IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 33361 OF 2025 (GM-RES)

C/W

WRIT PETITION NO. 31586 OF 2025 (GM-RES)

IN WP No. 33361/2025

BETWEEN:

1. DR.PRADEEP KRISHNA R.V.,
AGED ABOUT 41 YEARS
S/O RAMA KRISHNAPPA M.,
RESIDING AT NO.28, ITI LAYOUT,
8TH CROSS, JP NAGAR, FIRST PHASE,
BENGALURU, KARNATAKA,
BENGALURU URBAN - 560 061.

2. DR.PRAMOD KUMAR D.A.,
AGED ABOUT 37 YEARS
S/O MR. ASWATHNARAYANA SETTY,
RESIDING AT FLAT NO.704,
E BLOCK, ADARSH RHYTHM APARTMENT,
OFF BANNERGHATTA ROAD,
BEHIND FORTIS HOSPITAL,
PANDURANGA NAGAR,
BENGALURU SOUTH
BENGALURU - 560 076.

Digitally signed by PADMAVATHI B K
Location: High Court of Karnataka

3. DR. MAHESH S. GOPASETTY
AGED ABOUT 50 YEARS
S/O MR. SRISAILAPPA GOPASETTY
RESIDING AT D2-1205,
SNN RAJ SERENITY,
BEGUR KOPPA ROAD,
BENGALURU - 560 068.

…PETITIONERS

(BY SRI UDAYA HOLLA, SR.ADVOCATE A/W
SRI ANIND THOMAS, SRI VINUDEEP R.,
SRI ABHIJNAN JHA AND SRI CHETAN CHAWLA, ADVOCATES)

AND:

1. DR.SUNIL SHENVI
AGED ABOUT 40 YEARS
S/O MR. DAYANAND SHENVI,
RESIDING AT NO.G501, MANTI ALPYNE,
DR.VISHNUVARDHAN ROAD,
BANASHANKARI 5TH STAGE,
BENGALURU - 560 061.

2. STATE OF KARNATAKA
REPRESENTED BY
JOINT DIRECTOR (MEDICAL)
APPROPRIATE AUTHORITY-
JEEVASARTHAKATHE
DIRECTORATE OF HEALTH AND
FAMILY WELFARE SERVICES
BENGALURU.
(AMENDED AS PER ORDER DATED 17.06.2026)

…RESPONDENTS

(BY SRI NISCHAL DEV B.R., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO-A. QUASH THE ORDER DATED 29.08.2025 PASSED BY THE HON'BLE VI ADDL. CJM, BANGALORE, IN PCR NO. 5672/2023 (SUBSEQUENTLY CONVERTED TO CC NO. 33487/2025), TAKING COGNIZANCE OF THE ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 18 AND 20 OF THE THOT ACT AND ISSUING SUMMONS TO THE ACCUSED, QUA THE PETITIONERS (AT ANNEXURE -A); B. QUASH THE PRIVATE COMPLAINT DATED 12.04.2023 (AS AMENDED ON 02.08.2025) IN PCR NO. 5672/2023 (SUBSEQUENTLY CONVERTED TO CC NO. 33487/2025) FILED BY THE RESPONDENT BEFORE THE HON'BLE VI ADDL. CJM, BANGALORE FOR ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 18 AND 20 OF THE THOT ACT, QUA THE PETITIONERS, ALONG WITH THE LIST OF WITNESSES AND EXHIBITS MARKED IN THE PCR (AT ANNEXURE -B); C. QUASH THE ENTIRE PROCEEDINGS IN CC NO. 33487/2025, ARISING OUT OF PCR NO. 5672/2023, PENDING ON THE FILES OF THE HON'BLE VI ADDL. CJM, BANGALORE (AT ANNEXURE- C).

IN WP NO. 31586/2025

BETWEEN:

1. M/S. GLENEAGLES HEALTHCAER INDIA PRIVATE LIMITED
   (FORMERLY KNOWN AS RAVINDRANATH GE
   MEDICAL ASSOCIATES PVT. LTD.)
   A COMPANY INCORPORATED UNDER
   THE PROVISIONS OF COMPANIES ACT, 1956
   HAVING ITS REGISTERED OFFICE AT
   PLOT NO. 439, CHERAN NAGAR PERUMBAKKAM, CHENNAI,
   KANCHEEPURAM TAMIL NADU,
   INDIA - 600 100

REPRESENTED BY ITS
AUTHORISED SIGNATORY,
DR.ASHWINI AMARESHWAR,
ASSISTANT GENERAL MANAGER-LEGAL
AGED ABOUT 49 YEARS
S/O LATE DR.ASHWINI DAMODAR.

2. DR. A M KUTAPPA
AGED ABOUT 62 YEARS
S/O LATE AT MUTHANNA,
RESIDING AT NO.135,
RAINBOW RESIDENCY,
JUNNASANDRA, OFF SARJAPUR ROAD,
BENGALURU - 560 035.

3. DR. ANANTH RAO
AGED ABOUT 52 YEARS
S/O LATE D.NANJUNDA RAO,
RESIDING AT 15, SAPTHASHREE,
5TH MAIN, UGADI ROAD,
7TH CROSS, AKSHAYANAGAR,
BENGALURU - 560 068.

4. MR. BIJU NAIR
AGED ABOUT 50 YEARS
S/O MR.SOMAN NAIR
RESIDING AT LH 8, 602,
LANCO HILLS APARTMENT,
MANIKONDA,
HYDERABAD - 500 089.

...PETITIONERS

(BY SRI UDAYA HOLLA, SR.ADVOCATE A/W
SRI ANIND THOMAS, SRI VINUDEEP R.,

SRI ABHIJNAN JHA AND SRI CHETAN CHAWLA,
ADVOCATES)

AND:

1. DR.SUNIL SHENVI
AGED ABOUT 40 YEARS
S/O MR. DAYANAND SHENVI,
RESIDING AT NO.G501, MANTI ALPYNE,
DR.VISHNUVARDHAN ROAD,
BANASHANKARI, 5TH STAGE,
BENGALURU - 560 061.

2. STATE OF KARNATAKA
REPRESENTED BY
JOINT DIRECTOR (MEDICAL)
APPROPRIATE AUTHORITY-
JEEVASARTHAKATHE
DIRECTORATE OF HEALTH AND
FAMILY WELFARE SERVICES
BENGALURU.

(AMENDED AS PER ORDER DATED 17.06.2026)

...RESPONDENTS

(BY SRI NISCHAL DEV B.R., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS., PRAYING TO A. QUASH THE ORDER DATED 29.08.2025 PASSED BY THE HON'BLE VI ADDL. CJM, BANGALORE, IN PCR NO. 5672/2023 (SUBSEQUENTLY CONVERTED TO CC NO. 33487/2025), TAKING COGNIZANCE OF THE ALLEGED OFFENCES PUNISHABLE UNDER

SECTIONS 18 AND 20 OF THE THOT ACT AND ISSUING SUMMONS TO THE ACCUSED, QUA THE PETITIONERS (ANNEXURE- A); B.QUASH THE PRIVATE COMPLAINT IN PCR NO. 5672/2023 (SUBSEQUENTLY CONVERTED TO CC NO. 33487/2025) FILED BY THE RESPONDENT BEFORE THE HON'BLE VI ADDL. CJM, BANGALORE FOR ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 18 AND 20 OF THE THOT ACT, QUA THE PETITIONERS (ANNEXURE -B); C.QUASH THE ENTIRE PROCEEDINGS IN CC NO. 33487/2025, ARISING OUT OF PCR NO. 5672/2023, PENDING ON THE FILES OF THE HON'BLE VI ADDL. CJM, BANGALORE (ANNEXURE- C).

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

CAV ORDER

Writ Petition No.33361 of 2025 is filed seeking the following prayer:

> a. "Quash the order dated 29-08-2025 passed by the Hon'ble VI Additional Chief Judicial Magistrate, Bengaluru in P.C.R.NO.5672 OF 2023 (subsequently converted to C.C.No.33487/2025), taking cognizance of the alleged offences punishable under Sections 18 and 20 of the THOT Act and issuing summons to the accused, qua the petitioners (at Annexure-A);
>
> b. Quash the private complaint dated 12-04-2023 (as amended on 02-08-2025) in P.C.R.No.5672 of 2023 (subsequently converted to C.C.No.33487 of 2025) filed by the respondent before the Hon'ble VI Additional Chief

Judicial Magistrate, Bengaluru for alleged offences punishable under Sections 18 and 20 of the THOT Act, qua the petitioners along with the list of witnesses and exhibits marked in the PCR (at Annexure-B);

c. Quash the entire proceedings in C.C.No.33487 of 2025, arising out of P.C.R.No.5672 of 2023 pending on the file of the Hon'ble VI Additional Chief Judicial Magistrate, Bengaluru (at Annexure-C);

d. Pass such other order as this Hon'ble Court may deem appropriate in the facts and circumstances of the case and in the interest of justice."

Similar prayer is sought in Writ Petition No.31586 of 2025.

2. Writ Petition No.33361 of 2025 is preferred by accused Nos. 4, 5 and 7 and Writ Petition No.31586 of 2025 is preferred by accused Nos. 1, 2, 3 and 6. Therefore, the two petitions form a challenge by 7 accused in C.C.No.33487 of 2025 registered for offences punishable under Sections 18 and 20 of the Transplantation of Human Organs and Tissues Act 1994 (hereinafter referred to as 'the Act' for short).

3. Heard in both the petitions Sri **Udaya Holla**, learned senior counsel appearing for the petitioners and Sri **Nischal Dev B. R.**, learned counsel appearing for the 1st respondent/complainant.

4. Since pleadings are common in both the petitions, for the sake of convenience, facts as obtaining in Writ Petition No.31586 of 2025 would be narrated.

5. Facts, in brief, adumbrated, are as follows:

5.1. It would suffice if the narration would commence from the date on which the appropriate authority, a statutory authority established and constituted under the Act, issues a renewed certificate viz., "BGS Certificate of Registration" to BGS Global Hospital for performing liver transplantation for 5 years, to be effective from 30-10-2018 to 29-10-2023. One Dr. Mahesh Gopasetty, liver transplant surgeon was authorized by the appropriate authority to conduct liver transplant surgeries. The said doctor was empanelled at Fortis Hospital, Bannerghatta Road through a certificate issued by the appropriate authority, again which was valid from 20-11-2018 to 19-11-2023.

5.2. The complainant one Dr. Sunil Shenvi was engaged as a consultant in BGS Hospital, through a contract, to provide services at the hospital. This is the first of the contract entered into between

the hospital and the said doctor. The contract was for a period of two years. Upon expiry of the first contract, the engagement of the complainant was renewed by another contract by re-negotiating commercial terms. On 11-10-2021, the BGS hospital communicates to the appropriate authority requesting inclusion of Dr. Mahesh Gopasetty's name in the BGS certificate of registration as a liver transplant surgeon. This is accepted by the appropriate authority on 21-10-2021.

5.3. The entire fulcrum of the *lis* revolves round the period between 24-02-2022 and 1-03-2022. This is the period in which liver transplant surgeries were conducted in respect of three patients. The surgeries were performed by Dr. Mahesh Gopasetty under emergent circumstances. By then Dr. Mahesh Gopasetty was also authorized to perform liver transplant surgeries. On 11-03-2022 a legal notice is caused by the 1st respondent/complainant to the 1st petitioner alleging that the 1st petitioner has failed to make payment of certain purported contractual dues under the aforesaid contract and that to be a violation of the Act. On 18-03-2022, the appropriate authority

revises the certificate with names of doctors authorized to conduct liver transplantation surgeries at the hospital including Dr. Mahesh Gopasetty. Petitioners 1 and 3 issued a reply to the complainant/respondent's legal notice denying the allegations. The second contract then of the 1st respondent with the 1st petitioner was terminated. The 1st respondent was given full and final settlement of certain amounts by the 1st petitioner-M/s Gleneagles Healthcare India Private Limited (hereinafter referred to as 'the Company' for short). However, the complainant seeks to get a complaint registered before the Kengeri Police Station on the ground that the petitioners were involved in the offences under the Act. The Police refused to register the complaint stating that the offences under the Act can be investigated only by the appropriate authority under the Act.

5.4. On refusal to register the complaint, the complainant invokes the jurisdiction of the learned Magistrate under Section 200 of the CrPC alleging violation of the provisions of the Act. The learned Magistrate registers P.C.R.No.5672 of 2023 and seeks to continue the proceedings. The appropriate authority to whom the

notice was also issued, submits a report before the Court containing the opinion and detailed consideration holding that there is no violation of either Section 18 or Section 20 of the Act by any of the accused. The Court then takes cognizance of the offence under Sections 18 and 20 of the Act and registers as C.C.No.33487 of 2025 in terms of its order dated 29-08-2025. It is the registration of criminal case and issuance of summons that is called in question by the petitioners before this Court.

6. The learned senior counsel Sri **Udaya Holla** appearing for all the accused would vehemently contend that none of the ingredients of the Act are even made out in the cases at hand. If it were to be an unauthorized surgery, it would have been an altogether different circumstance. The learned senior counsel submits that the Act relates to punishment for removable of a human organ without authority under Section 18, while Section 20 sets out punishment for contravention of any other provision of the Act. The complainant alleges that Dr. Mahesh Gopasetty, 3rd petitioner in the companion petition, did not possess the authority to conduct transplant surgery. The learned senior counsel submits

that Dr. Mahesh Gopasetty conducted second surgeries only after the doctors were duly authorized by the appropriate authority to conduct those surgeries. The learned senior counsel submits that the complainant was not available at that point in time and surgery had become imminent. Therefore, the surgery has taken place. No patient has complained and no other doctor has complained, but it is the complainant to settle scores with the hospital has brought up this as a complaint. The learned senior counsel would submit that there is no violation of the statute and would seek to place reliance on the judgment rendered by the Bombay High Court in **AJAY TEJRAJ OSWAL (DR.) v. JOINT DIRECTOR OF HEALTH SERVICES[1],** which the learned senior counsel submits was rendered under similar circumstances. He would also submit that the order taking cognizance is bereft of material *qua* the offences under Sections 18 and 20 of the Act.

7. Per contra, the learned counsel appearing for the 1st respondent/complainant Sri **Nischal Dev B. R.** would vehemently refute the submissions in contending that the offence was

[1] **2011 SCC OnLine Bom 941**

undoubtedly made at the time when the crime had been registered. But, today the doctors have entered into a compromise and seek closure of the proceedings pursuant to the said compromise. The parties to the *lis* have filed a joint affidavit to that effect. Since it is the allegations under the provisions of the Act, this Court thought it fit not to close the proceedings by acceptance of the compromise, but to answer it on its merit, *albeit* on the periphery.

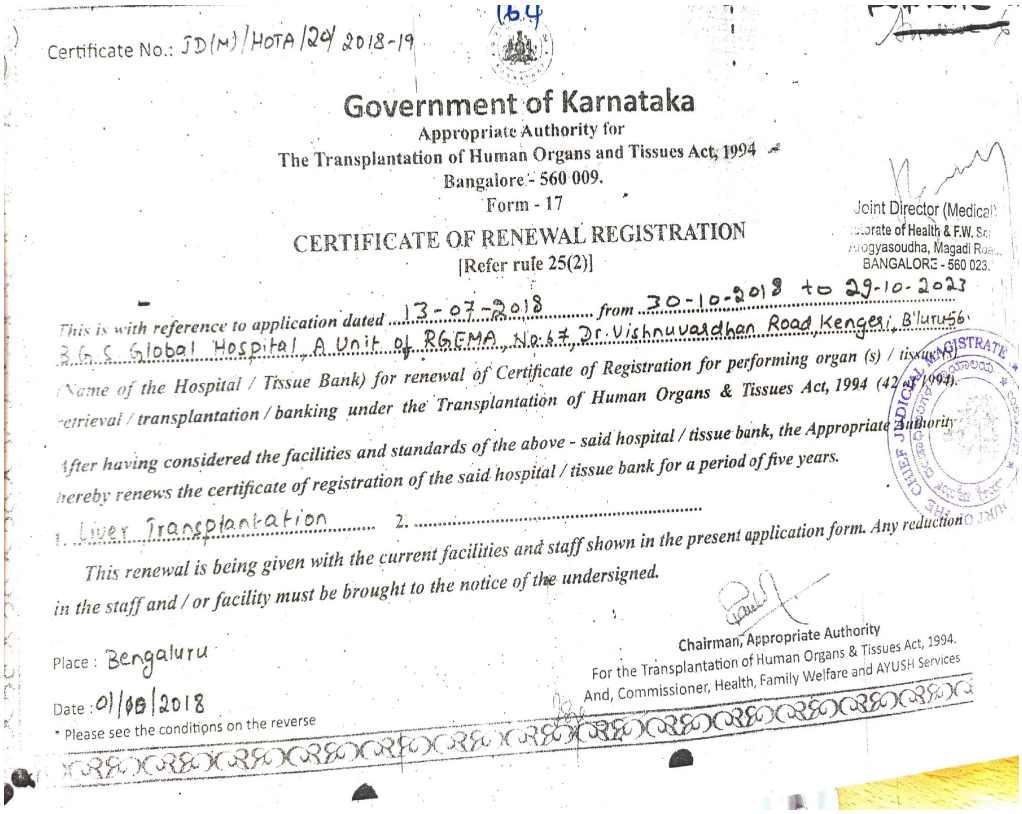
8. The allegations are the ones punishable under Sections 18 and 20 of the Act. They read as follows:

> "**18. Punishment for removal of human organ without authority**.—(1) Any person who renders his services to or at any hospital and who, for purposes of transplantation, conducts, associates with, or helps in any manner in, the removal of any human organ without authority, shall be punishable with imprisonment for a term which may extend to ten years and with fine which may extend to twenty lakh rupees.
>
> (2) Where any person convicted under sub-section (1) is a registered medical practitioner, his name shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of three years for the first offence and permanently for the subsequent offence.
>
> (3) Any person who renders his services to or at any hospital and who conducts, or associates with or helps in any manner in the removal of human tissues without authority, shall be punishable with imprisonment for a term which may extend

> to three years and with fine which may extend to five lakh rupees.
>
> … … …
>
> **20. Punishment for contravention of any other provision of this Act**.—Whoever contravenes any provision of this Act or any rule made, or any condition of the registration granted, thereunder for which no punishment is separately provided in this Act, shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees."

Section 18 deals with punishment to an accused doctor who would indulge in removal of human organ without authority and Section 20 sets out punishment for any other act. Whether Dr. Mahesh Gopasetty who performed the surgery under emergent circumstances, in the absence of the complainant, had the authority or not is required to be noticed, as the entire fulcrum of the complaint revolves round the doctor not having authority. Therefore, it is necessary to notice the valid authority of Dr. Mahesh Gopasetty who performed the surgery.

9. It is not in dispute that the hospital is registered under the Karnataka Private Medical Establishments Act and the Rules. The initial renewal of certificate of registration happens on 01-10-2018 with the following doctors:



Certificate No.: JD(M)/HOTA/24/2018-19

Government of Karnataka

Appropriate Authority for
The Transplantation of Human Organs and Tissues Act, 1994
Bangalore - 560 009.
Form - 17

CERTIFICATE OF RENEWAL REGISTRATION
[Refer rule 25(2)]

Joint Director (Medical)
Directorate of Health & F.W. Services
Arogyasoudha, Magadi Road,
BANGALORE - 560 023.

This is with reference to application dated 13-07-2018 from 30-10-2018 to 29-10-2023
BGS Global Hospital A Unit of RGEMA, No.67, Dr. Vishnuvardhan Road, Kengeri, B'luru-56
(Name of the Hospital / Tissue Bank) for renewal of Certificate of Registration for performing organ (s) / tissue(s)
retrieval / transplantation / banking under the Transplantation of Human Organs & Tissues Act, 1994 (42 of 1994).

After having considered the facilities and standards of the above - said hospital / tissue bank, the Appropriate Authority hereby renews the certificate of registration of the said hospital / tissue bank for a period of five years.

1. Liver Transplantation 2. .....

This renewal is being given with the current facilities and staff shown in the present application form. Any reduction in the staff and / or facility must be brought to the notice of the undersigned.

Place : Bengaluru

Date : 01/08/2018

* Please see the conditions on the reverse

Chairman, Appropriate Authority
For the Transplantation of Human Organs & Tissues Act, 1994.
And, Commissioner, Health, Family Welfare and AYUSH Services

....

"ANNEXURE WHICH MENTIONS THE TEAM OF DOCTORS RECOGNISED FOR CONDUCTING LIVER TRANSPLANT AT BGS GLOBAL HOSPITAL DURING THE <u>CONCERNED PERIOD</u> IS MENTIONED AS <u>Reference No. - 7</u>

Which mentions Liver Transplantation Surgical team as

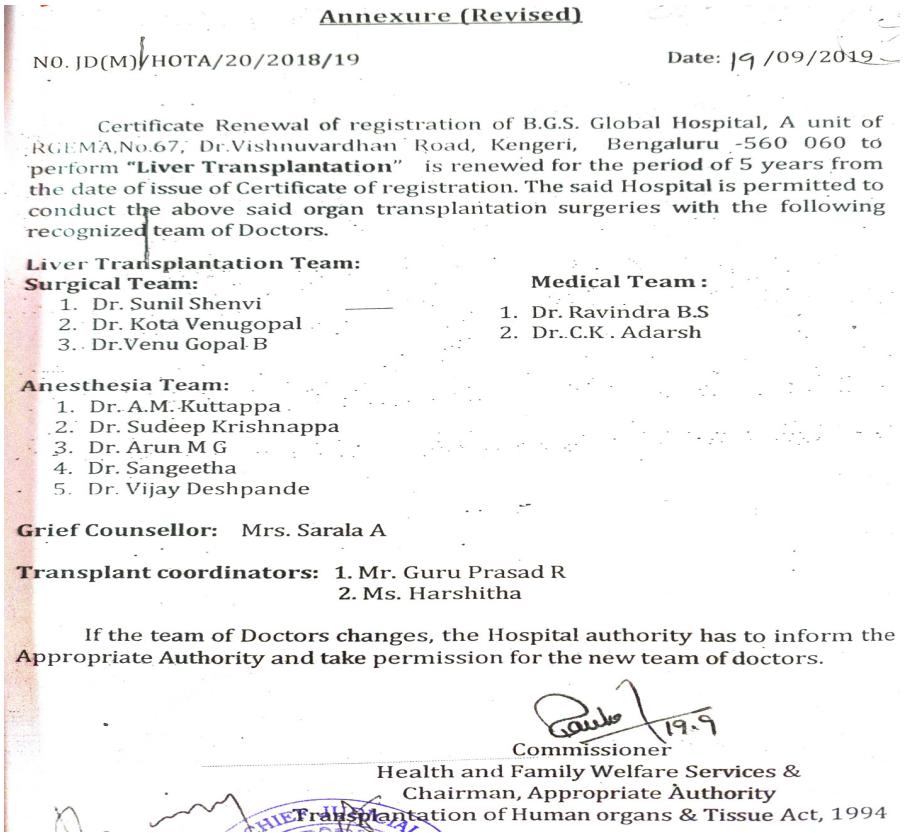
1. Dr. Sunil Shenvi

2. Dr Kota Venugopal

3. Dr. Venu Gopal B

Issued by Appropriate Authority."

The second renewal happens on 19-09-2019 with the following doctors:



Annexure (Revised)

NO. JD(M)/HOTA/20/2018/19 Date: 19/09/2019

Certificate Renewal of registration of B.G.S. Global Hospital, A unit of RGEMA,No.67, Dr.Vishnuvardhan Road, Kengeri, Bengaluru -560 060 to perform **"Liver Transplantation"** is renewed for the period of 5 years from the date of issue of Certificate of registration. The said Hospital is permitted to conduct the above said organ transplantation surgeries with the following recognized team of Doctors.

Liver Transplantation Team:

Surgical Team:
1. Dr. Sunil Shenvi
2. Dr. Kota Venugopal
3. Dr.Venu Gopal B

Medical Team :
1. Dr. Ravindra B.S
2. Dr. C.K . Adarsh

Anesthesia Team:
1. Dr. A.M. Kuttappa
2. Dr. Sudeep Krishnappa
3. Dr. Arun M G
4. Dr. Sangeetha
5. Dr. Vijay Deshpande

Grief Counsellor: Mrs. Sarala A

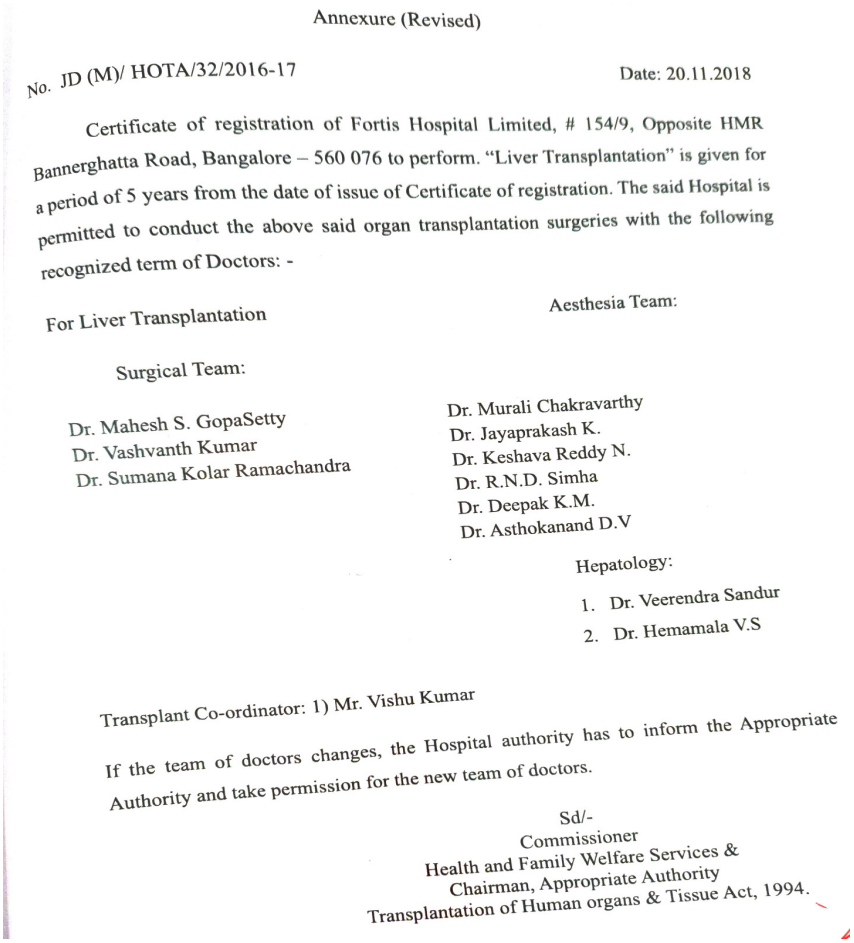
Transplant coordinators: 1. Mr. Guru Prasad R
2. Ms. Harshitha

If the team of Doctors changes, the Hospital authority has to inform the Appropriate Authority and take permission for the new team of doctors.

19.9

Commissioner
Health and Family Welfare Services &
Chairman, Appropriate Authority
Transplantation of Human organs & Tissue Act, 1994

On 20-11-2018 Dr. Mahesh Gopasetty was given authorization for performing liver transplantation through the certificate of registration of Fortis hospital. It reads as follows:



Annexure (Revised)

No. JD (M)/ HOTA/32/2016-17 Date: 20.11.2018

Certificate of registration of Fortis Hospital Limited, # 154/9, Opposite HMR Bannerghatta Road, Bangalore – 560 076 to perform. "Liver Transplantation" is given for a period of 5 years from the date of issue of Certificate of registration. The said Hospital is permitted to conduct the above said organ transplantation surgeries with the following recognized term of Doctors: -

For Liver Transplantation

Surgical Team:

Dr. Mahesh S. GopaSetty
Dr. Vashvanth Kumar
Dr. Sumana Kolar Ramachandra

Aesthesia Team:

Dr. Murali Chakravarthy
Dr. Jayaprakash K.
Dr. Keshava Reddy N.
Dr. R.N.D. Simha
Dr. Deepak K.M.
Dr. Asthokanand D.V

Hepatology:

1. Dr. Veerendra Sandur
2. Dr. Hemamala V.S

Transplant Co-ordinator: 1) Mr. Vishu Kumar

If the team of doctors changes, the Hospital authority has to inform the Appropriate Authority and take permission for the new team of doctors.

Sd/-
Commissioner
Health and Family Welfare Services &
Chairman, Appropriate Authority
Transplantation of Human organs & Tissue Act, 1994.

Therefore, Dr. Mahesh Gopasetty and his team were authorized doctors to conduct or perform liver transplantation. Now it becomes apposite to refer to the judgment of the Bombay High Court in identical circumstance. The Bombay High Court considers the spectrum of the Act in **AJAY TEJRAJ OSWAL (DR.)** *supra* and holds as follows:

"…. …. ….

5. In order to answer this, one must peruse the above mentioned Act and the Rules made thereunder. The relevant provisions of the Act are mentioned below.

> **Section 2.***Definitions*: In this Act unless the context otherwise requires:
>
> (b) "Appropriate Authority" means the Appropriate Authority appointed under section 13;
>
> (g) "hospital" includes a nursing home, clinic, medical centre, medical or teaching institution for therapeutic purposes and other like institution;
>
> (n) "registered medical practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and who is enrolled on a State Medical Register as defined in clause (k) of that section;
>
> **S. 10.** Regulation of hospitals conducting the removal, storage or transplantation of human organs :
>
> (1). On and from the commencement of this Act:
>
> (a) no hospital, unless registered under this Act, shall conduct, or associate with, or help in, the removal, storage or transplantation of any human organ;
>
> (b) no medical practitioner or any other person shall conduct, or cause to be conducted, or aid in conducting by himself or through any other person, any activity relating to the removal, storage or transplantation of any human organ at a place other than any place registered under this Act; and
>
> (c) no place including a hospital registered under sub-section (1) of section 15 shall be used or cause to be used by any person for the removal, storage or transplantation of any human organ except for therapeutic purposes.
>
> (2). Notwithstanding anything contained in sub-section (1), the eyes or the ears may be removed at any

place from the dead body of any donor, for therapeutic purposes, by a registered medical practitioner.

Explanation: For the purposes of this sub-section, "ears" includes ear drums and ear bones.

S. 13.*Appropriate Authority*:— (1). The Central Government shall appoint, by notification, one or more officers as Appropriate Authorities for each of the Union territories for the purposes of this Act.

(2). The State Government shall appoint, by notification, one or more officers as Appropriate Authorities for the purposes of this Act.

(3). The Appropriate Authority shall perform the following functions, namely:

(i) to grant registration under sub-section (1) of section 15 or renew registration under sub-section (3) of that section;

(ii) to suspend or cancel registration under sub-section (2) of section 16;

(iii) to enforce such standards as may be prescribed, for hospitals engaged in the removal, storage or transplantation of any human organ;

(iv) to investigate any complaint of breach of any of the provisions of this Act or any of the rules made thereunder and take appropriate action;

(v) to inspect hospitals periodically for examination of the quality of transplantation and the follow-up medical care to persons who have undergone transplantation and persons from whom organs are removed; and

(vi) to undertake such other measures as may be prescribed.

S. 14.*Registration of hospital engaged in removal, storage or transplantation of human organs*:— (1). No hospital shall commence any activity relating to the removal, storage or transplantation of any human organ for therapeutic purposes after the commencement of this act unless such hospital is duly registered under this Act.

Provided that every hospital engaged, either partly or exclusively in any activity relating to the removal, storage or transplantation of any human organ for therapeutic purposes immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement:

Provided further that every hospital engaged in any activity relating to the removal, storage or transplantation of any human organ shall cease to engage in any such activity on the expiry of three months from the date of commencement of this Act unless such hospital has applied for registration and is so registered or till such application is disposed of, whichever is earlier.

(2). Every application for registration under sub-section (1) shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3). No hospital shall be registered under this Act unless the Appropriate authority is satisfied that such hospital is in a position to provide such specialised services and facilities, possess such skilled manpower and equipments and maintain such standards as may be prescribed.

S. 24.*Power to make rules*:— (1). The Central Government may, by notification, make rules for carrying out the purposes of this Act.

6. Utilising powers to make rules, Central Government has enacted rules under the Act by name Transplantation of Human Organs Rules, 1995 out of which, following rules are relevant for our discussion.

Rule 2.*Definitions*

2. (e) the Registered medical Practitioner, as defined in clause (n) of section 2 of Transplantation of Human Organs Act, 1994 includes an allopathic doctor with MBBS or equivalent degree under the Medical Council of India Act.

Rule: 7.*Registration of hospital*

1. An application for registration shall be made to the Appropriate Authority as specified in Form 11. The application shall be accompanied by a fee or rupees one thousand payable to the Appropriate Authority by means of a bank draft or postal order.

2. The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements, grant a certificate of registration as specified in Form 12 and shall be valid for a period of five years form the date of its issue and shall be renewable.

3. Before a hospital is registered under the provisions of this rule, it shall be mandatory for the hospital to nominate a transplant coordinator.

Rule 9. Conditions for grant of certificate of registration: No hospital shall be granted a certificate of registration under this Act unless it fulfills the following requirement of manpower, equipment, specialized services and facilities as laid down below:—

A. *General Manpower Requirement Specialised Services and Facilities*:

1. 24 hours availability of medical and surgical, (senior and junior) staff.

2. 24 hours availability of nursing staff, (general and speciality trained).

3. 24 hours availability of Intensive Care Units with adequate equipments, staff and support system, including specialists in anaesthesiology, intensive care.

4. 24 hours availability of laboratory with multiple discipline testing facilities including but not limited to Microbiology, Bio-Chemistry, Pathology and Hematology and Radiology departments with trained staff.

5. 24 hours availability of Operation Theatre facilities (OT facilities) for planned and emergency procedures with adequate staff, support system and equipments.

6. 24 hours availability of communication system, with power backup, including but not limited to multiple line

telephones, public telephone system, fax, computers and paper photo-imaging machine.

7. Experts, (other than the experts required for the relevant transplantation) of relevant and associated specialties including but not limited to and depending upon the requirements, the experts in internal medicine, diabetology, gastroenterology, nephrology, neurology, paediatrics, gynaecology, immunology and cardiology etc. should be available to the transplantation center.

B. *Equipments*:

Equipments as per current and expected scientific requirements specific to organ or organs being transplanted. The transplant center should ensure the availability of the accessories, spare-parts and backup/maintenance/service support system in relation to all relevant equipments.

C. *Experts and their qualifications*:

a. Kidney Transplantation M.S. (Gen.) Surgery or equivalent qualification with three years post M.S. training in a recognized center in India or abroad and having attended to adequate number of renal transplantation as an active member of team.

b. Transplantation of liver and other abdominal organs M.S. (Gen.) Surgery or equivalent qualification with adequate post M.S. training in an established center with a reasonable experience of performing liver transplantation as an active member of team.

c. Cardiac, Pulmonary, Cardio-Pulmonary Transplantation M.Ch. Cardiothoracic and vascular surgery or equivalent qualification in India or abroad with at least 3 years' experience as an active member of the team performing an adequate number of open-heart operations per year and well-versed with Coronary by-pass surgery and Heart-Valve surgery.

d. Cornea Transplantation M.D./M.S. ophthalmology or equivalent qualification with one-year post M.D./M.S. Training in a recoginsed hospital carrying out Corneal transplant operations.

7. The provisions mentioned above clearly highlight the importance of a properly equipped hospital for undertaking surgical operations for transplantation of human organs. An elaborate procedure is prescribed for registration of a hospital. Unless such registration for a hospital is secured a surgical operation of transplantation of human organs there is not permissible. The Act and the Rules however do not provide individual surgeons who would undertake the surgical operations, are required to be specifically authorized by the appropriate authority.

8. Section 2(n) defines the term registered medical practitioner and this term is further elaborated in Rule 2 (e). This definition in fact does not show that the registered medical practitioner should be a person who has acquired a specific educational qualification, such as Master in Surgery or specialization in Urology etc.

9. Rule 9 quoted above inter alia speaks about "experts and their qualifications" who would be employed by a registered hospital. So it is clear that at the time of registration an applicant hospital should provide the names and qualifications of the experts they would engage for the transplantation operations in their hospital. The appropriate authority's satisfaction for grant of registration also depends on this vital information.

10. The facts of this case suggest that the hospitals which are named above had not mentioned the name of the petitioner as one of the experts who would visit and perform surgeries at their establishment. At times a hospital may not get the services of any of their experts. All of them could be busy somewhere else. At such time which could be a rare case and that too of emergency could a registered hospital engage an "expert" who is not on their list which they had furnished at the time of registration without obtaining sanction of the appropriate authority? The other relevant but similar question is whether a registered hospital is allowed to change its team of experts without appropriate sanction of the appropriate authority? The answer to this question is in affirmative but subject to some condition.

11. As said above, each hospital at the time of registration is required to give a list of experts which forms their team. The appropriate authority would then examine as to whether the members of such team are sufficiently qualified, as expected under Rule 9. Rule 9-C clearly mentions that an expert would be a medical practitioner having masters of kidney transplantation (general) or equivalent qualification with three years-post master of surgery training in a recognized center in India or abroad and having attended to adequate number of renal transplantation as an active member of team. The appropriate authority thus would be able to examine qualification of each expert whose name is mentioned in the list, submitted by a hospital for registration. As said above, the petitioner's name was not submitted as an expert attached to the hospitals in question. However, it has come on record that the petitioner's name is already accepted as an expert of a registered hospital by name Kamal Nayan Bajaj hospital Aurangabad. A letter to that effect was issued in favour of the petitioner by appropriate authority on 2-7-1999 and is annexed to this petition Exhibit 'B'. The position that emerges from this fact is that if an expert in this field as defined under rule 9-C is recognized as member of team of experts in a registered hospital, he would be able to perform surgical operations involving transplantation of kidney in any other registered hospital. The registered hospital has to ascertain as to whether such expert is a member of a team of experts in any other registered hospital. On ascertainment of this information, a registered hospital is able to permit such expert who is not member of their own team to perform transplantation operations in their hospital. The appropriate authority cannot raise any objection to this practice. The rules referred to above do not prohibit an expert who is member of a team of experts of a registered hospital, from performing transplantation operation in any other registered hospital. At the same time in view of the rules referred to above an expert who is not member of a team of any registered hospital, no matter, how much experience he has in this field, is not permitted to perform transplantation operation in any registered hospital. In view of this, the petition should succeed.

ORDER

> The writ petition is allowed.
>
> The directions contained in the impugned order that the petitioner shall not carry on transplantation operations in a registered hospital is set aside.
>
> The appropriate authority shall not prohibit the petitioner from performing transplantation operation in any registered hospital of his choice.
>
> *Petition allowed."*

(Emphasis supplied)

The Bombay High Court holds that in emergent circumstances if a doctor who is permitted to perform liver transplantation by the appropriate authority of any hospital can be permitted to perform the said surgery on emergent circumstance in a hospital not registered through the said hospital. In the case at hand, Dr. Mahesh Gopasetty is registered through Fortis hospital at the hands of the appropriate authority. In the light of the judgment of Bombay High Court, to which I am in complete agreement, the contention that the doctor was not authorised to perform surgery is unacceptable. Therefore, on merit of the matter as well, the doctors have not committed any offence under the Act for the concerned Court to have taken cognizance.

10. Today the scenario is different. The complainant and the petitioners have entered into a settlement by filing a joint affidavits. The affidavit filed in W.P.No.31586 of 2025 reads as follows:

> "**JOINT AFFIDAVIT**
>
> We, **(1) Dr. Ashwini Amareshwar**, authorised signatory of the Petitioner No. 1, having their registered office at Plot No. 439, Cheran Nagar, Perumbakkam, Chennai - 600 100, Kancheepuram District, presently at Bengaluru; **(2) Dr. AM Kutappa**, son of late Mr AT Muthanna, aged about 62 years, residing at #135 Rainbow Residency, Junnasandra, off Sarjapura Road, Bengaluru 560 035; **(3) Dr. Ananth Rao**, son of late Mr D Nanjunda Rao, aged about 52 years, residing at #15, Ugadi Road, 7th Cross, Akshayanagar, Bengaluru 560 068; and **(4) Mr. Biju Nair**, son of Mr. Soman Nair, aged about 50 years, residing at LH8, 602, Lanco Hills Apartment, Manikonda, Hyderabad 500 089, currently at Bengaluru, do hereby jointly and solemnly affirm and declare on oath as follows:
>
> 1. The Deponents state that they are the Petitioners in the Writ Petition and are fully acquainted with the facts of the Case. They are competent to swear to this joint affidavit.
>
> 2. The Deponents state that the captioned Writ Petition is filed by the Petitioners challenging, the order dated 29.08.2025 passed by the Hon'ble VI Additional Chief Judicial Magistrate, Bengaluru, in PCR No. 5672/2023 (subsequently converted to CC No. 33487/2025), whereby cognizance was taken for the alleged offences punishable under Sections 18 and 20 of the Transplantation of Human Organs and Tissues Act, 1994.
>
> 3. The Deponents state the Respondent was employed at the Petitioner No. 1's Hospital. Owing to disputes that arose between the parties in relation to their contractual obligations, the Respondent and the Petitioners have become parties to various legal proceedings.

4. The Petitioners and the Respondent have agreed to resolve and settle the disputes amicably between them. Accordingly, they have arrived into a memorandum of settlement.

5. The Deponents state that the said settlement has been arrived at after due consideration and deliberations between the parties and upon obtaining necessary advice, with the mutual intention of amicably resolving all disputes between them. The parties are guided by the advice of the Appropriate Authority, as constituted under Section 13 of the THOT Act, and being fully satisfied that the settlement is bona fide.

6. The Deponents state that in view of the said settlement, the Petitioners and the Respondent have agreed to close or cause to close all legal proceedings respectively instituted by them.

7. The Deponents state that the Petitioners have entered into the Compromise Petition voluntarily, of their own free will and with mutual consent, and without any coercion, pressure, undue influence.

8. The Deponents state that the Respondent has no objection to the quashing of the PCR No. 5672/2023, subsequently converted to CC No. 33487/2025 or any proceedings arising therefrom.

9. The Deponents state that the Parties hereby agree and undertake that they shall not initiate, institute, pursue or maintain any suit, petition, complaint or other proceedings before any Court, Tribunal, Authority or Forum against each other in respect of the subject matter of the present dispute in future.

10. That all that is stated hereinabove are true and correct to the best of our knowledge, information and belief."

On the strength of the joint affidavit, compromise petition is filed seeking compounding of the offence. It reads as follows:

> "MEMORANDUM OF COMPROMISE PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BHARATIYA NAGARIK SURAKSHA SANHITA, 2023
>
> The Petitioners and the Respondent most respectfully submit as under:
>
> 1. The captioned proceedings was filed by the Petitioners challenging
>
> a. Order dated 29.08.2025 ("**Cognizance Order**") passed by the Hon'ble VI Addl. CJM, Bangalore ("**Ld. Magistrate**"), in PCR No. 5672/2023 (subsequently converted to CC No. 33487/2025), whereunder, the Ld. Magistrate took cognizance of the alleged offences punishable under Sections 18 and 20 of the Transplantation of Human Organs and Tissues Act, 1994 ("**THOT Act**") and issued summons to all the accused therein, including the Petitioners before this Hon'ble Court;
>
> b. Private complaint in PCR No. 5672/2023 (subsequently converted to CC No. 33487/2025) filed by the Respondent before the Ld. Magistrate for alleged offences punishable under Sections 18 and 20 of the THOT Act ("**Impugned Complaint**");
>
> c. Entire proceedings in CC No. 33487/2025, arising out of PCR No. 5672/2023, pending on the files of the Ld. Magistrate ("**Impugned Proceedings**").
>
> 2. The Respondent was employed at the Petitioner's Hospital. Owing to disputes that arose between the parties in relation to their contractual obligations, the Respondent and the Petitioners have become parties to various legal proceedings.

3. In continuation of the contractual disputes between the parties, the Respondent alleged that certain liver transplantation surgeries undertaken by various doctors at the hospital run by the Petitioner No. 1 were in alleged violation of Section 18 and 20 of the THOT Act. In this regard, the Impugned Complaint came to be filed by the Respondent.

4. The Petitioners and the Respondent have agreed to resolve and settle the disputes amicably between them. Accordingly, they have arrived at a mutually agreeable memorandum of settlement. The said settlement has been arrived at after due consideration and deliberations between the parties and upon obtaining necessary advice, with the mutual intention of amicably resolving all disputes between them. The Parties are guided by the advice of the Ld. Appropriate Authority, as constituted under Section 13 of the THOT Act, and being fully satisfied that the settlement is bona fide.

5. In that light, the Respondent has agreed and affirmed that he would not prosecute the Impugned Complaint and requests this Hon'ble Court to allow the present Writ Petition and consequently quash the Cognizance Order, the Impugned Complaint, and the Impugned Proceedings. The Petitioners and Respondent have agreed to close or cause to close all legal proceedings respectively instituted by them.

6. The Parties hereby agree and undertake that they shall not initiate, institute, pursue or maintain any suit, petition, complaint or other proceedings before any Court, Tribunal, Authority or Forum against each other in respect of the subject matter of the present dispute in future.

7. The Parties have entered into the present Compromise Petition voluntarily, of their own free will and with mutual consent, and without any coercion, pressure, undue influence.

8. Wherefore, it is humbly prayed that this Hon'ble Court may be pleased to permit the parties to compromise and allow the Writ Petition and consequently quash the

> Cognizance Order, the Impugned Complaint, and the Impugned Proceedings."

In the light of the offence itself not being made out and apart from the two, the complainant and the accused, entering into a settlement, there is no warrant for continuation of proceedings before the concerned Court.

11. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petitions are **allowed**.

(ii) Proceedings in C.C.No.33487 of 2025 pending before the VI Additional Chief Judicial Magistrate, Bengaluru including taking of cognizance stand quashed.

Pending applications if any, also stand disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

bkp