



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No.24750 of 2026

and

WMP No.26972 of 2026

P.Babu

Konapalli Village, Periyampadi Post,
Yadamari Mandal, Chittoor District,
Andhra Pradesh -517 128.

..Petitioner(s)

Vs

1. The Chairman
Office of the Chairman Organization,
Committee, Directorate of Medical Education,
Kilpauk, Chennai-600 010.
2. The Principal Secretary to Government,
Health and Family Welfare Department,
Government of TamilNadu, Fort St. George,
Chennai-600 009
3. M/s.Appollo Hospitals,
No.21, Greens Lane, Off Creams Road,
Chennai-600 006

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records on the file of the first Respondent herein in relation to its impugned order K.Dis No.103403/H and D 11.04.2025 dated 21.11.2025 rejecting the application of the petitioner for undergoing transplantation for renal failure on the ground Donor accepted contradictory statement given by the recipient and the Donor, quash the same with consequential direction directing the first respondent herein to re-consider the papers submitted by the petitioner.



For Petitioner(s):

For Respondent(s):

Mr.G.Rm.Palaniappan

Mr.P.Elayaraj Kumar

Counsel for Government

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ORDER

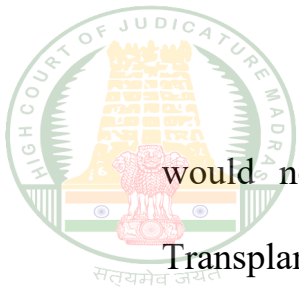
By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed challenging the impugned proceedings dated 21.11.2025 whereby 1st respondent petitioner's request for approval of kidney transplantation was rejected. Though the affidavit states that petitioner's request was rejected on the premise that statement made by the donor and the recipient are contradictory, however, the impugned order states that statement made by the donor and the recipient's son are contradictory.

3. Brief facts:

i) Petitioner is a patient suffering from renal failure and has been on dialysis for the past three years. Petitioner was advised to undergo kidney transplant at the earliest. Petitioner would submit that his near relatives were not found compatible for transplantation of kidney.

ii) Petitioner would submit that he has been undergoing treatment in the 3rd respondent Hospital. While so, Mrs.P.Swapna, petitioner's niece came forward knowing the health condition of petitioner to donate her kidney in order to enable the petitioner to lead normal life/ survive, though Mrs.P.Swapna



would not qualify as a “near relative” in terms of Section 2(i) of the Transplantation of Human Organs and Tissues Act, 1994. However, the pre-transplant assessment test which Mrs.P.Swapna and petitioner underwent, revealed that Mrs.P.Swapna was a suitable donor.

iii) Petitioner would submit that Mrs.P.Swapna is his elder brother’s daughter. It is further stated that Mrs.P.Swapna is a widow and petitioner had been taking care of her. He would further submit that Mrs.P.Swapna came forward to donate her kidney out of her love and affection for the petitioner and his wellbeing. Petitioner and Mrs.P.Swapna filed an application for transplant before 1st respondent on 01.11.2025, thereafter they were called for interview on 21.11.2025. However, the impugned order came to be passed, rejecting petitioner’s request on the premise that there were some contradictions in the statements made by the donor and the recipient’s son. He would submit that the present proceedings suffers from the vice of not being a speaking order. The relevant portion of the order is extracted hereunder:

“K.Dis.No.103403/H&DII/4/2025

Office of the Chairman, Authorisation
Committee and Directorate of Medical
Education & Research, Kilpauk,
Chennai-10
Dated: 21.11.2025

Sub: Human Organ Transplantation Act, 1994 – Authorization Committee Meeting for Liver/ Renal Transplantation held on 21.11.2025 – Decision of the Authorization Committee for Liver/ Renal Transplantation – Forwarded for uploading in the site www.tnhealth.tn.gov.in.

.....



Renal Transplantation

Sl.No.	Name of the Hospital	Name of the Patient	Name of the Donor	Whether Approved/Rejected	If Rejected - reason
1.	Apollo Hospitals, Greams Road, Chennai.	Babu P	Swapna P	Rejected	Donor accepted, contradictory false statements given by the recipient's son and the donor.

4. Before proceeding further, it may be relevant to refer to Section 9 of Transplantation of Human Organs and Tissues Act, 1994, which reads as under:

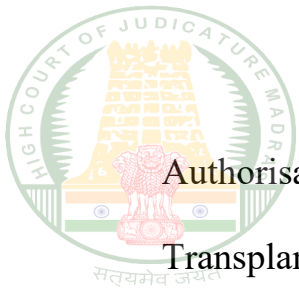
*“9.Restrictions on removal and transplantation of human organs
(1)Save as otherwise provided in sub-section (3), no human organ removed from the body of a donor before his death shall be transplanted into a recipient unless the donor is a near relative of the recipient.*

.....

(3)If any donor authorises the removal of any of his [human organs or tissues or both] [Substituted for the words "human organs" by Act 16 of 2011, Section 4.] 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] [Substituted for the words "human organ" by Act 16 of 2011, Section 4.] shall not be removed and transplanted without the prior approval of the Authorisation Committee.”

(emphasis supplied)

4.1. In terms of sub-section (3) to Section 9 of Transplantation of Human Organs and Tissues Act, 1994, if the donor is not a near relative, then human organ or tissue would not be removed without prior approval of the



Authorisation Committee. It may also be relevant to note that Rule 7 of the Transplantation of Human Organs and Tissues Rules, 2014, sets out the aspects which needs to be examined when the proposed donor and recipient are not near relatives, and is extracted hereunder:

“7. Authorisation Committee.— (1) The medical practitioner who will be part of the organ transplantation team for carrying out transplantation operation shall not be a member of the Authorisation Committee constituted under the provisions of clauses (a) and (b) of sub-section(4) of section 9 of the Act.

(2) When the proposed donor or recipient or both are not Indian nationals or citizens whether near relatives or otherwise, the Authorisation Committee shall consider all such requests and the transplantation shall not be permitted if the recipient is a foreign national and donor is an Indian national unless they are near relatives.

(3) When the proposed donor and the recipient are not near relatives, the Authorisation Committee shall,-

(i) evaluate that there is no commercial transaction between the recipient and the donor and that no payment has been made to the donor or promised to be made to the donor or any other person;

(ii) prepare an explanation of the link between them and the circumstances which led to the offer being made;

(iii) examine the reasons why the donor wishes to donate;

(iv) examine the documentary evidence of the link, e.g. proof that they have lived together, etc.;

(v) examine old photographs showing the donor and the recipient together;

(vi) evaluate that there is no middleman or tout involved;

(vii) evaluate that financial status of the donor and the recipient by asking them to give appropriate evidence of their vocation and



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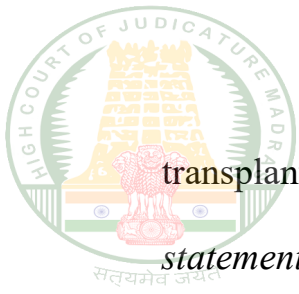
income for the previous three financial years and any gross disparity between the status of the two must be evaluated in the backdrop of the objective of preventing commercial dealing;

(viii) ensure that the donor is not a drug addict;

(ix) ensure that the near relative or if near relative is not available, any adult person related to donor by blood or marriage of the proposed unrelated donor is interviewed regarding awareness about his or her intention to donate an organ or tissue, the authenticity of the link between the donor and the recipient, and the reasons for donation, and any strong views or disagreement or objection of such kin shall also be recorded and taken note of.”

5. From a reading of the above provision, it would be clear that Authorisation Committee ought to consider aspects set out in Rule 7(3)(i) to (ix), while examining request for organ transplantation not involving a “near relative”. The impugned order merely states “*Donor accepted, contradictory false statements given by the recipient’s son and the donor*” while rejecting petitioner's request for renal transplantation. Impugned order is thus challenged on the premise that it is cryptic and non-speaking and that aspects mentioned in Rule 7 of the aforesaid Rules has not been examined.

6. This Court finds merit in the submission of the learned counsel for petitioner, it has been held by this Court that the Authorisation Committee ought to assign cogent and convincing reasons while denying permission for organ transplantation. However, in the case on hand, request for renal



transplantation is rejected by stating “*Donor accepted, contradictory false statements given by the recipient’s son and the donor*”. What is the contradiction which prompted the Authorisation Committee to arrive at the conclusion as not satisfying the parameters in terms of Rule 7 of the Transplantation of Human Organs and Tissues Rules, 2014, has not been disclosed.

7. This Court would think that if petitioner’s request for transplantation is sought to be rejected, petitioner ought to have been put on notice of reasons for such proposed rejection and an opportunity of hearing afforded to offer his explanation. Further impugned order of rejection ought to have set out cogent reasons for rejecting the request for organ transplantation after affording an opportunity of hearing to the recipient and the donor which impugned order fails to do. In view thereof, this Court finds that the impugned order is clearly arbitrary and liable to be set aside. In this regard it may be relevant to refer to the following judgment of this Court in W.P.No.13642 of 2024, dated 31.05.2024, wherein it was held as under:

"8. In the case on hand, Form 11 application submitted by the petitioner and the prospective donor was rejected by assigning the following reason "photo evidence and statement are grossly contradictory". In the decision reported in 2008 MLJ (4) 1044 (S.Samson Vs. Authorisation Committee for Implementation of Human Organ Transplantation), it was held that opportunity of

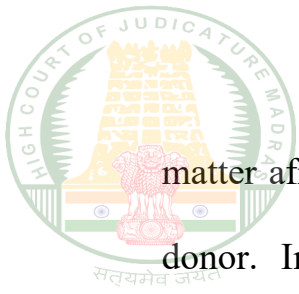


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personal hearing must be given. There is a reason for this. If an adverse order is passed, an element of disqualification is attached to the donor. The rights of the patient are at stake. That is why, it is necessary to comply with the principles of natural justice. If any doubt crosses the minds of the members of the committee, the applicants must be put on notice and given an opportunity to explain. In this case, the reason assigned is cryptic. It does not shed any light. The petitioner was not given any opportunity to explain the so~call contradiction noticed by the committee. There has been a gross violation of principles of natural justice. "

8. This Court is of the view that the impugned order does suffer from the vice of not assigning any reason, much less cogent and valid reasons, except the fact that it states contradiction in statement made by the donor and the recipient's son. It does not state what is the contradiction and how that contradiction necessitated the Authorization Committee to arrive at the conclusion that the parameters in terms of Rule 7 of the Transplantation of Human Organs and Tissue Rules, 2014, was not satisfied.

9. In the light of the above discussion, the impugned order is set aside, Authorisation Committee is directed to re-consider the matter afresh keeping in view the relevant provisions of the Act and the Rules, more particularly, Section 9 of the Transplantation of Human Organs and Tissues Act, 1994, and Rule 7 of the Transplantation of Human Organs and Tissues Act, 2014, and decide the



matter afresh after affording an opportunity of hearing to the petitioner and the donor. In the event of rejecting the request made by the petitioner, the respondents shall do so after issuing notice setting out reasons and affording an opportunity of hearing to the petitioner to deal with the reasons. If the respondents were to still proceed to reject the same he shall do so after assigning valid/ cogent reasons for such rejection. The above exercise shall be carried out within a period of ten (10) days from the date of uploading of web copy of the order without waiting for receipt of certified copy.

10. Accordingly, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

01-07-2026

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



To:

1. The Chairman
Office of the Chairman Organization Committee,
Directorate of Medical Education,
Kilpauk, Chennai-600 010.
2. The Principal Secretary to Government
Health and Family Welfare Department,
Government of TamilNadu,
Fort St. George,
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3. M/s. Appollo Hospitals,
No.21, Greens Lane,
off Creams Road,
Chennai-600 006



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MOHAMMED SHAFFIQ J.

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