Transplantation of Human Organs Rules 1995. Learned counsel places specific reliance upon Rule 6F(vii) and submitted that, where the proposed transplant is between individuals who are not near relative, it is the Authorization Committee which has to evaluate and take a decision and the Tahsildar does not anywhere get into the picture.

6. Learned Government Advocate appearing on behalf of the third respondent also produced written instructions received from the third respondent. On going through the same, it is seen that the Tahsildar has also taken a similar stand stating that there was no relationship between the petitioner and the sixth respondent and therefore there is no occasion for the Tahsildar to issue the certificate.

7. Learned counsel for the petitioner submitted that the petitioner is presently taking treatment before the fifth respondent hospital and she is undergoing dialysis thrice a week in the fifth respondent hospital. She further submitted that there is some urgency to conduct the kidney transplantation



surgery to the petitioner considering her health status.

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8. Considering the facts and circumstances of the case and taking note of the submissions made on either side, this Court finds that it is the Authorization Committee which has to take a final call as per the Rules. For better appreciation, Clause 6F(vii) of the Transplantation of Human Organs Rules 1995 is extracted hereunder:

"vii. Where the proposed transplant is between individuals who are not "near relatives", the Authorization Committee shall evaluate :-

(i) that there is no commercial transaction between the recipient and the donor. That no payment of money or moneys worth as referred to in the Sections of the Act, has been made to the donor or promised to be made to the donor or any other person. In this connection, the Authorization Committee shall take into consideration:-

a. an explanation of the link between them and that they have lived together etc.,

b. documentary evidence of the link e.g., proof that they have lived together.

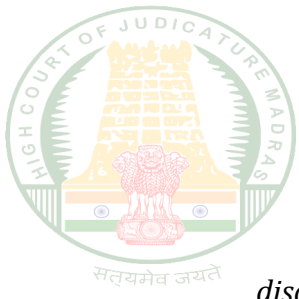
c. reasons why the donor wishes to donate; and

d. old photographs showing the donor and the recipient together

(ii) that there is no middleman / tout involved;

(iii) that financial status of the donor and the recipient is probed by asking them to give appropriate evidence of their vocation and income for the previous three financial years. Any gross disparity between the status of the two must be evaluated in the backdrop of the objective of preventing commercial dealing;

(iv) that the donor is not a drug addict or a known person with criminal record; that the next to kin of the proposed unrelated donor is interviewed regarding awareness about his / her intention to donate an organ, the authenticity of the link between the donor and the recipient and the reasons for donation. Any strong view of



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disagreement or objection of such kin may also be recorded and taken note of."

9. The above Rule makes it clear that where the proposed transplant is between individuals who are not near relatives, the Authorization Committee has to take the final decision after evaluating various aspects as provided in the above clause. All these particulars will have to be provided by the fifth respondent hospital where the petitioner is presently undergoing treatment. That apart, whatever documentation is required from the sixth respondent, that must also be placed before the Authorization Committee.

10. In the light of the above discussion, there shall be a direction to the fifth respondent hospital to collect all the relevant documents and particulars and place the same before the Authorization Committee, which is the first respondent in this writ petition. The Authorization Committee shall evaluate the same and take a decision strictly in line with the Rules. This process shall be completed by the first respondent within a period of two weeks from the date of receipt of the relevant documents from the fifth respondent hospital. The fifth respondent hospital is directed to place all the relevant documents before the Authorization



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Committee within a period of one week from the date of receipt of a copy of this order.

11. This writ petition is disposed of in the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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