

S/L 26
06.03.2026
Court. No. 25
Sourav

WPA 5052 of 2026

Khyati Khandelwal
Vs.
State of West Bengal & Ors.

Mr. Pingal Bhattacharyya
Mr. Rajdeep Sinha

...for the petitioner.

Mr. Samrat Sen
Mr. Amrita Lal Chatterjee

...for the State.

1. The petitioner has filed the present writ application praying for setting aside and quashing the oral rejection relating to the authorization of renal transplantation of the petitioner.
2. The petitioner was diagnosed with kidney problem on February 5, 2024. On February 5, 2024 the ILS Hospital advised the petitioner for renal transplantation and to collect necessary documents for the same. The ILS Hospital forwarded the application and other relevant documents of the petitioner and the donor to the Authorization Committee, Department of Health and Welfare, Government of West Bengal.
3. The respondent authorities issued a memo for provisional list of the patients for Organ Transplantation Board Meeting which is to be held on September 9, 2025 wherein the name of the petitioner is also appearing.
4. The petitioner had been to the office of the concerned respondents to ascertain the reason of such refusal of transplantation of the organ but the concerned authorities have refused to give any rejection order in writing against

the application submitted by the petitioner. Accordingly, the petitioner has filed the present writ application.

5. The authorities have filed the report after serving the copy to the learned counsel for the petitioner. In the report it reveals that the Chief Medical Officer of Health-I, North 24 Parganas vide a letter dated March 7, 2025 requested for a verification report from the SDO, Barrackpore Sub-Division, North 24 Parganas. The Sub-Divisional Officer, Barrackpore, North 24 Parganas has submitted the report on August 26, 2025 wherein it is categorically mentioned that there is no unofficial financial dealings in cash or kind between the donor and the recipient as per the affidavit affirmed before the 1st Class Magistrate, Police Verification report and declaration of the donor and the legal guardian.
6. The reason why the donor is desirous to donate kidney is also mentioned in the said report wherein it reveals that the donor wants to give the kidney to the recipient on humanitarian ground as per the affidavit and after examining the donor. In spite of receipt of the said report, the authorities have rejected the request on the ground that *“During the interview both the donor and legal guardian of recipient were asked to submit some additional documents within 1 week to establish that both their father of donor and recipient were well known in connection with business. They have submitted invoice of 2019 that appears to be freshly prepared. It appears these documents may have been manipulated and fabricated for the purpose of submission only. In the light of the above mentioned old relationship between the donor and*

recipient could not be established beyond reasonable doubt.” Accordingly, the authorities have not recommended the case of the petitioner.

7. Section 9(3) of the Transplantation of Human Organs and Tissues Act, 1994 provides that 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 tissues or both) shall not be removed and transplanted without the prior approval of the Authorization Committee.
8. Rule 23 provides for decision of the Authorization Committee. Sub-Clause 2 of Rule 23 provides that Authorization Committee shall expedite its decision making process and use its discretion judiciously and pragmatically in all such cases where, the patient requires transplantation on urgent basis.
9. In the present case, admittedly, the petitioner is suffering kidney problem since early 2024 and on 5th February, 2024 ILS Hospitals advised for renal transplantation. The ILS Hospital has issued the certificate wherein it is certified that “considering her current physical and clinical condition, my advice is she needs urgent renal transplantation to save her life”. From the certificate issued by the Hospital authorities it finds that an urgent renal transplantation is required to save the life of the wife of the petitioner.

10. The donor though is not a relative of the petitioner but has filed an affidavit before the learned 1st Class Magistrate stating that “I am donating my kidney, to my well-wisher Khyati Khandelwal W/O Vibhor Khandelwal on humanitarian ground without any pressure or any financial consideration only to save my well-wisher namely Khyati Khandelwal”. The donor has executed the said affidavit before the learned Magistrate.
11. In the police verification report, it reveals that on examining the donor, it was found that the donor wants to give kidney to the recipient on humanitarian ground and no financial dealings in cash or kind between the donor and the recipient has been found by the police authority.
12. The Authorization Committee has refused the request of the petitioner only on the ground that they have submitted an invoice of 2019 that appears to be freshly prepared, manipulated and fabricated. This Court fails to appreciate that once the donor has given an affidavit though it was executed before the learned Magistrate stating the fact that he is the well-wisher of the patient and intends to donate his organ only to save the life of the patient and during the police verification also did not find any financial transaction has been made. But the authorities in flimsy manner has refused the request of the wife of the petitioner for giving the authorization for transplantation of organ.
13. Considering the above, this Court finds that the reason on which the authorities have rejected the request for transplantation of the organ is not in accordance with law.

This Court finds that the donor has voluntarily come to donate his organ to save the life of the wife of the petitioner being a well-wisher and he has also affirmed the affidavit before the learned Magistrate and that has also been verified through the police authorities. Thus, this Court finds that the reason on which the Authorization Committee has rejected the request of the petitioner is not sustainable under law.

14. After going through the certificate issued by the Hospital Authority i.e., the ILS Hospital, this Court finds that the current physical and clinical condition of the patient needs urgent renal transplantation to save her life. As per Rule 23 of the Act of 1994 provides that the Authorization Committee shall expedite its decision making process and use its discretion judiciously and pragmatically in all such cases where, the patient requires transplantation on urgent basis. In this case, this Court finds that the authorities have not complied with the Rules of 1994 though the patient requires an urgent renal transplantation to save her life.
15. Accordingly, the respondent nos. 3 and 4 are directed to permit the donor, namely, Arijit Sinha S/o- Mahitosh Sinha is a permanent resident of Debitala Road, Ichapur, P.S. Noapara, District – North 24 Parganas, Pin - 743144 to donate kidney in favour of the wife of the petitioner namely, Khyati Khandelwal who is under medical treatment at ILS Hospital immediately within 24 hours.
16. Immediately, after getting the permission from the Authorization Committee, the Hospital Authorities are

directed to take appropriate steps for transplantation of the kidney of the petitioner within 24 hours thereafter notwithstanding keeping in view the Saturday and Sunday.

17. As the matter is urgent in nature, accordingly, the petitioner is given liberty to communicate the gist of the order to the Authorization Committee and the Authorization Committee is directed to act on the gist of the order passed by this Court.
18. **WPA 5052 of 2026** is disposed of.
19. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Krishna Rao, J.)