

Melbin K.B vs the District Level Authorization Committee

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Court : Kerala

Decided On : Jan-25-2022

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/2196/2022

Appellant : Melbin K.B

Respondent : The District Level Authorization Committee

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
TUESDAY, THE 25TH DAY OF JANUARY 2022/5TH MAGHA, 1943
WP(C) NO. 2196 OF 2022 PETITIONERS: 1 MELBIN K.B., AGED 31
YEARS, S/O.BABY K.M., KUMBALAM PUZHAYIL HOUSE,
KALIYARODE P.O., PANGARAPPALLY, THRISSUR DISTRICT, PIN -
680 586. 2 VINEESH, AGED 38 YEARS, S/O.SREENIVASAN,
MAHATHMA HOUSING COLONY, PANACHAVADU JUNCTION,
KAPPAKADA, PUNNAPRA, ALAPPUZHA DISTRICT, PIN - 688 004. BY
ADV C.M.MOHAMMED IQUABAL RESPONDENTS:

1 THE DISTRICT LEVEL AUTHORIZATION COMMITTEE FOR TRANSPLANTATION OF HUMAN ORGANS, ERNAKULAM, ERNAKULAM MEDICAL COLLEGE HOSPITAL, KALAMASSERY, PIN - 683 014, REPRESENTED BY ITS CHAIRMAN. 2 THE CONVENER, LOCAL COMMITTEE OF ORGAN TRANSPLANTATION, RAJAGIRI HOSPITAL, CHUNANGAMVELY, ALUVA, ERNAKULAM DISTRICT, PIN - 683 112. 3 THE DEPUTY SUPERINTENDENT OF POLICE, AMBALAPPUZHA, AMBALAPPUZHA P.O., ALAPPUZHA DISTRICT, PIN - 688 561. BY ADVS. R1-R3 SMT.PARVATHY KOTTOL, G.P. R2 SRI.THOMAS J.ANAKKALLUNKAL R2 SRI.ABISHEK JOHNY R2 SRI.NIRMAL CHERIYAN VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 25th day of January, 2022 The petitioners are before this Court seeking to direct respondents 1 and 2 to take immediate steps to issue approval for unrelated kidney transplantation as per Exts.P8 and P9 applications, within a time stipulated by this Court.

2. The 1st petitioner states that he is undergoing

treatment for Kidney problem at Rajagiri Hospital, Aluva. The 1st petitioner was advised to transplant his kidney immediately. Since the kidneys of the close relatives are not suitable, the 2nd petitioner had come forward expressing willingness to donate his kidney to the 1st petitioner.

3. Thereupon, the petitioners approached the 2 nd respondent to get approval from the 1 st respondent and submitted Exts.P8 and P9 applications along with necessary documents. The petitioners state that the applications submitted are being not forwarded by the 2nd respondent to the 1st respondent on the ground that Police Clearance Certificate is not received.

4. The learned counsel for the 2nd respondent

entered appearance and submitted that the 2 nd respondent has not received the so-called applications along with necessary documents. If the petitioners submit applications along with supporting documents, the 2 nd respondent can forward it to the 1st respondent after making preliminary scrutiny, within a period of 24 hours.

5. The learned counsel for the petitioners, on the

other hand, submits that the petitioners had tendered necessary applications and documents, but the officers under the 2nd respondent were not willing to accept the application without a Court order.

6. I have heard the learned counsel for the petitioners, the learned counsel for the 2 nd respondent and the learned Government Pleader representing respondents 1 and 3.

7. After hearing the parties, it emerges that the 1 st petitioner has to undergo kidney transplantation at the earliest. The 2nd petitioner has come forward to donate his

kidney. Exts.P8 and P9 are the applications of the petitioners for facilitating organ transplantation. Whatever be the reasons for not forwarding such applications to the 1 st respondent, the matter being of emergency medical nature, if the 2nd respondent receives the applications, the 2nd respondent has to process it and forward to the 1 st respondent.

8. It is submitted by the learned counsel for the

petitioners that the verification by the 3 rd respondent is not a condition precedent for forwarding of the applications and the 1st respondent, who is the Authority under the enactment, can call for reports from the 3rd respondent, if required.

9. Having considered the contentions advanced and

having heard the learned counsel appearing on either side, I am of the opinion that the applications preferred by the petitioners are liable to be considered expeditiously by the 1 st respondent in accordance with law.

10. Accordingly, there will be a direction to the 2 nd

respondent to forward Exts.P8 and P9 applications to the 1 st respondent for consideration expeditiously, if the petitioners submit the same along with necessary documents. The 1 st respondent shall conduct all due verification including by reference to the 3rd respondent, if found necessary, and shall pass appropriate orders after considering all relevant

aspects of the matter. Orders shall be passed within a period of three weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above. N. NAGARESH JUDGE ncd/25.01.2022
APPENDIX OF WP(C) 2196/2022 PETITIONERS' EXHIBITS Exhibit P1 THE TRUE COPY OF THE IDENTIFICATION CERTIFICATE OF THE PETITIONERS DATED 10.12.2021 Exhibit P2 THE TRUE COPY OF THE IDENTIFICATION CERTIFICATE OF THE 2ND PETITIONER AND HIS MOTHER DATED 30.12.2021 Exhibit P3 THE TRUE COPY OF THE IDENTIFICATION CERTIFICATE OF THE 2ND PETITIONER AND HIS WIFE DATED 30.12.2021 Exhibit P4 THE TRUE COPY OF THE JOINT AFFIDAVIT OF THE PETITIONERS AND THE WIFE OF THE SECOND PETITIONER DATED 17.01.2022 Exhibit P5 THE TRUE COPY OF THE CONSENT OF THE 2ND PETITIONER DATED 17.01.2022 Exhibit P6 THE TRUE COPY OF THE CERTIFICATE ISSUED BY K.K. MURALEEDHARAN DATED 31.12.2021 Exhibit P7 THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE PRESIDENT OF KUTHIYATHODU GRAMA PANCHAYATH DATED 31.12.2021 Exhibit P8 THE TRUE COPY OF FORM 11 APPLICATION SUBMITTED BY THE PETITIONERS DATED 18.01.2022 Exhibit P9 THE TRUE COPY OF FORM 3 APPLICATION SUBMITTED BY THE PETITIONERS DATED 18.01.2022