

**GOVERNMENT OF INDIA
HEALTH AND FAMILY WELFARE
LOK SABHA**

UNSTARRED QUESTION NO:3456
ANSWERED ON:22.12.2004
REVIEW OF ORGAN TRANSPLANT ACT
Subbarayan Shri K.

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

(a) whether the Delhi High Court has ordered a review of the Organ Transplant Act and the formation of a committee in view of the exploitation of the poor in organ donation and suggest methods to eradicate this; and

(b) if so, the details thereof and the Government's reaction thereto ?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH & FAMILY WELFARE (SMT. PANABAKA LAKSHMI)

(a) and (b): A Committee has been constituted by Hon`ble Delhi High Court (as per the judgment dated 6.9.2004 in W.P. No. 813/2004) to review the provisions of the Transplantation of Human Organs Act, 1994 and the Transplantation of Human Organs Rules,1995. Constitution of the Committee & terms of reference are Annexed. The Committee has started functioning.

Composition of the Committee:

The composition of the committee is as follows:-

1. Smt. P.Jyoti Rao, Addl. Secretary(Health) - (Nominee of Secretary (Health) & Convenor)
2. Prof. S.N.Mehta, Head of Deptt., Surgery Deptt., AIIMS - (Memebr)
3. Dr.Harsh Johri, Renal Surgeon, Sir Ganga Ram Hospital, Delhi _ (Member)
4. Secretary, Indian Medical Association, I.P. Estate, New Delhi 110 002 - (Member)
5. Mr.Sanjay Jain, Advocate, Chamber no.488, New Chambers block, Delhi High Court, New Delhi - (Member)
6. Dr.V.K.Arora, Addl. D.G. (Member Secretary)

Terms of reference of the Committee

1. Based on the data available on the transplantation of organs and the working of the Authorisation Committees, the Committee to examine and make its recommendations on the composition of Authorisation committees and changes, if any, required to ensure timely permissions.
2. Whether the jurisdiction of the Authorisation Committees should be enlarged by bringing within its ambit the process of certifying a `near relative` or the task be assigned to another designated authority?
3. Review the provisions of the Act and Rules based on the experience of transplantation of organs as carried out and the difficulties arising due to the bottlenecks faced in the said process. The Committee to examine in particular provisions of Section 9 and requirement of carrying out the tests prescribed in Rule 4, certification in Form-3 to review the definition of `near relative` and make its recommendations in the light of the observations made.
4. Examine and specify the organs for transplantation of which the tests prescribed in Rule 4 (1) (c) to establish the factum of being `near relative` need not be carried out when other evidence is available.
5. Examine the feasibility of establishing and setting up Organ Procurement Organizations with data bank to facilitate the dissemination of information on availability of organs for transplantation to encourage organ donation especially from cadavers, cases of brain stem deaths and other deceased persons, who had authorized removal of organs upon demise.

6. Examine the feasibility of creation of a fund, the corpus to be provided partly come from the Union of India and partly by levying a fixed charge on the total bill of the hospital for transplantation and/or public donations, for providing social incentives to a donor.
7. Examine and recommend ways and means to give such incentives, including but not limited to help and aid any preferred health care, recognition and honour to a donor in the community.
8. Examine the causes that lead to exploitation of poor and unaware persons in the process of organ donation and suggest methods to reduce, control and untimely eradicate such malpractices. Recommend programmes for dissemination of correct information ethical, legal and devising procedure concerning organ donation so that a conducive atmosphere is generated and disinformation and misgivings are dispelled.
9. Any other mater relevant to the subject.