


NAGALAND STATE HUMAN RIGHTS COMMISSION  
ORDER SHEET

CASE NO.16/2024

Name of the complainant: Suo moto

Respondents: The State of Nagaland represented by;

- 1) The Chief Secretary to the Government of Nagaland.
- 2) The Commissioner & Secretary to the Government of Nagaland and
- 3) The Principal Director, Health & Family Welfare.

Record of the steps taken (To be entered by the office)		Orders/Proceedings of the Commission
	Step (s) taken	<p style="text-align: center;"><b>RECOMMENDATION</b> 05.09.2024</p> <p>Subject matter: The Transplantation of Human Organs Act, 1994 and the Transplantation of Human Organs (Amendment) Act, 2011.</p> <ol style="list-style-type: none"><li>1. Due to our concern for the healthcare facilities available in the State, we have travelled across at least six districts and through our interactions with the doctors and the public we have come to learn that there are a number of people who require organ transplantation but are unable to afford the expenditures required for the same. As a case study, we have made our inquiries in respect of kidney patients in the State who requires transplantation. From the hospitals (both government and private) and other sources we have come to learn that the number of people availing the dialysis facilities is quite large. This is an indication that there are many kidney patients in the State requiring transplantation. Besides this, we have also come to know from other sources that many people go outside the State for unavoidable kidney transplantation to save their lives. Some go with reference or recommendation of the doctors and Medical Board of the State, and some go on their own. Between 2022 and 2024, twenty four persons went outside the State for kidney transplantation. This is just tip of the iceberg as many others also went without any reference and sponsorship. Considering the need, the Commission is of the view that the State government should do something to alleviate the suffering of the people of the State especially for those who are in the economically disadvantaged category by establishing facilities for organ transplantations which are at least viable and doable.</li><li>2. In 1994, the Transplantation of Human Organs Act was passed by the parliament of India following resolutions passed in the Legislatures of three States namely; Goa, Himachal Pradesh and Maharashtra under Article 252 (1) of the Constitution of India. The Act provides for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for</li></ol> 

matters connected therewith or incidental thereto. The provisions of the Act came into force in the three States immediately after it received assent of the President of India and was notified by the Central Government.

The Act was amended in 2011 by the Parliament by passing the Transplantation of Human Organs (Amendment) Act, 2011, which received the assent of the President on 27<sup>th</sup> September, 2011. Two years thereafter, the Central government, as empowered under section 24 of the Transplantation of Human Organs Act, 1994, made the Transplantation of Human Organs and Tissues Rules, 2012. Both the original and the amended acts have been adopted by all the States perhaps except for the State of Andhra Pradesh and Nagaland. The State of Andhra Pradesh did not adopt the Act because they have their own Act. On our query, all the states in the North-East India have also adopted the Act. Some of the resolutions passed by the Legislatures of the NE States and notifications issued by the State governments are annexed herewith for kind reference.

3. Taking kidney transplantation as a case study, as stated above, we have had at least two rounds of discussions with the doctors of Naga Hospital Authority, Kohima and in the course of our discussions we came to know that there is already an urologist who is competent to perform the surgery and an operation theatre which is equipped enough to facilitate the same with a little renovation and improvement. The only personnel that is not available at the moment is a nephrologists. There are two Naga nephrologists (super specialist) who are available but at present working in private hospitals in Dimapur. If at least one of them could be brought to Naga Hospital, his full potential would be utilised and the trouble and hardship faced by the people in need of kidney transplantation would also be reduced to a great extent. In fact, there were some suggestions from the side of some doctors that, for a start, some doctors from outside can even be requested to come and help for few months on payment of their travelling expenses. Considering all these and the other relevant factors, we are of the view that it is viable to start kidney transplantation atleast at Naga Hospital, Kohima with some effort.
4. Further, we have also come to know that we already have a number of eye specialists and specialist in other fields but we are in acute shortage of super-specialist. For this, we would suggest that, the State Government, by taking advantage of the **National Organ Transplantation Programme for carrying out the activities given in the amended Act, training of manpower and promotion of organ donations from deceased persons,** which in fact, was highlighted by none other than the Prime Minister of India through his Mann Ki Baat program broadcast in October and November, 2015 send a request to the Ministry of Health and Family Welfare for allotment of at least some seats of super specialist in subjects which we require the most as a special case. We have no doubt that the Central government, taking into account our dire needs and special circumstances would sympathetically consider the same.



5. Taking into consideration the urgent need of having facilities for human organ transplantations in the state and the already available resources both in the government hospitals and the private hospitals, we are of the view that if the necessary legislation is either enacted or brought in by adoption of the existing acts i.e. the Transplantation of Human Organs Act, 1994 and the Transplantation of Human Organs (Amendment) Act, 2011, the most needed service can be provided by at least some of the existing government hospitals and the private hospitals with a little improvement in terms of manpower and infrastructures. We are tempted to add here the old adage – if there is a will there is a way.

In view of what has been stated above, we have been compelled to draw the attention of the State Government to consider the matter and if found necessary move the State Legislative Assembly for passing a resolution for adoption of the aforementioned Acts in the interest of the public.

The Secretary/Registrar shall convey the recommendation to the three respondents along with copies of the Acts and the Rules and the resolutions passed by Legislative Assemblies of the North-Eastern States and the notifications issued by their respective State governments for information and necessary action. Let a copy also be send to the Principal Secretary of the CMO as advance information.



(Member)



(Chairperson)