



# Protocol breached in Tamil Nadu organ transplant case, says probe

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## Highlights

- 'Salem case attracts provisions under Transplantation Act and IPC sections'
- An investigation ordered by the Tamil Nadu government into the retrieval of organs from a brain dead patient at a private hospital in Salem district in May this year has found that the harvested heart and lung were allocated to two foreign nationals in two corporate hospitals in Chennai without adopting the stipulated protocol for allocation.
- In one case, the organ was allotted to a foreigner although it was requested for an Indian patient in the waitlist of organ recipients.
- Recipients of the heart and lung died shortly after the transplant surgeries were performed.
- The inquiry officer has concluded that two outsourced staff of the Transplant Authority of Tamil Nadu (TRANSTAN) had violated norms, by allocating the kidney to a different patient, and shifting allocation to benefit recipients admitted to the Chennai hospitals.
- Engaging of the outsourced staff at TRANSTAN was done in 2014.
- The two TRANSTAN outsourced staff "wilfully put the wrong UID (unique identity number)" to facilitate the bypassing of patients. "In addition they did not update the TRANSTAN registry or the website of the changed recipient numbers," it said.
- The report said the offences made out in the Salem case attracted the provisions under Section 18 (Punishment for removal of human organ or tissues or both without authority) of The Transplantation of Human Organs and Tissues Act, 1994, and Section 465 (forgery), 420 (cheating) read with 120B (criminal conspiracy) of IPC.
- Investigators noted that the counselling for family members, which should have been done by the grief counsellor of the private hospital as per the TRANSTAN guidelines, was done by its Chief Operating Officer (COO).
- The organ utilisation certificate in this case did not mention the nationality of the citizen who underwent the transplant.
- The change in allocation was done privately over the personal mobile phones of TRANSTAN coordinators and the transplant team of the corporate hospital.
- The report recorded the testimony of a TRANSTAN official that that in one case, a senior bureaucrat in the State government had intervened directing him to "allocate immediately" an organ for a patient in a corporate hospital.
- Investigation revealed that the hospital authorities gave a variety of reasons to justify the decision. Incidentally, the organs used by the two corporate hospitals in Chennai were refused by other hospitals since they were of "poor quality."
- In another case TRANSTAN coordinators not only allowed a private hospital in a southern district — neither licensed for transplantation nor authorised to declare a patient brain dead — to declare a patient brain dead in November 2016 but allotted the

heart of the donor to an international patient in Chennai.

### **Additional Info:**

#### **The Transplantation of Human Organs and Tissues Act, 1994**

- Human organ and tissue transplantation was started in India in 1962.
- Initially, the organ transplant was unregulated, and organ trafficking was rampant.
- The act governing the transplantation was passed in 1994.
- This has been subsequently amended in 2011, and new rules came into force in 2014.
- Many of the students as well as practicing physicians are not aware of the act as it is generally not a part of the curriculum.

### **Purpose**

- The primary legislation related to organ donation and transplantation in India, Transplantation of Human Organs Act, was passed in 1994 and was aimed at regulation of removal, storage, and transplantation of human organs for therapeutic purposes and for prevention of commercial dealings in human organs.
- In India, matters related to health are governed by each state.
- The act was initiated at the request of Maharashtra, Himachal Pradesh, and Goa (who therefore adopted it by default) and was subsequently adopted by all states except Andhra Pradesh and Jammu and Kashmir.
- Despite a regulatory framework, cases of commercial dealings in human organs were reported in the media.
- An amendment to the act was proposed by the states of Goa, Himachal Pradesh, and West Bengal in 2009 to address inadequacies in the efficacy, relevance, and impact of the act.
- The amendment to the act was passed by the parliament in 2011, and the rules were notified in 2014.
- The same is adopted by the proposing states and union territories by default and may be adopted by other states by passing a resolution.
- There are some differences between act of 1995 and subsequent rules passed in 2014.

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