CNR : KLHC010097182025

2026:KER:86455

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. SOUMEN SEN

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2026 / 20TH KARTHIKA, 1948

WP(C) NO. 4269 OF 2025

PETITIONER(S):

ADVAIDH. M
AGED 19 YEARS
SON OF VINESH KUMAR.M, THOZHOOR HOUSE,
KOTTAPPADI P.O, THRISSUR., PIN - 680505

BY ADV SHRI.THOMAS VARGHESE

RESPONDENT(S):

1 **STATE OF KERALA**
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF KERALA, STATE SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695001

2 **PRINCIPAL SECRETARY TO THE GOVERNMENT OF KERALA**
DEPARTMENT OF HEALTH AND FAMILY WELFARE, SECRETARIAT, ANNEX 2, THIRUVANANTHAPURAM., PIN - 695001

3 **THE APPROPRIATE AUTHORITY**
DIRECTOR OF MEDICAL EDUCATION, KERALA, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM., PIN - 695011

4 **K-SOTTO(KERALA STATE ORGAN AND TISSUE TRANSPLANT ORGANISATION)**
REPRESENTED BY ITS ADMINISTRATOR, 1ST FLOOR, OLD

HOUSE SURGEON QUARTERS, NEAR SUPER SPECIALTY BLOCK, GOVT. MEDICAL COLLEGE, THIRUVANANTHAPURAM., PIN - 695011

5 THE STATE POLICE CHIEF POLICE HEAD QUARTERS, VAZHUTHACADU, THIRUVANANTHAPURAM, KERALA., PIN - 695014

BY ADVS.
BIJU MEENATOOR – SR.GOVERNMENT PLEADER
SRI.AJIT JOY
SMT.ASHA TREESA JOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.11.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Dated this the 11th day of November 2026

Soumen Sen, C.J.

Heard Sri. Thomas Varghese, learned counsel for the petitioner, and Sri. Biju Meenattoor, learned Senior Government Pleader.

2. The report of the Advisory Committee meeting held on 19th November, 2025 is placed before this Court by the Senior Government Pleader, appearing on behalf of the State. The Committee appears to have made the following recommendations:

> *"The committee recommends to establish a digital platform for offering live organs such as kidney or a portion of liver to needy patients suffering from end stage organ failure and skin for those require skin for therapeutic purposes on a non-directed altruistic basis. KSOTTO shall develop such a platform in close consultation with NOTTO and implement the program as per the guidelines, subject to the conditions that;*
>
> *(i) Only KSOTTO shall invite applications live un-related altruistic organ donation from general public and process it with utmost confidentiality and maintaining anonymity.*
> *(ii) The expenses towards the cost of medical, psychological and socioeconomic evaluation of the donor shall be borne by KSOTTO and later can be reimbursed from the recipient on*

successful transplantation.

(iii) The allocation policy must be as follows: -

(A) Kidney

(1) Transplantation Centre of donor's choice.

(2) Scope for initiating Dominos Organ Donation chain.

(3) Scope for initiating a good number of Swap Donation pairs.

(4) Most suitable immunologically compatible patient among the patients listed in the transplantation centre, and evaluated based on the kidney allocation criteria developed by NOTTO (Annexure 2)

(5) Regional list, provided the donor is willing to undergo ex-plantation surgery in any other hospital within the region.

(6) State list, provided the donor is willing to undergo ex-plantation surgery in any other hospital within the state.

If more than one equally immunologically suitable patients are there, in a transplant centre, after applying criteria (4) mentioned above, then priority will be given in the following order;

(1) those who do not have any suitable living donor among near relatives;

(2) those who have a suitable living donor available among near relatives but the donor has refused in writing to donate; and

(3) those who have a suitable living donor available and who has also not refused to donate in writing.

(B) Liver

(1) Transplantation Centre of donor's choice.

(2) Scope for initiating Dominos Organ Donation chain.

(3) Scope for initiating a good number of Swap Donation pairs.

(4) Liver allocation policy of KSOTTO (annexure 3)
(5) Regional list, provided the donor is willing to undergo explantation surgery in any other hospital within the region.
(6) State list, provided the donor is willing to undergo explantation surgery in any other hospital within the state,

If more than one equally sick patients are there in a transplant centre, after applying criteria (4) mentioned above, then priority will be given in the following order,
(1) those who do not have any suitable living donor among near relatives;
(2) those who have a suitable living donor available among near relatives but the donor has refused in writing to donate; and
(3) those who have a suitable living donor available and who has also not refused to donate in writing.

(C) Skin
(1) Transplantation Centre of donor's choice.
(2) Medical emergency
(3) Priority as per the Wait list maintained by the Transplantation Center.
(3) Regional list, provided the donor is willing to undergo explantation surgery in any other hospital within the region.
(6) State list, provided the donor is willing to undergo explantation surgery in any other hospital within the state.
2. The Government shall introduce SWAP KIDNEY DONATION program for expanding the organ pool, strictly adhering to the provisions provided in Section 9(3A) of THOT Act.
3. The KSOTTO shall introduce a digital platform to assess the patient load in End Stage Renal Disease (ESRD), End

Stage Liver Disease, Heart Disease leading to transplantation, so that long term policies on organ transplantation can be framed.

4. The committee recommends Appropriate Authority to consider possibility of revamping of the referred case of police enquiry conducted, on illegal organ transplantation reports in Thrissur district through proper legal manoeuvres.

5. The committee recommends Appropriate Authority to encourage transplant centres to disclose, Suo moto and in a clear and accessible manner, the various charges relating to organ transplantation, so as to promote informed decision-making and accountability. Moreover, the KSOTTO to publish the upper ceiling of the charges to be levied for different procedures and treatments associated with organ transplantation in consultation with various high-volume transplant centres and experts from both private and public sector.

6. It is recommended that, the Appropriate Authority may ensure that the competent authorities and DLACs consider simplifying the application procedures before the Hospital-Level Competent Authority and the District Level Authorisation Committee and move towards the establishment of a single-window, time-bound clearance system for organ transplantation approvals."

3. The learned counsel for the 4th respondent has drawn our attention to paragraph 19 of an order passed by the Hon'ble Supreme Court in **Indian Society of Organ Transplantation v. Union of India** [1] where-from it appears

1 2026 (1) KHC 91 (SC)

that the Hon'ble Supreme Court has issued the following directions:

> *"i. We request the Union of India to persuade the State of Andhra Pradesh through its Chief Secretary or the Principal Secretary of Health to adopt the Transplantation of Human Organs (Amendment) Act, 2011 by explaining to them the importance of such adoption.*
>
> *ii. We also request the Union of India to, in a similar manner, persuade the States of Karnataka, Telangana, Andhra Pradesh and Manipur to adopt the 2014 Rules.*
>
> *iii. We direct the Secretary, Health and Family Welfare, Union of India to personally monitor the aforesaid points contained in sub-paragraphs (i) and (ii) of this paragraph.*
>
> *iv. The Union of India is directed to constitute a SOTTO for the States of Meghalaya and Nagaland under the aegis of National Organ Transplant Program after due consultation with the concerned States.*
>
> *v. The Union of India through NOTTO is requested to evolve model allocation criteria in consultation with all the States so as to ensure a uniform national policy for transplantation. The uniform national policy guidelines must include provisions to alleviate the concerns with respect to gender, class and regional discrimination and provide appropriate remedial provisions for the same. The policy must endeavor to have uniform criteria for the registration of patients, donors and formats throughout the country.*

vi. We also request the Union of India through Ministry of Home Affairs in consultation with NOTTO, Ministry of Health and Family Welfare and the petitioner - organization to consider amending Form 4 and Form 4A of the Registration of Births and Deaths Rules, 1999 so as to include a column on whether the deceased was a case of brain - stem death and if that be the case to indicate whether the option to donate organs was given to the relatives of the deceased.

vii. We further request the Union of India through NOTTO to evolve national swap transplantation guidelines in consultation with all States to implement S.9(3) of the 1994 Act. The swap transplantation guidelines should be on a national level providing equal opportunities to all the persons for swap and must be done digitally through an accessible web portal.

viii. The Union of India through NOTTO in consultation with all the States / Union Territories is requested to develop transplantation facilities where there are inadequate public health facilities. Further, the Union of India through the NOTTO is requested to develop a five - year plan mapping the course for development of transplantation facilities in India.

ix. We further request the Union of India to take on board all the States / Union Territories through the NOTTO and evolve guidelines for welfare of live donors, including measures to ensure an informed and voluntary consent, maintenance of a portal, mandatory follow - up with the doctors and to ensure they are cared for. This is to ensure that commercialization and exploitation of donors is prevented.

x. We request all the States / Union Territories to ensure that data related to organ donation and transplantation along with the details of donors and recipients of organs and tissues is reported by the concerned hospitals to the national registry maintained by the NOTTO as mandated under S.13D of the 1994 Act.

xi. We further direct all the State Governments / Union Territory Administrations to ensure that strict action is taken against the defaulting hospitals, who fail to furnish the data as has been directed by us in subparagraph no. (x) of this paragraph."

In view of the directions in **Indian Society of Organ Transplantation** (supra) and also the recommendations of the Advisory Committee, it is now the duty of the State to accept and implement the said recommendations.

With the aforesaid direction, we dispose of this writ petition.

Sd/-
Soumen Sen,
Chief Justice

Sd/-
Syam Kumar V.M.,
Judge

SSK

APPENDIX OF WP(C) NO. 4269 OF 2025

PETITIONER EXHIBITS

Exhibit P1	**THE TRUE COPY OF THE NEWS REPORT PUBLISHED IN MATHRUBHUMI DAILY.**
Exhibit P14	**THE TRUE COPY OF THE ENGLISH TRANSLATION OF PARAGRAPH 8 OF EXHIBIT P6 DOCUMENT.**
Exhibit P2	**THE TRUE COPY OF THE NEWS REPORT PUBLISHED IN MATHRUBHUMI DAILY DATED 17-07-2024.**
Exhibit P3	**THE TRUE COPY OF THE NEWS REPORT PUBLISHED IN KAUMUDI ONLINE DAILY DATED 03-06-2024**
Exhibit P4	**THE TRUE COPY OF THE REPLY RECEIVED UNDER THE RTI ACT ISSUED BY 4TH RESPONDENT DATED 14.07.2024.**
Exhibit P5	**THE TRUE COPY OF THE REPLY RECEIVED UNDER THE RTI ACT ISSUED BY 4TH RESPONDENT DATED 06.07.2024.**
Exhibit P6	**THE TRUE COPY OF THE JUDGEMENT OF THE HONOURABLE HIGH COURT OF KERALA IN WP(C) 33801 OF 2017, DATED 24-11-2017.**
Exhibit P7	**THE TRUE COPY OF THE REPLY RECEIVED UNDER THE RTI ACT ISSUED BY 4TH RESPONDENT DATED 25.07.2024.**
Exhibit P8	**THE TRUE COPY OF THE REPLY RECEIVED UNDER THE RTI ACT ISSUED BY 4TH RESPONDENT DATED 11.09.2024.**
Exhibit P9	**THE TRUE COPY OF THE GOVERNMENT ORDER VIDE REFERENCE NO. G.O(MS.) NO. 26/2018/H&FWD., DATED 15.02.2018 ISSUED BY HEALTH AND FAMILY WELFARE DEPARTMENT.**
Exhibit P10	**THE TRUE COPY OF THE ENQUIRY REPORT ISSUED BY INSPECTOR GENERAL OF POLICE, CRIME BRANCH, DATED 19-10-2020.**
Exhibit P11	**THE TRUE COPY OF THE ORDER ISSUED BY STATE POLICE CHIEF DATED 21-10-2020.**
Exhibit P12	**THE TRUE COPY OF THE FINAL REPORT SUBMITTED BEFORE JUDICIAL FIRST CLASS MAGISTRATE COURT-1, THRISSUR, DATED 29-04-2024.**

Exhibit P13	**THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY PETITIONER'S FATHER BEFORE 2ND RESPONDENT DATED 02.06.2023.**

RESPONDENT ANNEXURES

Annexure R2(a)	**True copy of the Government Order dated 04/09/2024.**