

THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE
(S.B.: HON'BLE Mr. JUSTICE VIVEK RUSIA)

Writ Petition No.19059/2021

Petitioner:- Ravindra Kumar S/o Shri Dwarka Mahto,
Age-53 years, Occupation-Business,
R/o-36, Tulsi Mandi Gulzarbagh Patna, (Bihar)

Versus

Respondent No.1:- State of M.P. through Principal Secretary,
School Education Department, Vallabh
Bhawan, Mantralaya, Bhopal (M.P.)

Respondent no.2:- Authorisation Committee Appointed By The State Govt.
Under The Transplantation Of Human Organs Amendment
Act, 2011
Nil , Madhya Pradesh , (M.P.)

Respondent No.3:- Choithram Hospital And Research Centre Indore
Through its Managing Director, Manik Bagh Road,
Indore , Indore , (M.P.)

Respondent no.4:- Rajesh Kumar Chauhan,
Age: 42 S/o Shri Bhimabhai Chauhan
Business 15, Aditya Nagar Society, Manjipura Road,
Kheda, (Gujarat)

- Shri Rahul Maheshwari, learned counsel for the petitioner.
- Shri Chetaj Jain, learned Panel Lawyer for the respondent/State.
- Shri Sameer Athawale, learned counsel for the respondent No.3.

ORDER

Indore: Date: 08.10.2021:

The petitioner has filed the present writ petition seeking directions to the respondents to grant approval for renal transplantation.

2. According to the petitioner he is suffering from chronic renal disease since 2018. Initially he was taking treatment in Big Apollo Spectra Hospital from Dr. Harsh Vardhan at Patna, Bihar thereafter, he was shifted to Choithram Hospital, Indore in the year 2021. The petitioner is on dialysis since last two years. The doctor has advised for transplantation of kidney of the petitioner awaiting transplantation. The respondent No.4 is his close friend who has agreed to donate his one kidney to him. The petitioner and his relatives have made request to respondent no.3 for initiating the process of renal transplantation however, the hospital is not accepting the request. hence the present petition before this Court.

3. Shri Sameer Athawale, learned counsel for the respondent no.3

submits that at present the petitioner is not admitted in the hospital of answering respondent for transplantation of organ, however this hospital is authorized to do transplantation . He further submits that Choithram Hospital cannot take the decision for transplantation until or unless the permission is given by the Authorization Committee appointed by the State Government under the Transplantation of Human Organs and Tissues Act, 1994 (hereinafter referred as Act of 1994) as amended by The Transplantation of Human Organs and Tissues Act, 2011. The petitioner and the respondent no.4 are required to apply before the said committee for necessary permission.

4. In view of the above, the petitioner requires to submit an application in a proper format under the Chapter 2 of the Act of 1994 before the respondent no.2 and until or unless the committee grants an approval, no writ/order/direction can be issued to the respondent no.3 to undergo the transplantation. The similar issue was came up for consideration before the coordinate benches of this court by way of various writ petitions in which the direction has been given to the petitioner to submit an application for approval of transplantation before the authorization committee. The petitioner himself has filed the photo copies of the orders along with the writ petition.

5. In view of the above, the writ petition is disposed of with liberty to the petitioner to submit an application before the respondent no.2 in a proper format and if such an application is filed then the committee shall consider the case of the petitioner within a period of 15 days. The committee is directed to take decision in accordance with law and in light of the order passed by the Apex Court in case of *Kuldeep Singh and another V/s State of Tamil Nadu reported in the (2005) 11 SCC 122* as early as possible preferably within 45 days from the date of filling the application with Certified Copy of this order.

The writ petition is disposed of finally .

(VIVEK RUSIA)
JUDGE