

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 3<sup>RD</sup> DAY OF AUGUST 2022 / 12TH SRAVANA, 1944

WP(C) NO. 24412 OF 2022

PETITIONER/S:

SALIKUTTAN N.  
AGED 47 YEARS  
S/O.NARAYANAN, KOOBILAKVU HOUSE, KALLELI BHAGAM P.O.,  
THODIYOOR VILLAGE, KARUNGAPPALLY, KOLLAM DISTRICT, PIN  
- 690 519.

BY ADVS.  
K.V.JAYADEEP MENON  
T.P.RAMESH (THENGUMPILLIL)  
P.KRISHNAPRIYA  
JINS.P.JOHN  
SANAL C.S

RESPONDENT/S:

- 1 THE STATE OF KERALA  
REPRESENTED BY THE SECRETARY, HEALTH AND FAMILY WELFARE  
DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,  
PIN - 695 001.
- 2 THE DISTRICT LEVEL AUTHORISATION COMMITTEE FOR RENAL  
TRANSPLANTATION  
REPRESENTED BY ITS CHAIRMAN, THE PRINCIPAL, GOVERNMENT  
MEDICAL COLLEGE, KALAMASSERRY P.O., ERNAKULAM DISTRICT,  
PIN - 683 104.
- 3 THE LOCAL LEVEL COMMITTEE FOR RENAL TRANSPLANTATION  
REPRESENTED BY ITS CHAIRMAN/MEDICAL DIRECTOR, MEDICAL  
TRUST HOSPITAL REPRESENTED BY ITS MEDIAL DIRECTOR,  
MAHATMA GANDHI ROAD, PALLIMUKU, ERNAKULAM DISTRICT, PIN  
- 682 016.
- 4 ADDL R4. MOIDEENKUTTY,  
AGED 39 YEARS  
S/O.MOHAMMAD, MANNENGAL HOUSE, THIRUVANANTHAPURAM,  
PULAMANTHOL P.O, MALAPPURAM DISTRICT, PIN-679 323.  
(ADDL R4 IS IMPEADED AS PER ORDER DATED 02-08-2022 IN  
IA 1/2022 IN WP(C)24412/2022.  
BY ADVS.  
R.S.KALKURA  
P.RAJEEVE

OTHER PRESENT:

WP(C) NO. 24412 OF 2022

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GP P.S.APPU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 03.08.2022, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**JUDGMENT**

**Dated this the 3<sup>rd</sup> day of August, 2022**

The 4<sup>th</sup> respondent is suffering from kidney disease and requires emergent organ transplantation surgery. The petitioner, who is not a relative, has volunteered to donate his organ. The 4<sup>th</sup> respondent and petitioner have submitted applications before the 3<sup>rd</sup> respondent, under the Transplantation of Human Organs and Tissues Act, 1994 and corresponding Rules. The 3<sup>rd</sup> respondent has not forwarded the applications to the 2<sup>nd</sup> respondent for approval, for the reason that the verification report (report of altruism) is not appended to the application.

2. Learned Counsel for the petitioner relied on the decision in ***Shoukathali Pullikuzhiyil and another v. The District Level Authorization Committee and Others [2017 (3) KHC 259]*** to contend that, verification through Police and certificate of altruism is not mandatory in all cases and it is for the Authorisation

Committee/second respondent to call for the report, if so warranted. Hence, the 3<sup>rd</sup> respondent is bound to accept the application and refer the matter to the second respondent immediately.

3. Learned Counsel for the petitioner pointed out that in similar cases, this Court had directed the 3<sup>rd</sup> respondent to accept the application and forward the same to the second respondent, without insisting for the certificate of altruism.

In view of the settled legal position, the third respondent cannot insist on production of police verification report as a pre-condition for forwarding the application submitted by the petitioner. It is disheartening to note such obstinate stand being taken, even when a person's life is at stake, that too, in spite of the legal position being clearly set out in Shoukathali (supra).

The Writ petition is hence disposed of, directing the third respondent to forward the application submitted by

the petitioner and 4<sup>th</sup> respondent to the second respondent forthwith, without insisting for production of police verification report. On receipt of the application forwarded by the third respondent, second respondent shall verify the same and take appropriate decision thereon within two weeks, if necessary, by calling for a police verification report.

**Sd/ -**

**V . G . ARUN**

**JUDGE**

RK

APPENDIX OF WP(C) 24412/2022

**PETITIONER EXHIBITS**

- Exhibit P1**                    **A TRUE PHOTOCOPY OF THE JOINT APPLICATION DATED 13/06/2022 SUBMITTED BY IN FORM 3 OF THE TRANSPLANTATION OF HUMAN ORGANS AND TISSUES RULES, 2014 SUBMITTED BY THE PETITIONERS TO THE 3RD RESPONDENT.**
- Exhibit P2**                    **A TRUE PHOTOCOPY OF THE APPLICATION FOR THE APPROVAL FOR TRANSPLANTATION FROM LIVING DONOR UNDER FORM 11 OF THE TRANSPLANTATION OF HUMAN ORGANS AND TISSUES RULES, 2014 DATED 13/06/2022 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.**
- Exhibit P3**                    **A TRUE PHOTOCOPY OF THE JOINT AFFIDAVIT DATED 13/06/2022 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.**
- Exhibit P4**                    **A TRUE PHOTOCOPY OF THE LETTER DATED 01/07/2022 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER DIRECTION TO OBTAIN POLICE VERIFICATION CERTIFICATE.**
- Exhibit P5**                    **A TRUE PHOTOCOPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C) NO.13341 OF 2022 DATED 08/04/2022.**