

Court No. - 3

Case :- WRIT - C No. - 560 of 2022

Petitioner :- Furkan Ali And Another

Respondent :- State Of U.P.Thru.Prin.Secy.Medi.Edu.And Train.Gov.Of U.P.Civil Sect.Lko And 2 Others

Counsel for Petitioner :- Shreya Chaudhary,Rinku Kumar Verma

Counsel for Respondent :- C.S.C.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Narendra Kumar Johari,J.

Heard Ms. Shreya Chaudhary, learned counsel for the petitioner and Shri V.P. Nag, learned Standing Counsel, who has accepted notice on behalf of the State/opposite party Nos. 1 and 2.

The petitioner No.1 is the father-in-law of petitioner no.2. Petitioner No.1 is suffering from a serious liver ailment and has been advised for liver transplant. The ailment of petitioner No.1 continues from the year 2013, however, liver cirrhosis was detected in the year 2019, whereafter his health has further deteriorated.

The marriage of the elder son of petitioner No.1 is said to have been solemnized with petitioner No.2 on 20th December, 2020. It is the love and affection that has emerged during this period coupled with some old relationship between the families that the petitioner No.2 having the same blood group has come up with a voluntary consent on her part to donate her liver in requisite proportion and help the petitioner No.1 who is struggling with life and death.

The prayer on being referred to the Authorization Committee at the district level was rejected by an order contained in Annexure No.1 to the writ petition. It is this order, against which an appeal, simultaneous to the present writ petition is pending. The delay in the disposal of pending appeal has occasioned the filing of present writ petition interalia for the reliefs as under :-

"(i) To issue a writ, order or direction in the nature of Certiorari setting aside the impugned order BH/2022/255-I received on 21.01.2022, passed by Respondent No.2 and 3 contained as Annexure-1 to this Writ Petition.

(ii) To Issue a writ, order or direction in the nature of Mandamus commanding the Respondents to allow the transplantation of liver tissues from petitioner no.2 to petitioner no.1."

We hereby direct the competent authority i.e. opposite party No.1 to decide the pending appeal not later than a period of two days from today.

Shri V.P. Nag, learned Standing Counsel prays for time to apprise the court about the outcome of appeal on the date fixed.

In the interest of justice, the court proceeded to call upon the petitioner No.2 in person through virtual mode. The petitioner No.2 is an uneducated person but her willingness to donate the requisite part of her liver to petitioner No.1, from the queries that were made, appears to be driven out of her love and affection towards the family and on account of good behaviour of her mothr-in-law in particular. In these circumstances, we are unable to gather any doubt about the bonafide of petitioner No.2 or any commercial deal in relation thereto.

In the circumstances of the case, pending decision on appeal, we hereby provide that petitioner No.2 may be examined by the medical experts attending on petitioner No.1 within a day and a report of her being a potential doner may be submitted to this Court on or before 4th February, 2022. The petitioner No.2 is permitted to appear for necessary examination before the Head of Department, Surgical Gastroenterology, King George's Medical University, U.P., Lucknow, on 3rd February, 2022 at 11.30 A.M.

Let the court be apprised about the compliance of this order on the next date fixed, i.e. on 04.02.2022. Shri V.P. Nag, learned Standing Counsel, undertakes to forward a copy of this order to the Principal Secretary, Medical Education, U.P., and also to the Registrar, KGMU, Lucknow. He may also apprise the court about its compliance on the next date fixed. It is open to KGMU, Lucknow to inform this Court through their own counsel.

List the case on 4th February, 2022, in the list of fresh cases.

Order Date :- 2.2.2022

ML/-