



One India One Law

— The Voice of Organ Donors & Recipients —

A Foreign Embassy or Consulate No Objection Certificate (NOC) is not required when a foreign-born citizen of Indian origin wishes to undergo organ donation or transplant in India as per action of the Gujarat Government.

In this specific case, a British citizen of Indian origin, holding an OCI card, expressed her desire to donate a kidney to her brother who resides in India. She was connected with a reputed religious organization in Gujarat.

However, the Gujarat Government Ethics Committee refused to grant approval for the transplant unless she obtained an NOC from the British High Commission. The British High Commission, on the other hand, declined to issue the NOC, stating that it was a private matter between two individuals, and British law does not require or provide such a certificate.

Faced with this situation, the sister filed a writ petition in the Gujarat High Court on July 4, 2023. The case was presented before the court on July 6, 2023.

Prior to the commencement of the hearing, the lawyer representing the Government of Gujarat Ethics Committee presented a letter dated July 5, 2023, giving consent for the transplant operation to the Honourable High Court.

Taking this consent into consideration, the Honourable High Court issued an order accordingly and disposed of the petition.

Since the approval for the organ transplant was granted by the Gujarat Government Ethics Committee without the requirement of an NOC from the British High Commission, it can be inferred that obtaining an NOC from a foreign high commission was not necessary. It appears that the Gujarat Government Ethics Committee officers intentionally misinterpreted the matter, for reasons known only to them.

Please share this with others who may need this information.

We invite you to join our Organ Donor and Recipient community to stay updated on organ law-related developments by following this link: <https://chat.whatsapp.com/D7QqbVUE7OS5SOy2MyU4Jr>

Thank you for your time and support.

Much more work needs to be done.

Best regards,

The OneIndiaOneLaw.org

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11567 of 2023

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PARIKSHITA CHANDUBHAI PATEL

Versus

GOVERNMENT OF INDIA

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Appearance:

MR MITUL SHELAT WITH MS DISHA N NANAVATY(2957) for the
Petitioner(s) No. 1

MR DEVANG VYAS, ADDL. SOLICITOR GENERAL OF INDIA WITH MR
SIDDHARTH DAVE for Respondent No.1

MS MANISHA LAVKUMAR SHAH, GOVERNMENT PLEADER WITH MR KM
ANTANI, AGP for the Respondent(s) 2

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE MR. JUSTICE

A.J.DESAI

and

HONOURABLE MR. JUSTICE BIREN VAISHNAV

Date : 06/07/2023

ORAL ORDER

(PER : HONOURABLE THE ACTING CHIEF JUSTICE MR. JUSTICE A.J.DESAI)

1. By way of the present petition filed under Article 226 of the Constitution of India, the present petitioner has prayed as under :

"A) this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction declaring Rule 20 of Transplantation of Human Organs & Tissues Rules, 2014 to be illegal and unconstitutional and be further pleased to declare that the provisions of Rule 18 would be applicable even in respect where the donor or recipient is a foreigner, Annexure P-6.

B) Pending admission and final hearing of the present petition, this Hon'ble Court be pleased to stay the implementation and operation of Rule 20;

C) Pending admission and final hearing of the present petition, this Hon'ble Court be pleased to direct the respondent authorities to authorize the transplantation of the petitioners kidney to her brother subject to such terms and conditions as may be deemed fit and appropriate by this Hon'ble Court;

D) Pass any other order(S) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. We have heard learned advocates appearing for the respective parties.

3. Learned Government Pleader Ms.Shah appearing for the State authorities has placed an approval dated 05.07.2023 signed by the Chairman, Authorization Committee and Additional Director of Medical Education and Research, Gandhinagar, addressed to the Medical Director, Muljibhai Patel Urological Hospital, Dr.Virendra Desai Road, Nadiad. A copy thereof is supplied to the learned advocate for the petitioner.

4. Considering the above approval, Mr.Shelat, learned advocate with Ms.Disha Nanavaty, learned advocate for the petitioner does not press this petition.

5. Accordingly, the petition stands disposed of as not pressed.

(A.J.DESAI, ACJ)

GAURAV J THAKER

(BIREN VAISHNAV, J)