

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO**

WRIT APPEAL NO: 1297 OF 2024

Writ Appeal under clause 15 of the Letters Patent filed against the order Dated.08/10/2024 in writ petition No 30623 of 2024 on the file of the High Court.

Between:

Anne Siva Ram, S/o.Venkata Jaya Prakash Aged about 47 years, R/o H.No.1-121, Somavarappadu, Eluru District, Andhra Pradesh

...APPELLANT

AND

1. The State of Telangana, rep. by its Principal Secretary, Health, Medical and Family Welfare, Department, Dr BR Ambedkar Telangana State Secretariat, Hyderabad The Appellate Authority constituted u/s The Transplantation of Human Organs and Tissues Act 1994.
2. State Authorization Committee For Organ Transplant, Telangana State, Constituted u/ s 9 (4) (b) Of The Transplantation of Human organs and Tissues Act, 1994, rep. by its Chairman, C/o Office of the Director of Medical Education, Koti, Hyderabad-500 095.

...RESPONDENTS

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the learned Single Judge in W.P. No.30623/2024, dated 08.11.2024 by directing the 2nd respondent to grant approval for transplantation of kidney to the petitioner.

Counsel for the Appellant: SRI K. RATHANGA PANI REDDY

**Counsel for the Respondents: SRI A. SUDARSHAN REDDY,
ADVOCATE GENERAL**

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.1297 of 2024

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. K.Rathanga Pani Reddy, learned counsel for the appellant.

Mr. A.Sudarshan Reddy, learned Advocate General for the respondents.

2. With the consent of the learned counsel for the parties, the matter is heard finally.

3. This intra court appeal is filed against the order dated 08.11.2024 passed by the learned Single Judge by which the writ petition preferred by the appellant, namely W.P.No.30623 of 2024, has been dismissed and the validity of the order dated 25.09.2024 by which the case of the appellant for approval of kidney transplantation was rejected, has been upheld.

4. Facts giving rise to filing of this appeal briefly stated are that the appellant suffers from chronic renal failure and therefore needs kidney transplantation. One Mondiravi, who is an employee of the appellant and who, according to the appellant, is his family friend, has volunteered to donate one kidney to the appellant. The appellant thereupon submitted an application to the State Authorisation Committee for Organ Transplant seeking permission for approval of kidney transplantation. The aforesaid application was rejected by an order dated 15.05.2024 on the ground that the altruistic nature of donation is not made out.

5. The appellant filed an appeal before the Health, Medical and Family Welfare Department on 12.07.2024. Thereafter, the writ petition, namely W.P.No.25189 of 2024, was filed. The learned Single Judge of this Court granted an interim order on 11.09.2024 directing the Principal Secretary, Health, Medical and Family Welfare Department, to dispose of the appeal within a period of ten days. Thereafter, the Principal Secretary, Health, Medical

and Family Welfare Department, by an order dated 18.09.2024, remitted the matter to the State Authorisation Committee for Organ Transplant to take a fresh decision in accordance with the law by setting aside rejection order. When the State Authorisation Committee for Organ Transplant has not passed any order, an interlocutory application, namely I.A.No.2 of 2024, was filed by the appellant in W.P.No.25189 of 2024 seeking a direction to the State Authorisation Committee for Organ Transplant to pass orders in pursuance of the remand order dated 18.09.2024. The learned Single Judge, by an order dated 18.10.2024, has directed the State Authorisation Committee for Organ Transplant to take a decision on or before 23.10.2024. Meanwhile, the State Authorisation Committee for Organ Transplant thereupon, by an order dated 25.09.2024, *inter alia*, held that there is a financial disparity between the donor and recipient and the donation does not seem to be altruistic nature. The said order was challenged in the writ petition, namely W.P.No.30623 of 2024, which has been dismissed by the learned Single Judge. Hence, this appeal.

6. Learned counsel for the appellant submits that the State Authorisation Committee for Organ Transplant has passed a cryptic order without assigning any reasons. It is further submitted that merely because there is a financial disparity between the status of the donor and the recipient, the application cannot be rejected. In support of the aforesaid submission, reliance has been placed on **Gian Prakash, New Delhi v. K.S.Jagannathan¹, Kuldeep Singh v. State of Tamil Nadu², Ratnakar Peddada v. State of Telangana³, C.Seshadri v. State of Telangana⁴ and Comptroller and Auditor-General of India, Sudha Mathesan v. Authorisation Committee (Transplantation)⁵.**

7. On the other hand, learned Advocate General for the respondents has fairly submitted that the State Authorisation Committee for Organ Transplant shall take a fresh decision by assigning reasons.

¹ (1986) 2 SCC 679

² (2005) 11 SCC 122

³ 2018 (5) ALD 617

⁴ 2018 (6) ALD 262

⁵ 2024 SCC OnLine Mad 1633

8. We have considered the rival submissions and have perused the record.

9. In **Victoria Memorial Hall v. Howrah Ganatantrik Nagrik**⁶, the Supreme Court held that reasons are the heartbeat of every conclusion, apart from being an essential feature of the principles of natural justice, that ensure transparency and fairness, in the decision making process. [See: **Maya Devi v. Raj Kumar Batra and others**⁷, **Sant Lal Gupta and others v. Modern Co-operative Group Housing Society Limited and others**⁸, **Union of India and another v. Talwinder Singh**⁹ and **Union of India v. Ravinder Kumar**¹⁰].

10. The order dated 25.09.2024 reads as under:

**“Office of the Director of Medical Education
Hyderabad: Telangana**

Rc.No.17689/MAK/2024

Date: 25.09.2024

Sub: DME - MAK - Submission of certain documents in respect of Sri Anne Siva Ram (Recipient) and Sri Mondri Ravi (Donor) - Reg.

⁶ (2010) 3 SCC 732

⁷ (2010) 9 SCC 486

⁸ (2010) 13 SCC 336

⁹ (2012) 5 SCC 480

¹⁰ (2015) 12 SCC 291

- Ref: 1. Lr.No.Nil, Dated 22.04.2024, of the Director of Medical Superintendent, Apollo Hospital, Jubilee Hills, Hyderabad.
2. This office Lr.Rc.No.16356/MAK/2024, Dated: 15.05.2024.
3. Memo No.6369/D/2024, Dated: 20.07.2024 of Health Medical & Family Welfare (D) Department, Government of Telangana.

<<<>>>

I invite kind attention to the reference cited, the document pertaining to Sri Anne Siva Ram (Recipient) and Sri Mondri Ravi (Donor) as noticed by the Authorisation Committee for Human Organ Transplantation, Government of Telangana and inform for taking further necessary action in this regard.

After a thorough scrutiny by the State Authorisation Committee and the Government of Telangana. There is financial disparity between donor and recipient. Committee is not convinced regarding altruistic nature. As per guidelines of Transplant Act permission is not granted.

Sd/-
For Director of Medical Education"

11. Thus, it is evident that the aforesaid order does not contain any reasons, but only the conclusions. Therefore, the same suffers from the vice of non-application of mind and cannot be sustained in the eye of law.

12. The learned Single Judge has failed to appreciate the aforesaid aspect of the matter. Therefore, the impugned order passed by the learned Single Judge is set aside and the order dated 25.09.2024 is hereby quashed. The State Authorisation Committee for Organ Transplant is directed to decide the application submitted by the appellant within a period of ten days from today by a speaking order in the light of the aforesaid decisions of the Supreme Court.

13. Accordingly, the appeal is disposed of.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

SD/-T. KRISHNA KUMAR
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Health, Medical and Family Welfare & Department, The State of Telangana, Dr BR Ambedkar Telangana State Secretariat, Hyderabad The Appellate Authority constituted u/s The Transplantation of Human Organs and Tissues Act 1994.
2. The Chairman, State Authorization Committee For Organ Transplant, Telangana State, Constituted u/ s 9 (4) (b) Of The Transplantation of Human organs and Tissues Act, 1994, C/o Office of the Director of Medical Education, Koti, Hyderabad-500 095.
3. One CC to SRI K. RATHANGA PANI REDDY, Advocate [OPUC]
4. Two CCs to GP FOR MEDICAL & HEALTH, High Court for the State of Telangana. [OUT]
5. Two CCs to GP FOR ADOVCATE GENERAL, High Court for the State of Telangana. [OUT]
6. Two CD Copies

BN
BS



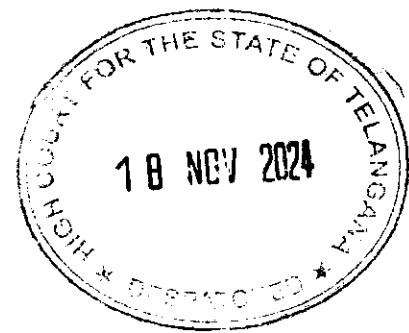
CC TODAY

HIGH COURT

DATED:18/11/2024

JUDGMENT

WA.No.1297 of 2024



DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS

10
study
by