

**IN THE SUPREME COURT OF INDIA
EXTRA ORDINARY APPELLATE JURISDICTION**

SPECIAL LEAVE PETITION (CIVIL) NO (S). 29395 OF 2017

DR. S. GANAPATHY **....PETITIONER(S)**

VERSUS

**THE STATE OF KERALA
REP. BY THE CHIEF
SECRETARY &ORS.** **...RESPONDENT(S)**

ORDER

1. Heard.
2. The petitioner, who is himself a medical professional, approached the High Court of Kerala at Ernakulam¹ by way of a writ petition in the nature of public interest litigation, raising issues of seminal public importance. The petitioner asserts that he is in possession of credible information indicating serious malpractices prevailing in the State of Kerala in relation to organ transplantation procedures. According to the petitioner, patients admitted to various hospitals in critical condition are being declared “brain-dead” even in cases where the clinical

¹ Hereinafter, referred to as the “High Court”.

parameters prescribed under the law do not justify such a determination.

3. As per the petitioner, such declarations are, at times, made with the underlying intention of facilitating the harvesting of organs for transplantation. The petitioner submits that the stand taken by the respondents before the High Court, namely that declarations of brain-stem death are made after subjecting the patient to the Apnea test, is by itself sufficient to direct wider measures for adopting advance tests which are less invasive to the patient.

4. It is urged that, in terms of internationally accepted medical standards, including the guidelines of the World Health Organization², the Apnea test ought to be resorted to only as a confirmatory test and not as the sole or primary basis for determining brain-stem death. According to the petitioner, ancillary tests such as electroencephalography (EEG), cerebral angiography (including four-vessel angiogram), or other imaging modalities are required to be conducted prior thereto.

² For short, 'WHO'.

5. The petitioner contends that the Apnea test requires stopping/reducing the cerebral blood flow which by itself may induce braindead.

6. He urges that the best possible procedure to conclusively assess the parameters of brain-stem death would be to subject the patient to appropriate ancillary or supplemental tests, such as electroencephalography (EEG), four-vessel cerebral angiography, radionuclide (radioisotope) angiography, or CT angiography.

7. Learned counsel appearing for the respondents has opposed the submissions advanced by the petitioner and contended that the prescribed statutory protocols are being duly followed before any patient is declared brain-dead, and that the apprehensions expressed by the petitioner are unfounded and not supported by credible scientific material. However, the respondents are not in a position to dispute that the Apnea test is most prevalent in the State of Kerala for assessing the condition of the patients suspected of brain-stem death.

8. Having regard to the complexities of the important issues raised requiring specialized medical

expertise, and considering that this Court does not profess the requisite technical expertise in the field, it would be appropriate, in the interest of justice, to direct the constitution of an expert committee at the All India Institute of Medical Sciences³, New Delhi to examine the matter and suggest appropriate protocols, keeping in view the advancements in medical science. Such an exercise would enable the formulation of a robust and reliable regime, thereby dispelling and allaying the concerns expressed by the petitioner, which, at least *prima facie*, do carry a ring of truth.

9. Accordingly, the Head of the Department of Neurology, AIIMS, New Delhi, is directed to constitute a team of three experts in the field of Neurology/Neurosurgery. The said experts shall convene meetings as necessary and submit their considered recommendations to this Court in light of the observations made hereinabove. The report of the Expert Committee shall be placed before this Court for consideration within a period of two months from today.

³ For short, 'AIIMS'.

10. A copy of this order shall be transmitted to the Director, AIIMS, New Delhi, and the Head of the Department, Neurology, AIIMS, New Delhi, for information and compliance. The report of the Expert Committee shall be submitted for the Court's perusal by the next date of hearing in a sealed envelope.

11. List on 21st July, 2026.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
APRIL 28, 2026.