



GOVERNMENT OF KERALA



Abstract

H&FWD - Organ transplantation - Appeal petition submitted by Sri. Thanzeel Rahuman against the declining of permission for kidney transplantation by the District Level Authorization Committee, Government Medical College, Ernakulam - Disposed of - Orders issued.

HEALTH & FAMILY WELFARE (B) DEPARTMENT

G.O.(Rt)No.425/2023/H&FWD Dated,Thiruvananthapuram, 23-02-2023

- Read:-
1. Letter No.541/22/KySD dated 15.09.2022 from the Deputy Superintendent of Police, Kanjirappally.
 2. Appeal Petition dated 23.11.2022 from Shri. Thanzeel Rahuman
 3. Letter No.5609/2022/DME-K3 dated 20.12.2022 from the Director of Medical Education.
 4. Letter No.CA/178/2022/GMCE dated 27.12.2022 from the Chairman, District Level Authorization Committee, Government Medical College, Ernakulam.
 5. Letter No.1259/A/2022/K-SOTTO dated 31.12.2022 & 31.01.2023 from the Executive Director, Kerala State Organ and Tissue Transplant Organisation.
 6. Letter No.A/410/2023/GMCE dated 28.01.2023 from the Chairman, District Level Authorization Committee, Government Medical College, Ernakulam.
 7. Letter No.469/GL/2023/5DV dated 13.02.2023 from the Deputy Superintendent of Police, Varkala.

ORDER

The application submitted by Sri Thanzeel Rahuman (Recipient) for kidney transplantation with Sri. Anil K. Raj (Donor) was denied by the District Level Authorization Committee of Government Medical College, Ernakulam, as the donor failed to establish the so claimed relations with the recipient family and true altruistic motives of the donor and also suspecting commercial dealings. Aggrieved by this, Sri Thanzeel Rahuman submitted appeal petition read as 2nd paper above before Government.

2. The Principal & Chairman, District Level Authorization Committee, Government Medical College, Ernakulam, as per the letter read as 4th and 6th papers above, has submitted a detailed report on the appeal petition submitted by Sri.Thanzeel Rahuman along with the police verification report. The Principal has reported that on verifying the documents submitted by the parties, it is seen that Sri. Thanzeel Rahuman belongs to Edava in Thiruvananthapuram District and the proposed donor Sri. Anil.K.Raj belongs to Kanjirappally in Kottayam

District. Though the claim of the parties was that the proposed donor has been working in the farm house of the patient for the past 6 years, on interaction it has come to light that the donor is not even aware of the location of the farm house where he claims to be working. So whatever is stated in the affidavits by the parties are false information and the versions of the parties were highly contradictory. This created suspicion of money transaction in the matter and the Committee unanimously decided to reject the application. The whole procedure is video recorded and is available for verification.

3. The police verification report received from the Deputy Superintendent of Police, Kanjirappally read as 1st paper above states that on verification, it is revealed that Sri. Anil K Raj has voluntarily consented to donate one of his kidneys to Sri. Thanzeel Rahuman. The donation is without any compulsion, coercion, inducement or any intention for reward. The police verification report received from the Deputy Superintendent of Police, Varkala read as 7th paper above also states that the proposed donor has been working in the farm house of the patient for the past 5 years.

4. The Director of Medical Education as per the letter read as 3rd paper above, has reported that the application submitted by Sri Thanseel Rehman was examined and rejected by the District Level Authorization Committee of Government Medical College, Ernakulam and hence the petitioner was informed from his office that the appeal petition cannot be entertained.

5. Government have examined the matter in detail. As per Rule 7(3) of Transplantation of Human Organs and Tissues Rules, 2014, 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 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.

6. As per Transplantation of Human Organs and Tissues Rules, 2014, it is the duty of the District Level Authorization Committee to look into all aspects so as to prove whether there is altruism, when the proposed donor and the recipient are not near relatives. In the present case, the District Level Authorization Committee has examined the case as per the protocol defined in the Transplantation of Human Organs and Tissues Rules, 2014 and rejected the application due to non-establishment of relationship between the donor and recipient, contradictory statements and suspicion of money transaction.

7. Both the police verification reports are silent on whether the donation is altruistic or not; but only states that the donation is voluntary. While it is difficult to establish without any trace of doubt whether or not a donation is altruistic, any economic disparity between a donor and a recipient is enough to suspect that the proposed donation is not altruistic. The economic disparity between the donor and recipient is a red flag towards the donation being undertaken for monetary consideration even if it is voluntary. The report of the Principal & Chairman of the District Level Authorization Committee clearly states that the donor was not aware of the location of the recipient's farm where he has been allegedly working for over 6 years.

8. In the above circumstances, the appeal petition submitted by Sri. Thanzeel Rahuman lacks merit and hence rejected.

(By order of the Governor)
TINKU BISWAL
PRINCIPAL SECRETARY

The Director of Medical Education, Thiruvananthapuram.
The Principal & Chairman, District Level Authorization Committee,
Government Medical College, Ernakulam.
The Executive Director, Kerala State Organ & Tissue Transplant

Organization, Old House Surgeons Block, Near Super Specialty Block,
Government Medical College, Thiruvananthapuram
Sri .Thanzeel Rahuman, New Muthiyanvila, Pressmukku, Edava,
Varkala, Thiruvananthapuram.
Information and Public Relations Department (Web & New Media)
Stock File.

Forwarded/By order

Section Officer