

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) Diary No.45541/2023

RAJVEER SINGH & ANR.

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

O R D E R

Heard learned senior counsel for the petitioners, learned ASG and the learned counsel for the respondents.

Though, the prayer as made in the writ petition, we should say has not been happily formulated, the ultimate consideration before this Court is, as to whether in the circumstance as indicated in the petition, the benefit as sought by the petitioners to secure the liver transplantation should be acceded to and in that regard whether the petitioner No. 2 should be permitted to donate his organ for such transplantation. In that regard, at the outset, we clarify that though the provisions as contained in The Transplantation of Human Organs Act, 1994 (For short 'Act') as also the Citizenship Act was referred to during the course of the submissions on either side, in our opinion, the instant case would not be an appropriate case to consider the same in detail.

Be that as it may, keeping in view the provisions as it

exists and also taking into consideration the immediate necessity of a donor to donate the liver to the petitioner no.1 in view of his precarious health condition, we had required the parties to go through the process as contemplated under the Act,1994 and the Transplantation of Human Organs Rules by putting forth all the documents before the Authorization Committee so that this Court would at the outset, be satisfied as to whether the petitioner No.1 and the petitioner No.2 related to each other and as to whether the petitioner No. 2 is acting as a donor in a bona fide manner or for some other consideration.

It is in that light, the petitioners having filed the application before the Authorization Committee, subsequent to the filing of this petition as per the leave being granted by this Court. The Authorization Committee has met on three days and the reports are placed before this Court. The first two reports need not be adverted to inasmuch as the proceedings of the Committee was adjourned after some consideration to enable the petitioners to submit all required documents. Ultimately the report relating to the meeting of the Committee held on 08.11.2023 is brought before us. In that regard, we note from the report that the Authorization Committee has undertaken a detailed exercise to ascertain the relationship between the petitioner No.1 and the petitioner No.2 and also the intention for agreeing to be a donor. In that regard from the DNA test, it has been established that the petitioner No.2 is related to the petitioner No.1.

Further, the reasons have also been ascertained as to why the parents of the petitioner No.1 have not donated the liver.

Though specific reasons have not been disclosed, it would be appropriate to take note of the sentiment of the mother of the petitioner No.1 and in that regard, exempt the parents in any event since in the instant case there is an appropriate donor who is a relative and since this Court is also satisfied with regard to the bona fides in this case and in the peculiar circumstance where the choice for this Court is between saving the life of three years old child i.e. the petitioner No.1 or adherence to the legal requirement in absolute terms.

Therefore, in the peculiar facts and circumstances of the instant case, without making this order as a precedent for any other case, we are of the opinion that it is appropriate to direct that the operation be conducted by permitting the petitioner No.2 as the donor and transplanting the liver as per the medical procedure on petitioner No.1.

In terms of the above, the writ petition stands disposed of.

.....J.
[A.S. BOPANNA]

.....J.
[M.M. SUNDRESH]

NEW DELHI;
NOVEMBER 09, 2023

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) Diary No.45541/2023

RAJVEER SINGH & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 09-11-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Gopal Sankarnarayanan, Sr. Adv.
Mr. Azad Khokher, Adv.
Ms. Neha Rathi, Adv.
Mr. Kamal Kishore, Adv.
Mr. Pranav Sachdeva, Adv.
Ms. Kajal Giri, Adv.
Ms. Shruti Vaibhav, Adv.
Ms. Aditi Gupta, Adv.
Ms. Jhanvi Dubey, Adv.
Ms. Shivani Vij, Adv.
Ms. Tanya Srivastava, Adv.
Mr. Suwendu Suvasis Dash, Adv.
Ms. Swati Vaibhav, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG
Mr. Ketan Paul, Adv.
Ms. Ameyavikrama Thanvi, Adv.
Mr. Rustam Singh Chauhan, Adv.
Ms. Sthavi Asthana, Adv.

Dr. Monika Gusain, AOR
Ms. Shyel Trehan, Adv.
Mr. Rohan Poddar, Adv.
Ms. Liz Mathew, AOR
Ms. Mallika Agarwal, Adv.
Mr. Nisarg Bhardwaj, Adv.

UPON hearing the counsel the Court made the following
O R D E RThe writ petition stands disposed of in terms of signed
order.

Pending application(s) shall also stand disposed of.

(RAJNI MUKHI)
COURT MASTER (SH)(DIPTI KHURANA)
ASSISTANT REGISTRAR

(Signed order is placed on the file)

