

(2021) 02 KL CK 0100

In the High Court Of Kerala

Case No : Writ Petition (C) No. 4514 Of 2021

Noushad A.C And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 25-02-2021

Acts Referred:

Transplantation Of Human Organs And Tissues Act, 1994 — Section 9(3)
Transplantation Of Human Organs And Tissues Rules, 2014 — Rule 7(3)

Citation : (2021) 02 KL CK 0100

Hon'ble Judges : P.V. Asha, J

Bench : Single Bench

Advocate : K.V. Jayadeep Menon, T.P. Ramesh, P. Krishnapriya, Akhil George, Gajendra Singh Rajpurohit, Vinitha B

Final Decision : Disposed Of

Judgement

1. The 1st petitioner is a kidney patient. It is stated that he is in stage 5 and is undergoing hemodialysis in the West Fort Hi-Tech Hospital Ltd.,

Thrissur and he is advised to have transplantation of kidney. It is stated that since the kidneys of the close relatives of the 1st petitioner are not suitable

for transplantation, the second petitioner has come forward to donate him kidney.

2. The petitioners submitted that though they have submitted Exts.P1 and P2 applications along with all documents before the 3rd respondent, the

same is not forwarded. Though notice was taken out by the petitioners to the 3rd respondent by e-mail, nobody has entered appearance.

3. The transplantation of kidney from unrelated donors are governed by Section 9(3) of the Transplantation of Human Organs and Tissues Act, 1994

('the Act, 1994') and Rule 7(3) of the Transplantation of Human Organs and Tissues Rules, 2014 ('the Rules 2014'). The 2nd respondent is the

authority constituted for examining the applications for transplantation of kidney in such circumstances when the donor is not related to the donee, in accordance with the provisions contained in the Act and Rules.

4. Therefore, if the 3rd respondent has received the applications from the petitioners along with documents it is bound to forward the same to the 2nd respondent along with its report, without waiting for a Police report.

Therefore, the Writ Petition is disposed of with a direction to the 3rd respondent to forward the applications Exts.P1 and P2 along with all the

documents to the 2nd respondent within a period of three days in case it is already received or within three days from the date of receipt of the same

from the petitioners without waiting for a report from the 4th respondent. There shall be a further direction to the 2nd respondent to examine the said

applications along with all the relevant documents after obtaining a report from the 4th respondent and to take a decision on it in accordance with the

provisions contained in Section 9(3) of the Act, 1994 and Rule 7(3) of the Rules, 2014, as expeditiously as possible, at any rate within a period of one

month from the date of receipt of a copy of the judgment.