No.U6-768/2018/PHQ
Police Headquarters, Kerala
Thiruvananthapuram-695010
Dated: 04/01/2018

EXECUTIVE DIRECTIVE No. **01 / 2018**

Sub:- **Transplantation of Human Organs and Tissues Act, 1994 - Brain death Certification – Inquiry by the Police – Instructions** – reg.

Read: (1) G.O.(Ms) No.16/2017/H&FWD dated 01/02/2017 of Health & Family Welfare department.
(2) Judgment of the Hon'ble High Court of Kerala in WP(C) No.5552/2017 dated 28/06/2017

Hon'ble High Court, vide judgment 2nd cited. had held that the State have to take special or extraordinary care against medical fraud and malpractice so as to ensure that hospitals stick to highest level of medical ethics and follow the law strictly, and any failure or slip in the process or the procedure must be dealt very seriously. The judgment was pronounced against the alleged malpractice in declaring a patient to be brain dead when he, in fact, is not brain dead, only with the intention to facilitate harvesting of organs for transplantation. State Government have issued revised guidelines for brain death certification, vide G.O. 1st cited, pursuant to the filing of the Public Interest Litigation before the Hon'ble High Court of Kerala. The Writ Petition was accordingly dismissed by the Hon'ble High Court (Copies of Government Order and judgment attached).

02. It has been brought to the notice of the undersigned that the Doctors / Neuro Surgeons who have certified brain death are being subjected to inquiry by Police Officers without perusing the transplant records that are officially available at the Kerala Network for Organ Sharing (KNOS). Retrieving organs from persons who suffer brain death with the consent of the relatives and transplanting them to patients who need them is an indispensable practice to prevent death of patients threatened with end stage organ damage. If the doctors, who have to spend hours to certify a brain death, are unnecessarily harassed by the Police without obtaining authoritative information about the details of the transplant records of a given case, it may interrupt the organ transplantation programme to a great extent and human lives will be at stake.

03. Certification of brain death is a highly technical process and the Police have to first ascertain whether there has been complications with respect to the organ transplantation undertaken in any case where complaint has been received. For this, they have to verify the transplant records that are officially available at the KNOS. If clarification is found required on any point in any case, it is to be obtained from the Nodal Officer, KNOS, Government Medical College, Thiruvananthapuram, in the first instance. Thereafter, if further investigation is found required, the doctor who certified the brain death can be approached. Then investigation can also be made at the hospital for verification of records, if found required.

04. The above procedure is to be strictly adhered to by all Officers concerned, when complaints are received regarding human organ transplantation undertaken in any hospital, whether government or private.

Loknath Behera IPS
Director General of Police &
State Police Chief, Kerala.

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