



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.31513 of 2026

CNR No. ODHC010735722026

Benumadhab Mahapatra

....

Petitioner

Mr. S. Sourav, Advocate

-Versus-

State of Odisha & others

....

Opposite Parties

Mr. S.K. Parhi, ASC

CORAM:

MR. JUSTICE R.K. PATTANAIK

**Order
No.**

**ORDER
30.09.2026**

01. 1. Heard Mr. Sourav, learned counsel for the petitioner and Mr. Parhi, learned ASC for the State.
2. Instant writ petition is filed by the petitioner assailing the decision of the Referral Committee of the SCB Medical College and Hospital, Cuttack dated 9th September, 2026 to the extent indicated, whereby, he has been referred for liver transplantation and to direct opposite parties and in particular, opposite party No.4 to refer him to Kalinga Institution of Medical Science (KIMS), Bhubaneswar in terms of the Government Resolution dated 4th March, 2014`and to sanction and release medical advance of Rs.36,26,200/- in his favour for such treatment at KIMS, Bhubaneswar on the basis of the estimates furnished by the said hospital subject to final adjustment in accordance with the Rules applicable.
3. Referring to a case of similar nature and the decision of the Referral Committee therein as at Annexure-3 series, Mr.



Sourav, learned counsel for the petitioner submits that the petitioner is required to go for liver transplantation and has been so recommended by the Referral Committee vide Annexure-14 series to any other higher Govt. facility/AIIMS, Bhubaneswar which is not a Referral Hospital and while claiming so, Annexure-A of the Government's Resolution as at Annexure-1 is brought to the notice of this Court. The further submission is that the procedure for treatment in Government Health Institutions and other Referral Hospital inside and outside the State is governed by the Resolution (supra) dated 4th March, 2014 of the Government in Health and Family Welfare Department and Mr. Sourav, learned counsel refers to Para-2 of the guidelines issued in that respect permissible on the grounds, such as, (a) on non-availability of the treatment in the concerned Medical Colleges/DHH; and (b) for inordinate delay in availing such treatment. Further referring to Para-3 of the same, it is submitted that the treatment shall be at a Referral Hospital as mentioned at Annexure-A to the Resolution (supra). It is submitted that KIMS, Bhubaneswar is not a Referral Hospital as per said Annexure-A and hence, therefore, the liver transplantation of the petitioner is to be held at KIMS, Bhubaneswar for the non-availability of such treatment in any other Government Hospital/DHH. The contention of Mr. Sourav, learned counsel is that the Referral Committee of SCB Medical College and Hospital though recommended liver transplantation of the petitioner as a definitive treatment with urgent migration but such recommendation is to any other



Higher Government Hospital, obviously, AIIMS, Bhubaneswar which is, however, not a Referral Hospital as per Annexure-A to the Government Resolution i.e. Annexure-1 so therefore to that extent, it shall have to be interfered with. The submission is that the petitioner needs immediate medical attention and therefore, in order to ensure liver transplantation at the earliest, the Referral Committee's recommendation shall have to be modified so that he receives treatment at KIMS, Bhubaneswar and also with a direction to the opposite parties to release the medical advance in his favour for the said purpose.

4. In support of the contentions advanced, Mr. Sourav, learned counsel cites a decision of a Co-ordinate Bench of this Court in **Sukadev Sahoo Vrs. The Commissioner-cum-Secretary, Govt. of Odisha, Bhubaneswar, Health and Family Welfare Department and others** in W.P.(C) No.6405 of 2018 dated 23rd September, 2024, wherein, a case for post-facto referral was considered directing full reimbursement of the medical bills. The submission is that the petitioner's case is for a referral and not post-facto and only for a direction to consider such recommendation of the Referral Committee for his liver transplantation at KIMS, Bhubaneswar which has the facility in absence of any such provision in other Government Hospitals except AIIMS, Bhubaneswar with the submission of Mr. Sourav, learned counsel to the effect that it is not a Referral Hospital as per the Government Resolution, hence, to that extent, the decision dated 9th September, 2026 at Annexure-14 shall have to be set aside/modified.



5. Recorded the submission of Mr. Parhi, learned ASC for the State and according to him, the Govt.'s Resolution is of the 2012, he is required to take instructions thereon. In response to the above, Mr. Saurav, learned counsel submits that as on date, AIIMS, Bhubaneswar is still not included therein as a Referral Hospital, a claim, which this Court accepted at its face value.

6. This Court in **Sukadev Sahoo** (supra), considering the post-facto referral and in view of the medical emergency of the petitioner therein directed full reimbursement taking a compassionate and holistic view of the matter directing the Government to provide adequate help line to the Government employees, who incur overwhelming medical expenses and its reimbursement. Having regard to the Government Resolution i.e. Annexure-1, this Court is of the view that even though such a recommendation has been made by the Referral Committee for liver transplantation of the petitioner in any Higher Government Hospital/AIIMS, Bhubaneswar but having regard to the fact that no such facility/provision anywhere available and that, AIIMS, Bhubaneswar is not a Referral Hospital as prima facie made to reveal from Annexure-1, this Court, recording the submissions of learned counsel for the respective parties, is inclined to modify/set aside of the Referral Committee's decision at Annexure-14 directing such treatment of the petitioner for his liver transplantation at KIMS, Bhubaneswar with the following consequential directions issued herein below.



7. Accordingly, it is ordered.

8. In the result, the writ petition stands disposed of with the direction as aforesaid. It is directed that opposite party No.4 shall refer the case of the petitioner to KIMS, Bhubaneswar for liver transplantation in terms of the Government Resolution dated 4th March, 2014 and also to ensure sanction and release of medical advance of Rs.36,26,200/- in view of the estimates received from the said hospital subject to final adjustment in accordance with the Rules in place. As a necessarily corollary, the decision of the Referral Committee as at Annexure-14 is hereby modified/set aside to the extent indicated as above and to further direct opposite party No.2 to comply the same. It is further directed that the above exercise with the release of the medical advance in favour of the petitioner shall be concluded at the earliest preferably any time before 5th October, 2026 in view of the emergent situation.

9. Issue urgent copy of this order as per rules and in course of the day and be uploaded today in the Court's website.

10. A copy of the order be also handed over to Mr. Parhi, learned ASC for the State for its onward intimation to opposite party Nos.2 and 4 and early compliance.

Signature Not Verified

Digitally Signed
Signed by: THAKURDAS TUDU
Reason: Authentication
Location: OHC, CTC
Date: 30-Sep-2026 18:56:39



(R.K. Pattanaik)
Judge