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WP No. 20047 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 21-05-2026**

CORAM

**THE HON'BLE MR JUSTICE G. R. SWAMINATHAN**

**WP No. 20047 of 2026  
and  
WMP.Nos. 21437 of 2026**

1.Rita Chaurasiya  
W/o.Ratan Lal Chaurasia  
Residing at No.109, Ashubose Lane,  
Haora (M.Corp), Kadamtala, Howrah,  
West Bengal- 711 101.

2.B.Rohit Kumar Chaurasia,  
S/o.Ratan Lal Chaurasia,  
Residing at No.109, Ashubose Lane,  
Haora (M.Corp),  
Kadamtala, Howrah,  
West Bengal- 711 101.

..Petitioner(s)

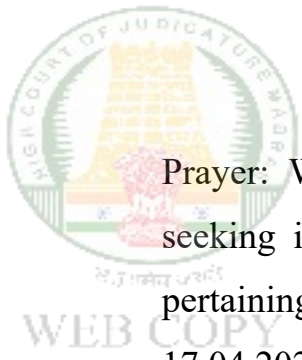
Vs

1.The State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Health and Family Welfare Department,  
Secretariat, Chennai- 600 009.

2.The Authorization Committee,  
Rep. by its Chairman,  
Directorate of Medical Education and Research,  
Kilpauk, Chennai- 600 010.

3.M/s.Apollo Speciality Hospital,  
Rep. by its Managing Director,  
No.5/269, Rajiv Gandhi Salai,  
Tirumalai Nagar, Perungudi,  
Chennai- 600 096.

..Respondent(s)



Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of writ of certiorarified mandamus, calling for the records pertaining to Proceedings No.K.Dis.No.24111 / H&DII/ 4/ 2026, dated 17.04.2026, on the file of the 2<sup>nd</sup> Respondent with particular reference to the entry relating to the Petitioners herein, and quash the same as arbitrary, illegal and unconstitutional and Consequently direct the 2<sup>nd</sup> Respondent to approve the consent provided by the 1<sup>st</sup> petitioner to transplant one of her Kidneys to her son the 2<sup>nd</sup> Petitioner forthwith.

For Petitioner(s): Mr.Abhinav Parthasarathy

For Respondent(s): Mr.L.S.M.Hasan Fizal  
Additional Government Pleader for R1 & R2

### **ORDER**

Heard both sides.

2. In the present case, since the 2<sup>nd</sup> petitioner herein has renal issues and requires emergent Kidney transplantation, he has come down to Chennai to undergo the requisite procedure in the 3<sup>rd</sup> respondent Hospital. The 1<sup>st</sup> petitioner, who is none other than the mother of the 2<sup>nd</sup> petitioner has come forward to donate one of her Kidneys. Therefore, necessary applications were placed before the 2<sup>nd</sup> respondent / Authorization Committee. The Authorization Committee did not grant approval on the ground that the relationship between the Donor and the Patient has not been established. Challenging the stand of the Authorization Committee, the present writ petition has been filed.



3. When the Donor claims that the recipient / patient is none other than her own biological son, this Court is unable to understand as to why the request of the petitioners has been casually ignored.

4. My attention is drawn to the order dated 30.05.2024 made in W.P.No.13918 of 2024 etc batch. The relevant portion of the said order is extracted hereunder:

*“13. From the language of Form-18 certificate issued by the Authorisation Committee, one can conclude that permission will be granted, if the donation is out of love and affection and there is no financial transaction between recipient and donor and there is no pressure on / coercion of the donor. The members of the Authorisation Committee are human beings. What goes into their thought process? One factor that is taken into account is the material indicating the length of association between the donor and the recipient. This may not always be a sound approach. There is something called “love at first sight”. Love and affection are intangible sentiments. On the other hand, time is a measurable. Something that cannot be measured cannot be determined by a measurable value.*

*14. I am conscious of the decision of the Hon-ble Division Bench of Bombay High Court reported in **2012 SCC Online Bom***



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**64 (Sonia Ajit Vayklip Vs. Hospital Committee, Lilavati**

**Hospital).** *It was held that where the donor and the recipient are shown to be near relatives and the case does not fall under any of the three exceptions set out in Section 9(4) of the Act, the Authorisation Committee has no power to make further enquiry about the motive of donation because in such cases there would be no commercial element. After so holding, the learned Judges went on to observe that where the donor is not a near relative, the burden is on the applicants to establish the real intent by placing relevant materials for consideration of the Authorisation Committee and heavy burden lies on them to establish.*

*17.Let us put ourselves in the shoes of the applicants. They can only assert that there is no commercial dealing. They cannot be called upon to prove the negative. Rule 17 provides for scrutiny of application. In case of doubt, explanation can be sought from the applicants and there can also be verification done through the officials of the Government. Too much of burden cannot be laid on the shoulders of the applicants. Unless there is definite material to establish that there are financial dealings involving the parties, permission ought not to be withheld or rejected. If the donor states that out of love and affection, he / she is making the donation, in the absence of any credible reason, the averment should not be*



*doubted. The Government must come out with definite guidelines in this regard. Otherwise, the issue will be left to the arbitrary discretion of the Authorisation Committee. If the recipient is well placed and connected, the decision of the committee will swing in his favour. If the recipient is not all that influential, by passing a template order, permission can be rejected. One must take note of the fact that parliament never intended to rule out donation by non~near relatives. The parliamentary intent ought not to be frustrated by adopting a rigid approach. One need not take a cynical view that a non~near relative will not donate out of altruistic considerations.*

*18.All religions proclaim that love and charity are the highest virtues. Hundreds and thousands have given up their lives for larger and impersonal causes. It is not necessary that selfish consideration should underlie all human endeavour. Certain statements can be taken at their face value. That is why, I hold that the statement by a donor that he / she is making the donation out of love and affection for the recipient must be taken at its face value. Of course, this averment shall be rejected if there is definite material evidencing passing of consideration. Subject to there being no evidence that money or money-s worth has changed hands, permission should be granted.*



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*27.The function of the Authorisation Committee is not to stop with scrutinizing the application and granting approval. They have an obligation to ensure that the needs of the donor are met. A person donating kidney would require to be nutritiously fed. Health complications can arise in future. Section 2(k) of the Act which defines payment excludes defraying of certain expenditures from its purview. The recipient is obliged to defray and it is the duty of the Authorisation Committee to see to it that this obligation is discharged. Apart from taking medical insurance coverage in favour of the donor, a lump sum deposit shall be directed to be made to the credit of the Authorisation Committee. The committee shall issue directions for crediting a fixed sum every month in the bank account of the donor for a period of three years. This arrangement will ensure direct transfer of benefit to the donors. Thus, the physical and medical needs of the donor will be met for a certain period. The individual details can be worked out on a case to case basis by the Authorisation Committee. No straight jacket formula can be laid down. Making of such provision by the Authorisation Committee will not any way run counter to the statutory scheme of the Act.”*



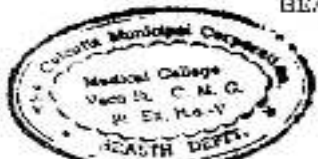
5. My attention is also drawn to the order dated 31.05.2024 made in W.P.No.13642 of 2024 wherein, I had even held that when a non-relative makes a statement that the donation is out of altruism and not for commercial consideration, the said statement cannot be challenged.

6. In the case on hand, the material enclosed in the typed set of papers more than establishes that the 1<sup>st</sup> petitioner is none other than the mother of the 2<sup>nd</sup> petitioner. The birth certificate of the 2<sup>nd</sup> petitioner has been enclosed at page 52 of the typed set of papers, which is extracted hereunder:

**52**

Form No. 1

**THE CALCUTTA MUNICIPAL CORPORATION  
HEALTH DEPARTMENT**

  **32621** **FREE**

**CERTIFICATE OF BIRTH**

As per format under Section-12/Section-17 of the Registration of Births & Deaths Act, 1869.

This is to certify that the following information has been taken from the original record of birth which are in the Register for, **MEDICAL COLLEGE BIRTH REG. SUB. STN. SR. 14**

under The Calcutta Municipal Corporation (Local Area).

Registration No. **2555**

**ROHINI KUMAR CHANDRASEKHAR**

Name **ROHINI KUMAR CHANDRASEKHAR**

Date of birth **10/10/2001** at **10:10 P.M.** Date of Regn. **21/10/2000**

Name of parent(s) **Dr. R. K. Chandra Sekhar**

**W/O. R. K. Chandra Sekhar**

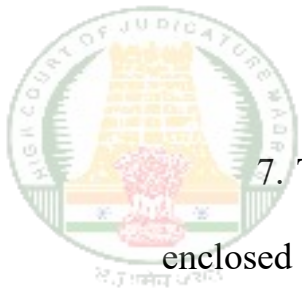
Place of birth **(Full Address) **REY BOSPITAL, M.D.C. CALCUTTA****

Prepared by **OP N**

Head Assistant

Date **11/11/2001**

G. P. 1-3-4-2000-1,00,000



7. The Aadhar Card and the PAN Card of the petitioners have also been enclosed in the typed set of papers. A perusal of the same reveals that the 1<sup>st</sup> petitioner is the wife of Ratan Lal Chaurasia and the 2<sup>nd</sup> petitioner is none other than the son of Ratan Lal Chaurasia. Applying the principle of preponderance of probabilities, I am satisfied that the 2<sup>nd</sup> petitioner is none other than the biological son of the 1<sup>st</sup> petitioner. Therefore, the 1<sup>st</sup> petitioner should not be called upon to undergo DNA Test to prove maternity. Hence, the impugned stand taken by the 2<sup>nd</sup> respondent vide its order dated 17.04.2026 is set aside. The 2<sup>nd</sup> respondent is directed to grant permission to the 1<sup>st</sup> petitioner to donate one of her Kidneys to the 2<sup>nd</sup> petitioner forthwith. The said exercise shall be done without any delay so that the necessary procedures for kidney transplantation can be done forthwith, preferably by next week.

8. It is now stated that the meeting of the Authorization Committee is scheduled to be held tomorrow afternoon, i.e., on 22.05.2026. The learned Additional Government Pleader is required to inform the Authorization Committee about the present order passed by this Court.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

**21-05-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SMV/KKN

**Note: Issue order copy on 22.05.2026.**



To

1.The Secretary to Government,  
State of Tamil Nadu,  
Health and Family Welfare Department,  
Secretariat, Chennai- 600 009.

2.The Chairman,  
Authorization Committee,  
Directorate of Medical Education and Research,  
Kilpauk, Chennai- 600 010.

3.The Managing Director,  
M/s.Apollo Speciality Hospital,  
No.5/269, Rajiv Gandhi Salai,  
Tirumalai Nagar, Perungudi,  
Chennai- 600 096.



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**G.R.SWAMINATHAN, J.**

**SMV/KKN**

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