



2024:KER:96334

W.A.Nos.1857 & 1865 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

WEDNESDAY, THE 18TH DAY OF DECEMBER 2024 / 27TH AGRAHAYANA, 1946

WA NO. 1857 OF 2024

AGAINST THE JUDGMENT DATED 23.10.2024 IN WP(C) NO.34174 OF 2024 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

ASHA LAWRENCE
AGED 54 YEARS
D/O M.M.LAWRENCE
FLAT NO.41, NARMADA APARTMENTS, DR.B.D.MARG, NEW DELHI,
PIN - 110001

BY ADVS.
KRISHNA RAJ
R.PRATHEESH (ARANMULA)
E.S.SONI
SREERAJA V.
LAXMI PRIYAA N.P.

RESPONDENTS/RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
DEPARTMENT OF HEALTH, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, PIN – 695001.
- 2 D.I.G AND COMMISSIONER OF POLICE
POLICE COMMISSIONERATE, ERNAKULAM, PIN – 682017.
- 3 STATION HOUSE OFFICER
ERNAKUALAM KAZABA POLICE STATION KACHERIPPADI
ERNAKUALAM, PIN - 682026



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- 4 GOVERNMENT MEDICAL COLLGE, KALAMASSERY
REPRESENTED BY ITS PRINCIPAL H.M.T.COLONY, NORTH
KALAMASSERY, PIN - 683503
- 5 M.L.SAJEEVAN
S/O.M.M.LAWRENCE, RESIDING AT BETHEL, ST.SEBSTIAN ROAD
ELAMKULAM, PIN - 682020
- 6 SUJATHA BOBAN
D/O M. M. LAWRENCE HEBRON, VAKKATTU ROAD NEAR HOLIDAY
INN HOTEL, CHAKKARAPARAMBU, ERNAKULAM, PIN – 682032.
- 7 VICAR
ST.FRANCIS XAVIERS CHURCH, KATHRIKADAVU, KALOOR,
ERNAKULAM, PIN – 682017.
- 8 COMMUNIST PARTY OF INDIA (MARXIST)
REPRESENTED BY ITS DISTRICT SECRETARY, LENIN CENTER,
BANERJEE ROAD, KALOOR, ERNAKULAM, PIN – 682017.
- 9 PRATHAP SOMANATH
PRINCIPAL, GOVERNMENT MEDICAL COLLGE, KALAMASSERY
H.M.T.COLONY, NORTH KALAMASSERY ERNAKULAM, PIN – 683503.
- 10 DR.GANESH MOHAN
MEDICAL SUPERINTENDENT GOVERNMENT MEDICAL COLLEGE,
KALAMASSERY H.M.T.COLONY, NORTH KALAMASSERY
ERNAKULAM, PIN - 683503

BY ADVS.

SHRI.N.MANOJ KUMAR, STATE ATTORNEY -FOR R 1 TO R4

SRI.V.V.SIDHARTHAN (SR.) -FOR R5

SRI.D.G.VIPIN – FOR R5

SRI.B.S.SWATHIKUMAR- FOR R6

SRI.N.N.SUGUNAPALAN (SR.)(MEDIATOR)

SMT.MANISHA V.V-FOR R5

SMT.ANNA ROSE NAMBADAN- FOR R5

SHRI.DANIEL A.J.-FOR -R5

SMT.AKHILA SHUKKOOR VELIYAVEET'TIL-FOR R6

SHRI.P.M.BENZIR- FOR R6

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 12.12.2024, ALONG
WITH WA.1865/2024, THE COURT ON 18.12.2024 DELIVERED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

WEDNESDAY, THE 18TH DAY OF DECEMBER 2024 / 27TH AGRAHAYANA, 1946

WA NO. 1865 OF 2024

AGAINST THE JUDGMENT DATED 23.10.2024 IN WP(C) NO.34174 OF 2024 OF HIGH
COURT OF KERALA

APPELLANT/6th RESPONDENT:

SUJATHA BOBAN
D/O M. M. LAWRENCE HEBRON, VAKKATTU ROAD NEAR HOLIDAY
INN HOTEL, CHAKKARAPARAMBU, ERNAKULAM, PIN – 682032.

BY ADVS.
B.S.SWATHI KUMAR
HARISANKAR N UNNI
ANITHA RAVINDRAN
K.MINI MOLE (M-1356)

RESPONDENTS/PETITIONER/RESPONDENTS 1 TO 5 AND RESPONDENTS 7 TO 10:

- 1 ASHA LAWRENCE
AGED 54 YEARS
D/O M.M.LAWRENCE
FLAT NO.41, NARMADA APARTMENTS, DR.B.D.MARG, NEW DELHI,
PIN - 110001
- 2 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
DEPARTMENT OF HEALTH, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, PIN - 695001



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- 10 DR.GANESH MOHAN
MEDICAL SUPERINTENDENT GOVERNMENT MEDICAL COLLEGE,
KALAMASSERY H.M.T.COLONY, NORTH KALAMASSERY
ERNAKULAM, PIN - 683503

BY ADVS.

SRI.R.KRISHNA RAJ-R1

SHRI.N.MANOJ KUMAR, STATE ATTORNEY - R2,R3,R4,R5

SHRI.N.N.SUGUNAPALAN (SR.)(MEDIATOR)

SMT.E.S.SONI-SERVED ON -R1

SMT.LAXMI PRIYAA N.P.- -R1

SRI.R.PRATHEESH (ARANMULA)-R1

SMT.SREERAJA V-R1

SHRI.D.G.VIPIN-R6

SRI.V.V.SIDHARTHAN (SR.)-R6

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 12.12.2024, ALONG WITH WA.1857/2024, THE COURT ON 18.12.2024 DELIVERED THE FOLLOWING:



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[CR]

NITIN JAMDAR, C.J.
&
S.MANU, J.

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Dated this the 18th day of December, 2024

JUDGMENT

S.MANU, J.

"I am the master of my fate, I am the captain of my soul."

These are the final words of the short poem "Invictus", written by English poet William Ernest Henley. Everyone wants to be the master of their own fate. But even death may not always be the end of things and even after death, other people may still have a say in one's destiny.

2. These appeals, which we consider to be regretful litigation, are related to the disagreement among his son and daughters over late



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Mr.M.M.Lawrence's mortal remains, presently kept at the Medical College Hospital in Kalamassery.

3. Appellant in W.A.No.1857/2024 is the Petitioner in W.P.(C).No.27134/2024. Sixth Respondent in the Writ Petition is the Appellant in W.A.No.1865/2024.

4. In W.P.(C)No.27134/2024 challenge was against Ext.P6 order issued by the Principal, Government Medical College, Ernakulam assisted by a committee of six other officials. The said order dated 25 September 2024 was issued in compliance with the direction issued by the learned Single Judge of this Court in W.P.(C).No.33350/2024.

5. The controversy is regarding handing over the dead body of late Mr.M.M.Lawrence to the Government Medical College by the 5th Respondent in W.A.No.1857/2024 who is the brother of the Appellants. We refer to the parties hereafter according to their rank in W.A.No.1857/2024. Father of the Appellant and Respondents 5 and 6, Mr.M.M.Lawrence, a well-known political leader, passed away on 21 September 2024. According to the 5th Respondent, Mr.Lawrence



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wanted to provide his corpse to the Government Medical College after demise. He, therefore, reported the wish of the deceased to the authorised officer under the Kerala Anatomy Act, 1957.

6. Annexure A6 is a document signed by Respondents 5 and 6, submitted to the 4th Respondent on 23 September 2024. They stated in Annexure A6 that they were willing to provide the remains of their father to the Government Medical College.

7. Appellant approached this Court on coming to know that the body will be handed over to the Medical College. In W.P.(C).No.33350/2024, she contended that Mr.Lawrence was following Christianity though he was a communist. He was not averse to any religious rituals. She pointed out that Mr.Lawrence continued to be a member of St.Franics Xavier's Church, Kathrikadavu. All functions in the family were conducted by Mr.Lawrence in accordance with Christian rituals. Therefore, she contended that the body of her father should be buried only in accordance with religious practices followed by Christians. She disputed and objected to the stance of the 5th Respondent.



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8. Respondents 5 and 6 entered appearance in W.P.(C).No.33350/2024 and contested the case. They asserted that their father had expressed his desire to the 5th respondent and also to his colleagues and friends, to hand over the body to the Medical College. The learned Single Judge examined the contentions and referred to the provisions of the Kerala Anatomy Act, 1957. Provisions of Section 4A were specifically noticed and the writ petition was disposed of by directing the Principal, Government Medical College, Kalamassery to take a decision after considering the objection raised by the Appellant about the consent claimed to have been given by the deceased, as reported by Respondents 5 and 6.

9. The 4th Respondent formed a committee and conducted hearing on 25 September 2024. Belligerent parties appeared before the committee. The 5th Respondent filed Ext.P11 affidavit stating that on various occasions, Mr.Lawrence unequivocally requested the 5th respondent to give his body for medical studies after his demise. He further stated that such requests were made in the presence of four persons mentioned in the affidavit and of many others also. The 5th Respondent added that the request was repeated by the deceased during



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his last illness. The Appellant also submitted an affidavit. Two witnesses supported the 5th Respondent namely, Mr.Aby Abraham who is the son of a brother of late Mr.Lawrence and Mr.Rajan P.S, who is also a relative of the deceased.

10. The 4th respondent issued Ext.P6 order as noted above on 25 September 2024. Conclusions of the 4th respondent, who was assisted by a committee consisting of six officials, are narrated in the order. It was concluded that there was no doubt regarding the consent given by late Mr.Lawrence and that the deceased had not retracted any time. It was also noticed that during the last 3 to 4 years of his life, Mr.Lawrence was with the 5th Respondent and the Appellant as also the 6th Respondent were not involved in taking care of the deceased. The lawful possession of the body of the deceased was with the 5th respondent. Witnesses, mentioned supra, also affirmed the desire of the deceased. Therefore, it was concluded that the consent to hand over the body was valid and in accordance with the provisions of the Kerala Anatomy Act, 1957. The Principal therefore directed that the body of late Mr.Lawrence be accepted and transferred to the Anatomy Department to be embalmed and preserved till being taken up for teaching purposes.



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11. As noted in the opening, the Appellant in W.A.No.1857/2024 challenged the decision taken by the 4th Respondent in W.P.(C).No.37174/2024. The 6th Respondent supported the Appellant. As it is discernible from the impugned judgment, Ext.P6 order was challenged mainly on the ground that expression of request to be valid, as under Section 4A of the Anatomy Act, should be made by the deceased to the authorised officer during his lifetime. In other words, none other than the deceased can be reckoned as competent to express the interest to donate the body. The supplementary limb of the argument was that such a request should be made directly to the authorised officer. The learned Single Judge heard the respective counsel appearing for the parties and also the State Attorney who represented the official respondents. Provisions of the Anatomy Act were analysed by the learned Single Judge. Other contentions such as impropriety in the proceedings of the 4th respondent were also addressed. The learned Single Judge, for the reasons mentioned in the impugned judgment, finally dismissed the Writ Petition.

12. Learned counsel Mr.R.Krishna Raj appeared before us for the



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Appellant in W.A.No.1857/2024. Mr.Swathi Kumar, the learned counsel appeared for the Appellant in W.A.No.1865/2024. The 5th respondent was represented by the learned Senior Advocate Mr.V.V.Sidharthan and the learned State Attorney, Mr.N.Manoj Kumar, appeared for the Government and the official Respondents.

13. The learned counsel Mr.Krishna Raj, invited our attention to the provisions of the Anatomy Act. He made precise reference to the provisions of Section 4A. The learned counsel submitted that in view of the provisions of Section 4A, certain conditions are to be satisfied to treat a request to provide a body to teaching medical institutions as valid. There must be an unequivocal request by the person that his body be used for the purpose of conducting anatomical examination and dissection after his death. The request should be either in writing or made orally in the presence of two or more persons. It should be during his last illness. Unless these conditions are satisfied, possession of the body cannot be taken over by the authority in charge of the medical institution. Elaborating his contention based on the provisions of Section 4A, Mr.Krishna Raj submitted that in the facts of the instant case, there is no unequivocal request as the Appellant is definitely



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disputing the supposed consent of the father. He also submitted that there was no case for the 5th Respondent when he submitted his initial consent that the father had expressed his wish during the last illness in the presence of any witnesses. He read out the Annexure A6 consent and submitted that it in fact reflected only the consent of the Respondents 5 and 6 and not of the deceased. He compared it with Ext.P11 affidavit submitted by the 5th respondent on 24 September 2024 and argued that the said affidavit was prepared in such a way to satisfy the requirements of Section 4A, as a result of afterthought. He further contended that the witnesses mentioned in Ext.P11 cannot be believed. He also argued that the procedure followed by the 4th Respondent was faulty as the direction in the first round of litigation to the said respondent was to take a decision in his official capacity. The 4th respondent, going beyond the direction issued by this Court, formed a committee and thus involved others also in the decision-making process. According to the learned counsel, this was not only in violation of the direction issued by the learned Single Judge but also of the provisions of the Anatomy Act. The learned counsel referred to Annexure A3 consent format produced along with the Appeal and submitted that the procedure to be followed for donating the body is decipherable from the said format. The learned



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counsel stressed that the facts of the case and the relevant circumstances clearly point out that the deceased was following Christian religious practices and he conducted the marriages of the children also following the Christian ceremonies. He hence asserted that the challenge raised by the Appellant against the attempt of the 5th respondent to donate the body of Mr.Lawrence is liable to be accepted and the remains should be buried following the religious rites.

14. Mr.Swathi Kumar, learned counsel appearing for Appellant in W.A.No.1865/2024 supported the Appellant in W.A.No.1857/2024. He submitted that initially, the consent of his client was obtained by the 5th Respondent misleadingly. He also submitted that the definite opinion and desire of the Appellant in W.A.No.1865/2024 is that the body of her father should be buried following the religious rituals. He supported all contentions raised by the learned counsel for the Appellant in W.A.No.1857/2024.

15. The learned Senior Counsel Mr.P.V.Sidharthan appearing for the 5th Respondent invited our attention to Ext.P2 communication by e-mail from the Appellant in W.A.No.1857/2024 on 22 September 2024



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to the 4th Respondent. He pointed out that though the Appellant objected to handing over the body to the Medical College and disputed the consent/desire of the deceased as conveyed by the 5th Respondent, he had no case that the deceased had expressed any desire to bury his body following Christian religious practices. He submitted that the deceased Mr.Lawrence had no aversion to any religion and that does not lead to an inference that he wanted his final rites to be performed as per the religious practices. He also pointed out that the Appellant in W.A.No.1857/2024 has no case that at any point of time late Mr.Lawrence expressed desire to have his body cremated according to religious customs. He submitted that no religion places any embargo on donating bodies for medical purposes. Such handing over of bodies to medical institutions is not against the tenets of Christianity also. He specifically pointed out that the Appellants in both appeals who are the daughters of Mr.Lawrence were undeniably not taking care of him and during his last years he was taken care of only by the 5th Respondent. Late Mr.Lawrence was ill from 2021 till his demise. Therefore, the last illness was in fact one spreading over a period of 2021 to 2024. He referred to the statement of object and reasons of the Kerala Anatomy (Amendment) Bill, 1963 by which Section 4A was sought to be



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incorporated. He pointed out that the said provision was incorporated as the original Act only provided for the supply of unclaimed dead bodies to the teaching medical institutions for anatomical examination and dissection. Therefore, the legislature felt it appropriate to make suitable amendments to provide for the bequest by living persons of their bodies after death for the above purpose. He hence submitted that the purpose of Section 4A is to be understood in the light of the specific reason stated in the statement of object and reasons. He also contended that there is no insistence in Section 4A of the Act that the request should be made by the person concerned directly to the authorised officer. He emphasized that the provisions of Section 4A are perfectly satisfied in this case and the handing over of the body is well in accordance with the law. He, on facts, submitted that the Appellant in W.A.No.1857/2024 was not in good terms with the deceased and she had filed cases against him. She never took care of the deceased and therefore her attempt is not genuine and she only wants to make trouble. He further submitted that the desire of late Mr.Lawrence conveyed to the 5th Respondent on several occasions was known to other relatives including the witnesses who gave statements to the 4th Respondent. He submitted that there is no reason to disbelieve any of them. Regarding the proceedings of the



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4th Respondent, the learned Senior Counsel submitted that the same are in tune with the Anatomy Act and the conclusions of the 4th Respondent are proper and valid.

16. Learned State Attorney Mr.Manoj Kumar, referring to provisions of Section 4A, submitted that the request can be in writing or oral. He contended that it is not open to the Appellants to raise a contention that the deceased should have informed his desire in writing to the authorised officer as the learned Single Judge in the judgment in W.P.(C)No.33350/2024 had held that the consent can even be orally expressed in the presence of two or more persons. He took us to the order of the authorised officer, Ext.P6, and pointed out that the 4th Respondent has considered all relevant aspects. The 4th Respondent has approached the issue well in tune with the provisions of the Anatomy Act and the rival contentions of the parties were also properly analysed by the 4th Respondent. The said Respondent took note of the fact that legal custody of the body of the deceased was with the 5th Respondent and also the fact that the deceased was under the care and protection of the 5th Respondent during the final stages of his life. The 4th Respondent also took note of the statements given by the witnesses who are close



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relatives of late Mr.Lawrence. The learned State Attorney therefore contended that this is not a matter in which the Court can take any different views in judicial review.

17. After hearing the appeals at the stage of admission, we had conveyed to the learned counsel appearing for all parties that it is desirable to settle the dispute amicably. As suggested by the parties the learned Senior Counsel Mr.N.N.Sugunapalan was requested to mediate and to try to resolve the issue. However, the parties could not arrive at a consensus and consequently the mediation failed.

18. The Kerala Anatomy Act was enacted in 1957. Its long title was as follows:-

“An Act to provide for the supply of unclaimed bodies of deceased persons to teaching medical institutions for the purpose of anatomical examination and dissection”

19. The objects and reasons of the bill introduced in 1957 was as follows:-

“For the purpose of anatomical examination and



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dissection, a large number of dead bodies are found necessary in the Medical Educational Institution in the State. The Bill seeks to provide for the supply of unclaimed dead bodies to these institutions for anatomical examination and dissection.”

20. Section 4A was inserted by Act 3 of 1964. Objects and reasons of the Amendment Act of 1964 is extracted hereunder: -

“There is no law at present permitting the procurement of the dead body of a person who has expressed an unequivocal request during his lifetime that his body be used for conducting anatomical examination and dissection in teaching medical institutions. The Kerala Anatomy Act, 1957 only provides for the supply of unclaimed dead bodies to these institutions for anatomical examination and dissection. It would therefore be appropriate to make suitable amendments to the Kerala Anatomy Act to provide for the bequest by living persons of their bodies after death for the above purpose. The Bill is intended to achieve the above object.”

21. The legislative history of the Act shows that the law was initially envisioned for the purpose of using unclaimed dead bodies for the institutions imparting medical studies. Nevertheless Section 4A incorporated later, provides for donating bodies with the prior consent



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of the deceased and otherwise too on satisfaction of certain conditions. The scope of the Kerala Anatomy Act, which was originally enacted for the supply of unclaimed bodies of deceased persons to teaching medical institutions, was hence expanded with the incorporation of Section 4A, to provide for donating of bodies also. Section 4A(1) provides for donating of bodies with the prior consent of the deceased and 4A(2) provides for donating dead body, by party in lawful possession, on satisfaction of the conditions under clauses (a) and (b) thereunder. Section 4A(1) of the Act dealing with taking possession of dead bodies with prior consent of the deceased persons, incorporated in 1963 and applicable in the context of the instant case is extracted hereunder for ready reference:-

“4A Taking possession of dead bodies with the prior consent of the deceased persons.-(1) If any person, either in writing at any time or orally in the presence of two or more persons during his last illness, has expressed an unequivocal request that his body be used for the purpose of conducting anatomical examination and dissection after his death, the party lawfully in possession of his body after his death, may, unless, the said party has reason to believe that the request was subsequently withdrawn, report the fact to the authorised officer and permit the said office to take possession of the body and hand it over to the authority in charge of a teaching medical institution if



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it is required by that authority.”

22. Heading of the above extracted provision mentions about prior consent of the deceased persons. The provision contemplates an unequivocal request by the person expressed either in writing or orally, during his last illness, in the presence of two or more persons, to provide his body for the purpose of medical studies. Plain language of the provision permits expression of the desire either in writing or orally. The latter part of the sub-section mentions about “reporting by the party in lawful possession of the body” after death, to the authorised officer and permitting the said office to take possession of the body. Analytical reading of Section 4A(1) reveals that the provision does not mandate expression of the request by the person directly to the authorised officer. If the interpretation placed by the Appellant on Section 4A is accepted, it will give rise to several practical difficulties. This would mean that in his last illness a person will be forced to approach the competent authority for giving a declaration. Also, it would mean adding words to the statute which are not present. The party in lawful possession of the body after the death having knowledge about the request made by the deceased person can report the fact to the authorised officer, unless the said party has reason to believe that the request was subsequently



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withdrawn. The judgment in W.P.(C)No.33350/2024, which was not challenged by the Appellants, concluded the question as to whether the request can be orally expressed.

23. In our view, factors the authorised officer may need to verify, according to the provision of Section 4A(1) are as to whether there was an unequivocal request by the deceased during his last illness and if the same was made orally, whether it was in the presence of two or more persons. He may also confirm that the body is accepted from a person in lawful custody of it. If these aspects are satisfied, the requirements of the provisions of Section 4A(1) must be treated as fulfilled. We do not find anything in the provision to construe it in any other manner. Hence the interpretation endeavoured to be placed on the provisions of Section 4A(1) by the appellants cannot be accepted.

24. It is also to be noticed that the Act does not contemplate any disputes and their resolution in the matter of handing over of the body, other than that dealt with under Section 5. If any doubt or dispute arises whether a person is or is not a near relative of the deceased for the purpose of Section 4, the matter shall be referred to a Magistrate of the



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First Class. There is no provision in the Act enabling resolution of disputes of any other nature. The authorised officer has not been conferred with any authority to undertake dispute resolution or adjudication. If any factual dispute arises regarding the satisfaction of the requirements under the provisions of Section 4A, the authorised officer may not be equipped to take a decision in the matter. The authorised officer will be normally a medical professional who is not trained or equipped to undertake resolution of disputes.

25. Despite the legal position being so, the 4th respondent has undertaken a dispute resolution in the case at hand in compliance with the direction issued in W.P.(C).No.34174/2024. Factual aspects have been considered and analysed on the basis of probabilities. Hence it is indispensable for us also to take note of the primary factual aspects essential to analyse the reasonableness and sustainability of the order impugned in the writ petition.

26. The 5th Respondent was indisputably taking care of late Mr.Lawrence during the final stages of his life. Appellants do not claim that they had been taking care of Mr.Lawrence any time after he seriously



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fell ill. The 5th Respondent asserts that the deceased had expressed his desire to provide his body for medical studies on several occasions. He has cited several persons in whose presence Mr.Lawrence had expressed his wish. During the proceedings of the 4th Respondent conducted in compliance with the directions issued by the learned Single Judge two persons who are relatives of the parties also confirmed that the deceased had expressed his wish to hand over his body, after death, to the Medical College. The 4th Respondent, who was assisted by a committee of officials, finally concluded that there is no reason to distrust the 5th Respondent and the witnesses.

27. When we look at the case of the Appellants, we have to keep in our mind that the Appellant in W.A.No.1857/2024 was not in good terms with the deceased according to the Respondents 5 and 6. She has no claim that she had taken care of her father after he fell ill and that there was any occasion for the father to reveal his wishes to her. As correctly pointed out by the learned Senior Counsel appearing for the 5th Respondent, the only case of the Appellant is that late Mr.Lawrence was a member of a church and he had followed religious customs and rites in all affairs of the family. She has no case that the deceased any time



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expressed a desire to have his body cremated following the Christian religious customs and practices. Her claim that the body of the father should be cremated in accordance with the religious tenets is only on the basis of an inference she attempts to draw from the fact that her father had followed certain religious practices. That by itself is not a sufficient reason in our view to reject the more probable case of the 5th Respondent in the facts and circumstances of this case. The 6th Respondent who is the Appellant in W.A.No.1865/2024 also has no better case.

28. The learned counsel for the Appellants had raised a contention that the request claimed to have been made by late Mr.Lawrence cannot be considered as unequivocal as the Appellants, who are the daughters of the deceased dispute the stance of the 5th Respondent in this regard. We are not able to accept this contention. Requirement of Section 4A(1) is “unequivocal request” by the person. Intention of the expression, obviously, is to ensure that the person who makes the request should be clear in his mind about providing his body and the request should be unmistakable. Disputing of it by others can have no impact particularly when it is without even a claim regarding any other wish expressed by the deceased. The learned Counsel for the Appellant is right in pointing



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out that initially the Respondents 5 and 6 had submitted only their consent to the 4th Respondent. However, during the proceedings pursuant to the directions issued by the learned Single Judge, an affidavit satisfying the requirements of the relevant provisions was submitted by the 5th Respondent. As the appellant and the Respondents 5 and 6 had joined the proceedings and the matter was under fresh consideration, it was open to the 5th respondent to do so. The 5th Respondent has a consistent case regarding the desire of the father all along and the joint consent initially given by him and the 6th Respondent is only in the nature of their consent to hand over the body, though the same may not be a requirement under law. Contention regarding formation of a committee of officials by the 4th Respondent also is bereft of merits in our view. The 4th Respondent has only sought assistance of the committee and the decision, as reflected in the impugned order, has been taken by him in his capacity as the authorized officer. Section 4A, when it was introduced, the purpose was to enable persons to donate the body to institutions conducting studies in medical science and make the bodies other than unclaimed bodies available for furtherance of science. This enactment does not contemplate adjudication of disputed questions regarding the intention of the deceased. Nothing stopped the Appellants from filing a civil suit for injunction to restrain the 5th Respondent from



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proceeding further.

29. Quasi-judicial and administrative functions of authorities can be certainly subjected to scrutiny in writ jurisdiction. Nonetheless the Court does not exercise appellate jurisdiction in judicial review. Reviewing factual conclusions made by the lower court, tribunal or authority, even if they are incorrect, are generally not within the contours of the writ jurisdiction. In-depth analysis and reappreciation of factual findings in the impugned decisions akin to an appeal is not within the constraints of writ jurisdiction.

30. Taking note of the nature of the basic dispute as to what was the wish of late Mr.Lawrence regarding handling of his body after his demise, which essentially encompasses factual disputes, we had indicated the limitations in adjudicating such disputes in writ jurisdiction to the learned counsel for the Appellants. However, the learned counsel for the Appellants submitted that they wish to pursue these appeals. It is not possible for us to carry out an enquiry akin to a civil trial. Admittedly, the deceased was with the 5th Respondent for almost 3-4 years and the 5th Respondent was looking after the deceased. He has made a statement



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on oath regarding the intention expressed by the deceased to give his body to science. Two close relatives have given their statements. As to why they should be disbelieved, nothing is stated by the Appellant except stating that it is not probable that the deceased expressed such an intention. As to why it was not probable, the emphasis is on the claim that the deceased was a devoted Christian. Counsel for the 5th Respondent rightly submitted that there is no contradiction in as much as the deceased could be a devout Christian and yet wished to donate his body to science. No credible contrary version is placed before us. There is no material on the basis of which we can draw conclusion that the finding recorded by the 4th Respondent authority can be treated as perverse. The desire and intention of the deceased is different than desire and intention of the Appellant. We see no nonconformities with the provisions of the Anatomy Act in the proceedings and conclusions by the 4th Respondent. The request conveyed by the 5th respondent broadly satisfies the requirement of the provisions of Section 4A(1) of the Act. The decision has been taken by the 4th Respondent on the basis of probabilities emerging in the facts and circumstances of the case. Appreciation of the same by the said respondent, as seen in the impugned order, cannot be termed as improper or perverse. The 4th respondent has applied mind to the relevant facts and circumstances and



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other aspects including the significance of the pertinent provisions of the Anatomy Act. In these Appeals we are concerned with correctness of the order passed by the 4th Respondent and the learned Single Judge. Having considered the matter in totality we do not find that there is any case made out for interference under Article 226 of the Constitution of India.

31. Given the regrettable disagreement at the heart of the litigation, it is also preferable that quietus be reached in this case as soon as possible.

32. We therefore uphold the impugned judgment and dismiss both Writ Appeals.

Sd/-

NITIN JAMDAR
CHIEF JUSTICE

Sd/-

S.MANU
JUDGE

rp&skj



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APPENDIX OF WA 1857/2024

PETITIONER ANNEXURES

Annexure A-1	TRUE COPY OF THE CERTIFICATE ISSUED BY 7TH RESPONDENT DATED 09.11.2024
Annexure A-2	TRUE COPY OF THE BODY DONATION FORM IN THE WEBSITE OF THE 4TH RESPONDENT
Annexure A-3	TRUE COPY OF THE APPLICATION AND GUIDELINES FOR BODY DONATION PROVIDED BY THE 4TH RESPONDENT
Annexure A-4	TRUE COPY OF THE DISCHARGE SUMMARY OF THE DECEASED DATED 21.9.2024
Annexure A-5	TRUE COPY OF THE APPLICATION SUBMITTED BY THE 6TH RESPONDENT UNDER RTI ACT DATED 28.10.2024 ALONG WITH THE RECEIPT
Annexure A- 6	TRUE COPY OF THE AFFIDAVIT FILED BY THE 5TH AND 6TH RESPONDENT DATED NIL ALONG WITH ENGLISH TRANSLATION

APPENDIX OF WA 1865/2024

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE WEB SITE OF THE 5TH RESPONDENT
Annexure A2	TRUE COPY OF THE DISCHARGE SUMMARY OF THE DECEASED ISSUED BY THE MEDICAL TRUST HOSPITAL DATED 21-9-2024
Annexure A3	TRUE COPY OF THE APPLICATION FILED BY THE APPLICANT BEFORE THE 5TH RESPONDENT DATED 28-10-2024