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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of Decision: 20<sup>th</sup> May, 2024*

+ **W.P.(C) 3590/2020**

AMAR SINGH BHATIA & ANR. .... Petitioners

Through: Ms. Charu Aneja, Adv.

versus

SIR GANGA RAM HOSPITAL & ORS. .... Respondents

Through: Ms. Saroj Bidawat, Adv.  
(M:9810340866)

Mr. Rishikesh Kumar, ASC  
(GNCTD) with Ms. Sheenu Priya,  
Mr. Atik Gill & Mr Sudeep Kumar  
Shukla, Advs. for GNCTD. (M:  
9911483629)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. Vide judgment dated 4th January, 2024, this Court had considered the provisions of the Transplantation of Human Organs and Tissues Act, 1994 (*hereinafter, 'THOTA'*) and had directed that proper timelines ought to be fixed for timely-disposal of applications received by patients for transplantation. The operative portion of the directions given therein are as under:

*“43. An organised and timely transplantation decision making process which is contemplated under the 1994 Act and the 2014 Rules would be nullified if timelines are not prescribed for various steps. While the satisfaction of the Authorisation Committee is absolutely crucial in this process, internal timelines will still have to be fixed to ensure that the said Committee’s functioning is systematic.*

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*45. This Court is of the opinion that even the timelines fixed*



*vide communication dated 24<sup>th</sup> January, 2022 are insufficient due to the uncertainties in the same. The said communication, in fact, dilutes the timelines fixed under Rule 23 of the 2014 Rules. The communication also does not lay down any timeline for scheduling interviews for proposed donor by the Authorisation Committee and, therefore, there can be several delays at that stage. In view of the above background and considering that there are several similar cases which are arising across the Courts, timelines ought to be fixed at each of these following steps:*

<i>Steps</i>	<i>Timeline for consideration</i>
<i>Processing of application under Rule 11 of the 2014 Rules</i>	<i>Maximum 10 days from the date of the application.</i>
<i>Verification of documents as per Form 20 of the 2014 Rules</i>	<i>Maximum 14 days</i>

46. *In addition, timelines also ought to be fixed for the following steps:-*

**Documentation Completion:**

· *Within the prescribed timeline under the 2014 Rules, any opportunity given to the donor or recipient to complete the required documentation must be communicated.*

· *The donor or recipient should be given a maximum of one week to respond.*

· *If further opportunities need to be given, the same ought to be given after due consideration, with a strict deadline.*

· *Upon expiry of this timeline, the case should be presented to the Authorisation Committee.*

**Scheduling Interviews by the Authorisation Committee:**

· *After 4 to 6 weeks from receiving the application, the interview ought to be scheduled within a 2-week period.*

· *During the above 2-week window the Authorisation Committee ought to:*

- *Conduct the interview of the donor/recipient on one or two occasions.*

- *Facilitate a meeting of family members of both the*



*donor and the recipient.*

- *Convey the decision as per Rule 23 of the 2014 Rules.*

· *The entire process, from submission to decision, ought not to ideally exceed 6 to 8 weeks.*

**Appeal Process:**

· *Under Rule 33, any appeal against an order should be decided within a maximum of 30 days.*

*47. The non-adherence to timelines has resulted in extended waiting periods of 2 to 3 years in some cases before a decision is made, which contradicts the intent as also the letter and spirit of the 1994 Act and the 2014 Rules. Such prolonged delays can cause significant mental and physical anguish for both the donor and recipient as also their families. Therefore, clear and prompt communication regarding the application is essential, whether it be oral or written, to enable the donor/recipient and their respective families to proceed with the decision-making process.*

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*49. Let the present judgment be placed before the Secretary, Ministry of Health and Family Welfare so as to ensure that timelines under the 1994 Act and 2014 Rules are prescribed for all the steps in the process of consideration of applications for organ donation, after consultation with the relevant stakeholders.”*

3. Ms. Saroj Bidawat, Id. Counsel for the Union of India, Ministry of Health and Family Welfare, has placed before the Court today a communication dated 3rd May, 2024, issued by Ms. Vandana Jain, Joint Secretary, Ministry of Health and Family Welfare, communicating to all Chief Secretaries and other officials of State/Union Territories, the timelines for the functioning of the Authorization Committee under THOTA. The said timelines, which have been prescribed, are as follows:

**Timeline for functioning of the Authorization Committee**

S. No.	Steps	Timeline
1	Processing of application under Rule 10 of The Transplantation of Human Organs and Tissues Rules, 2014 including communication of deficiencies to the donor or / and recipient in respect of documents.	Maximum within 10 days from the date of the application.
2	<u>Documentation Completion</u>  a) Within the prescribed timeline under the 2014 Rules, any opportunity given to the donor or recipient to complete the required documentation must be communicated.  b) If further opportunities after expiry of 7 days need to be given, to complete the required documentation, the same ought to be given after due consideration of the representation by the donor or recipient, with a strict deadline.	a) Maximum 7 days should be given to the recipient or/and donor for responding to the deficiencies in respect of required documents.
3	Upon expiry of the above-mentioned timeline of 7 days or the extended time as applicable, the case should be presented to the Authorization Committee and the Authorization Committee shall decide regarding scheduling of interview or not for want of documents.	The decision of Authorisation Committee regarding scheduling of interview will be communicated to the donor and recipient within 3 days.
4	<u>Scheduling Interviews by the Authorization Committee</u>  a) Schedule and Conduct the interview of the donor/recipient on one or two occasions.  b) If there are deficiencies then the same will be communicated to the donor or/and recipient.  c) Time to be given to donor/recipient to complete the deficiencies  d) Documents related to the case shall be provided to the members the of Authorization committee (State/District/Hospital based authorization committee).  e) Communication of final decision of Authorization Committee in respect of grant of permission or rejection for transplant as per Rule 23(3) of Transplantation of Human Organs and Tissues Rules, 2014 "Every authorized transplantation center must have its own website and the Authorization Committee is required to take final decision.	a) The interview ought to be scheduled within 7 working days from the date of receipt of all required documents or if otherwise permitted by Authorization Committee.  b) Communication of deficiencies within 24 hours of conduct of interview.  c) Maximum 7 days shall be given to the donor/recipient to complete the deficiencies.  d) Atleast 3 days before the scheduled interview for scrutiny & necessary examination by the members of the Authorization committee.  e) The decision of Authorization Committee should be displayed on the website of the hospital within 24 hours of holding its final meeting for the case.
5	Verification document as per Form 20 of the 2014 Rules	Form No. 20 by tehsildar must be issued within 14 days after the application has been made.
6	Form No. 21 should be issued by the concerned embassy in India after the application has been made by foreigner donor or recipient.	Within 7 days
7	The entire process, from submission of documents to decision.	Ought not to exceed 6 to 8 weeks

**Notes:**

1. e-Aadhar verification of identity of the donor and recipients should be mandatory in both near relative or other than near relative living donor.
2. Donation from a Minor living organ donor shall not be considered without the prior approval of the Appropriate Authority and the State Government concerned. It will be considered strictly as per the Guidelines as may be notified by MoHFW, Govt. of India.
3. No swap transplant between a pair of Foreigner donor and recipient and a pair of Indian donor and recipient shall be considered by the Authorization Committee as under THOTA 1994, no Indian donor can donate to a Foreigner unless he/she is a near relative and this is an overriding clause.

**Appeal Process:**

Under Rule 33, any appeal against an order of Authorization Committee should be decided within a maximum of 30 days (preferably within 7 days after documents are received) after receiving the application of appeal.

4. Ld. Counsel for the Petitioner has also perused the same.
5. The Court has noted that specific timelines have now been fixed for almost all the steps taken by the Authorization Committee. It is further clarified that whenever communication needs to be given to either the donor or the recipient regarding deficiencies in documentation or any procedural formalities, a communication shall be sent by email or to the mobile number via WhatsApp to the said donor or the recipient or any of their close relatives, ensuring that there is proof of communication.
6. With this modification, let the timelines as contained in communication dated 3rd May, 2024 be implemented by all the Authorization Committees, which function under the Transplantation of Human Organs and Tissues Act, 1994. Let adequate publicity be given to the timelines and this order, so that there is proper compliance by all concerned stakeholders including hospitals and governmental authorities.
7. Compliance of the judgment is recorded in the above terms. No further orders are called for in this petition.

**PRATHIBA M. SINGH**  
**JUDGE**

**MAY 20, 2024/dk/dn**