



W.P.No.40349 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2025

CORAM

THE HONOURABLE MR JUSTICE N.SATHISH KUMAR

W.P.No.40349 of 2025
and W.M.P.No.45318 of 2025

Taba Tania
S/o.Taba Chada, Yazali, Lower Subansiri,
Yazali 791119, Arunachal Pradesh.

Petitioner(s)

Vs

1.Office of the Chairman
Committee and Directorate of Medical Education and
Research, Kilpauk, Chennai 600 010.

2.The Chairman and Managing Director
Kovai Medical Center & Hospital Limited,
Post Box No.3209, Avanashi Road, Coimbatore.

Respondent(s)



W.P.No.40349 of 2025

Writ Petition filed under Article 226 of the Constitution of India to

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issue a Writ of Certiorarified Mandamus to call for the records connected with the impugned order No.K.Dis.No.86353/H&DII/4/2025 dated 03.10.2025 of the first respondent and quash the same and direct the first respondent to permit the petitioner to undergo the renal transplant operation at the second respondent/hospital, receiving the organ from his mother/donor Taba Maloti.

For Petitioner(s): Mr.John Zachariah

For R1: Mr.E.Sundaram
Government Advocate

ORDER

Challenging the impugned order dated 03.10.2025 passed in K.Dis.No.86353/H&DII/4/2025 on the file of the first respondent and to



W.P.No.40349 of 2025

quash the same and direct the first respondent to permit the petitioner to undergo renal transplant operation at Kovai Medical Centre & Hospital Limited, second respondent herein, by receiving the organ from his mother/donor Taba Maloti, the petitioner has filed the present writ petition.

2. It is the case of the petitioner that the petitioner is the daily wage, his wife is a homemaker and blessed with a male child, aged about three years; he is diagnosed with renal problem in 2025; as his condition worsened, he consulted a nephrologist at home town in Arunachal Pradesh, who, in turn, referred him to Kovai Medical Centre & Hospital Limited, second respondent herein and the second respondent/hospital advised kidney transplant; as his condition was bad, he was put on hemodialysis and as his condition progressively worsened and the problem has become serious, he was advised to undergo transplant immediately; at that time, his mother, out of her love and affection, had come forward to donate one of her kidneys



W.P.No.40349 of 2025

and she is also medically fit to donate same, which has been approved by the

Authorisation Committee in Arunachal Pradesh; no objection certificate has also been issued by the Authorisation Committee in this regard from Arunachal Pradesh; the second respondent/hospital also issued a certificate after examining his mother by stating that the donor is fit for surgery; when the transplant was about to be done as per the procedure under the Transplantation of Human Organs and Tissues Act, 1994 (for brevity “the Act”), his mother was referred to the Authorisation Committee constituted by the State of Tamil Nadu; after examination, the impugned order came to be passed, as if, his mother is unfit to undergo surgery and hence, according to him, the impugned order is against the very Act itself.

3. When the medical officers, who is going to perform the transplant and the experts in the field have opined that the donor is fit for surgery and transplant can be done easily, taking contrary view on the basis



W.P.No.40349 of 2025

of the appearance is not correct. Further, the Authorisation Committee of

Arunachala Pradesh has also examined and certified that the petitioner's mother is fit for surgery and therefore, the petitioner is before this Court challenging the impugned order.

4. The learned counsel appearing for the respondents would submit that the petitioner's mother was medically examined by a team of doctors and found that since she is aged about 69 years, she is not fit to donate kidney under high cardiac risk. He would further submit that the medical officer examined the petitioner's mother physically and found that she is not fit for being a renal donor in high risk category and only on that ground permission was rejected by the Authorisation Committee. Further, according to him, guidelines issued under Rule 23 of the Transplantation of Human Organs and Tissues Rules, 2014 (for brevity "the Rules") has been followed properly and fitness of the donor has been assessed.



W.P.No.40349 of 2025

WEB COPY 5. Heard the learned counsel on both sides and perused the materials on records.

6. The relationship between the donor and donee is not in dispute. The petitioner is suffering from renal failure and he is admitted in the second respondent/hospital. The second respondent/hospital has also given certificate to the effect that the petitioner's mother/donor is fit for such surgery. The said certificate is also annexed in this petition. Similarly, the Authorisation Committee of Arunachal Pradesh State Government has also assessed the conditions of the donor and donee and had given a certificate dated 24.06.2025, which is also annexed in the typed set.

7. It is relevant to note that as per Rule 18 of the Rules, where, the proposed transplant of organs is between near relatives related genetically,



W.P.No.40349 of 2025

namely, grandmother, grandfather, mother, father, brother, sister, son, daughter, grandson and granddaughter, above the age of eighteen years, the competent authority as defined at Rule 2(c) or Authorisation Committee (in case donor or recipient is a foreigner) shall evaluate. The said rule makes it clear that only if the donor or recipient is a foreigner, the Authorisation Committee had to evaluate as to whether the relatives as defined in the Act is fit for such surgery and transplant.

8. Rule 2(c) of the Rules reads as follows:

“2.Definitions.-

“competent authority” means the Head of the institution or hospital carrying out transplantation or committee constituted by the head of the institution or hospital for the purpose.”

9. Rule 18 of the Rules makes it very clear that evaluation to be done only by the head of the institution or hospital carrying out transplantation or committee constituted by the head of the institution or

Page 7 of 20



W.P.No.40349 of 2025

hospital for that purpose, particularly, where the proposed transplant of

organs is merely between the relatives. Section 2(c) of the Act defines

“Authorisation committee”, which means committee constituted under

clause (a) or clause (b) of sub-section (4) of Section 9 of the Act.

10. Section 9(4) of the Act reads as follows:

*“9.Restrictions on removal and transplantation of
[human organs or tissues or both].-*

*[(4)(a) The composition of the Authorisation
Committees shall be such as may be prescribed by the Central
Government from time to time.*

*(b) The State Government and the Union territories
shall constitute, by notification, one or more Authorisation
Committees consisting of such members as may be nominate
by the State Governments and the Union territories on such
terms and conditions as may be specified in the notification for
the purpose of this section.]”*



11. Similarly, Rule 11 of the Rules reads as follows:

“11.Composition of Authorisation Committees.—(1)

There shall be one State level Authorisation Committee.

(2) Additional Authorisation Committees in the districts or Institutions or hospitals may be set up as per norms given below, which may be revised from time to time by the concerned State Government or Union territory Administration by notification.

(3) No member from transplant team of the institution should be a member of the respective Authorisation Committee.

(4) Authorisation Committee should be hospital based if the number of transplants is twenty five or more in a year at the respective transplantation centres, and if the number of organ transplants in an institution or hospital are less than twenty-five in a year, then the State or District level Authorisation Committee would grant approval(s).”

12. Section 9 of the Act deals with Authorisation Committee, the same reads as follows:



*“9. Restrictions on removal and transplantation of 2
[human organs or tissues or both].—(1) Save as otherwise
provided in sub-section (3), no 1 [human organ or tissue or
both] removed from the body of a donor before his death shall
be transplanted into a recipient unless the donor is a near
relative of the recipient.*

*[(1-A) Where the donor or the recipient being near
relative is a foreign national, prior approval of the
Authorisation Committee shall be required before removing or
transplanting human organ or tissue or both: Provided that
the Authorisation Committee shall not approve such removal
or transplantation if the recipient is a foreign national and the
donor is an Indian national unless they are near relatives.*

*(1-B) No human organs or tissues or both shall be
removed from the body of a minor before his death for the
purpose of transplantation except in the manner as may be
prescribed.*

*(1-C) No human organs or tissues or both shall be
removed from the body of a mentally challenge person before
his death for the purpose of transplantation.*



Explanation.—For the purpose of this sub-section,—

(i) the expression “mentally challenged person” includes a person with mental illness or mental retardation, as the case may be;

(ii) the expression “mental illness” includes dementia, schizophrenia and such other mental condition that makes a person intellectually disables;

(iii) the expression “mental retardation” shall have the same meaning as assigned to it in clause (r) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Right and Full Participation) Act, 1995 (1 of 1996).]

(2) Where any donor authorises the removal of any of his 2 [human organs or tissues or both] after his death under sub-section (2) of section 3 or any person competent or empowered to give authority for the removal of any [human organ or tissue or both] from the body of any deceased person authorises such removal, the [human organ or tissue or both] may be removed and transplanted into the body of any recipient who may be in need of such [human organ or tissue or both].



(3) If any donor authorises the removal of any of his [human organs or tissues or both] before his death under sub-section (1) of section 3 for transplantation into the body of such recipient, not being a near relative, as is specified by the donor by reason of affection or attachment towards the recipient or for any other special reasons, such [human organ or tissue or both] shall not be removed and transplanted without the prior approval of the Authorisation Committee.

[(3A) Notwithstanding anything contained in sub-section (3), where—

(a) any donor has agreed to make a donation of his human organ or tissue or both before his death to a recipient, who is his near relative, but such donor is not compatible biologically as a donor for the recipient; and

(b) the second donor has agreed to make a donation of his human organ or tissue or both before his death to such recipient, who is his near relative, but such donor is not compatible biologically as a donor for such recipient; then

(c) the first donor who is compatible biologically as a donor for the second recipient and the second donor is



compatible biologically as a donor of a human organ or tissue or both for the first recipient and both donors and both recipients in the aforesaid group of donor and recipient have entered into a single agreement to donate and receive such human organ or tissue or both according to such biological compatibility in the group, the removal and transplantation of the human organ or tissue or both, as per the agreement referred to above, shall not be done without prior approval of the Authorisation Committee.]

[(4) (a) The composition of the Authorisation Committee shall be such as may be prescribed by the Central Government from time to time.

(b) The State Government and the Union territories shall constitute, by notification, one or more Authorisation Committee consisting of such members as may be nominated by the State Government and the Union territories on such terms and conditions as may be specified in the notification for the purposes of this section.]

(5) On an application jointly made, in such form and in such manner as may be prescribed, by the donor and the



recipient, the Authorisation Committee shall, after holding an inquiry and after satisfying itself that the applicants have complied with all the requirements of this Act and the rules made thereunder, grant to the applicants approval for the removal and transplantation of the human organ.

(6) If, after the inquiry and after giving an opportunity to the applicants of being heard, the Authorisation Committee is satisfied that the applicants have not complied with the requirements of this Act and the rules made thereunder, it shall, for reasons to be recorded in writing, reject the application for approval.”

13. The above Section makes it clear that the evaluation can be done by the Authorisation Committee only when the proposed donor or recipient or both are not Indian citizens or near relatives.

14. Rule 19 of the Rules deals with the procedure in case of transplants other than near relatives, where, the proposed transplant is



W.P.No.40349 of 2025

between other than near relatives and all cases, where, the donor or recipient

is a foreign national, the approval will be granted by the Authorisation committee of the hospital or if hospital based Authorisation Committee is not constituted, then by the District or State Level Authorisation Committee, whereas, Rule 18, *ibid.* takes care of the transplantation between near relatives and in such case, the competent authority alone has to decide as to whether the donor or recipient is fit to undergo surgery. Therefore, the Authorisation Committee appointed for different purpose now cannot take different view, particularly, when the competent authority, as defined under the Rules, has clearly given a certificate to the effect that the donor is fit to undergo surgery. That apart, the medical team constituted by the Arunachal Pradesh has also given such certificate.

15. It is further to be noted that Section 9(3) of the Act makes it clear that if any donor authorises the removal of any of his organs or tissues



W.P.No.40349 of 2025

before his death and the recipient not being a near relative, only in such case,

approval from the Authorisation Committee is required and not in every case. Though Section 9(3-A) of the Act indicates that if the donor is not compatible biologically as a donor for the recipient, then the approval from the Authorisation Committee is required, the fact remains in this case that the competent authority and other medical officers have clearly found that the donor is fit for surgery. When the experts in the field and second respondent/hospital, which has done several transplants successfully, have examined the donor and donee and given certificates, this Court is of the view that the impugned order cannot be a bar for the transplantation.

16. In view of the foregoing discussions, this Court issues the following directions:

- i. The competent authority of the second respondent/hospital shall once again assess the donor fully in their hospital for comprehensive evaluation;
- ii. After thorough assessment and after satisfying all the parameters, the



W.P.No.40349 of 2025

second respondent/hospital can take all the decisions based on the results of the evaluation; and

iii.If the second respondent/hospital is satisfied that the donor is fit for surgery, then, it may proceed on with the transplantation.

With the above directions, this writ petition stands disposed of. No costs. Connected W.M.P. is closed.

02.12.2025

nsd

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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W.P.No.40349 of 2025

To

1.The Chairman
Committee and Directorate of Medical Education and
Research, Kilpauk, Chennai 600 010.

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Page 18 of 20



WEB COPY



W.P.No.40349 of 2025

N.SATHISH KUMAR, J.



WEB COPY



W.P.No.40349 of 2025

nsd

W.P.No.40349 of 2025

02.12.2025