

**GOVERNMENT OF INDIA
MINISTRY OF HEALTH AND FAMILY WELFARE
DEPARTMENT OF HEALTH AND FAMILY WELFARE**

**LOK SABHA
UNSTARRED QUESTION NO. 1351
TO BE ANSWERED ON 9TH FEBRUARY, 2024**

DONATION OF KIDNEYS IN PRIVATE HOSPITALS

1351. SHRIMATI MALA ROY:

Will the Minister of **HEALTH AND FAMILY WELFARE** be pleased to state:

- (a) whether the Government is aware that poor people from neighbouring nations are being forced by private hospitals to donate their kidneys;
- (b) whether despite the changes in the transplantation laws such incidents are still happening; and
- (c) whether the Government proposes to stop such unconscientious behaviour of private hospitals where both law of the land and International human rights norms are being violated?

**ANSWER
THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY
WELFARE
(PROF. SATYA PAL SINGH BAGHEL)**

(a) to (c) 'Health' and 'Law & Order' are State subjects. Thus, it is primarily the responsibility of the respective State Government to take cognizance of incidents of poor people from neighbouring nations being forced by private hospitals to donate their organs and take appropriate action as per the provisions of law. Whenever such complaints are received by the Ministry of Health and Family Welfare, these are forwarded to concerned State for necessary action. Section 13 of The Transplantation of Human Organs and Tissues Act, 1994 (THOTA) provides for an Appropriate Authority to be appointed by the State Government for the purposes of this Act, who is empowered to investigate any complaint of breach of any of the provisions of the Act and Rules thereunder and take appropriate action.

As per the provision of THOTA, in case of foreign national, prior approval of the Authorization Committee is required before removing or transplanting organ or tissue or both. Further, Rule 20(a) of The Transplantation of Human Organs and Tissues Rules, 2014 provides the procedure for transplant in case of foreigners. When the proposed donor or the recipient are foreigners, a senior Embassy official of the country of origin has to certify the relationship between the donor and the recipient as per Form 21 of THOTA, and in case a country does not have an Embassy in India, the certificate of relationship, in the same format, shall be issued by the Government of that country. Form 21 also has provision for certification of authenticity of identification and verification documents of donor and recipient by aforesaid senior Embassy official. As per the provisions of aforesaid Rules, the

Authorization Committee and senior Embassy official are also required to assess and certify that donation is out of love and affection; there is no financial transaction between recipient and donor; and there is no pressure or coercion on the donor.

Implementation of aforesaid provisions of the Act and Rules is within the ambit of respective State Government. However, the Government of India has set up a National Organ & Tissue Transplantation Organisation (NOTTO), Regional Organ and Tissue Transplant Organizations (ROTTOs) and State Organ and Tissue Transplant Organizations (SOTTOs) under the National Organ Transplant Program (NOTP), which conduct regular awareness/sensitization sessions and activities on various legal and ethical aspects of organ donation and transplantation for different stakeholders, namely State Government representatives, Legal representatives, Police personnel, Non-Governmental Organizations, healthcare professionals of Institutions/Hospitals, etc.
