Dear Shri Ansu,

This relates to the Authorization Committees constituted under the Transplantation of Human Organs Act, 1994. Expressing its concern on the delay in granting NOC to the donor and recipient in a case for Organ Transplants, Hon'ble Delhi High Court in a Writ Petition (C) 6105/2011 has observed that for organ transplantation, a donor has to convince his native state authorities, then present himself before the state from which the organ recipient hails, often leading to long delays that may prove fatal for the patient. The domicile states are required to consider the cases of issue of NOC as per provisions contained in Rule 6B of amended Transplantation of Human Organ Rules, 2008 as follows:-

"The state level committees shall be formed for the purpose of providing approval or no objection certificate to the respective donor and recipient to establish the legal and residential status as a domicile state."

2. It has also come to the notice that some State Governments do not issue 'NOC' on the ground that there is no affection and attachment between the donor and recipient in spite of their valid domicile legal status in the respective states. In this regard, it is clarified that the Authorization Committee of the Hospital/Institution where the transplantation is going to take place, has to establish the reasons of affection and attachment between the donor and recipient. Therefore, State Governments need not go into the details of their relationship and reasons of donation, but have to consider granting 'NOC', based on the legal domicile status of the donor or recipient, as the case may be.

3. Further, I request you to ensure that State Level Authorization Committee is constituted immediately, if not constituted yet, so that delays could be averted for providing NOC. The existing committee may be directed to take expeditious action while dealing with such cases so that precious human lives could be saved.

With regards,

Yours sincerely,

(L.C. Goyal)
Dear Shri Ansu,

This relates to the role of Authorization Committees as envisaged in the Transplantation of Human Organs Act, 1994 and the Rules made there under. In cases where donor and recipient are not ‘near relatives’ and the donor donates his/her organ for transplant to the recipient due to ‘affection and attachment’, approval by the institution-based ‘Authorization Committee’ is required under section 9(3) of the Transplantation of Human Organs Act, 1994 (THOA). It has come to notice that in many instances the cases involving ‘near relatives’ as defined under the Act, are also routed through the Authorization Committees. In this regard, Sections 9 (2) and 9 (3) of the Act make it amply clear that the cases involving non-‘near related’ donor and recipient only need to go through the process of obtaining requisite approval from the Authorization Committee.

2. Further, Rule 6B of the Transplantation of Human Organ Rules, 2008 (as amended) is reproduced below:

“The State level committees shall be formed for the purpose of providing approval or no objection certificate to the respective donor and recipient to establish the legal and residential status as a domicile state. It is mandatory that if donor, recipient and place of transplantation are from different states, then the approval or ‘no objection certificate’ from the respective domicile State government should be necessary. The institution where the transplant is to be undertaken in such case the approval of Authorization Committee is mandatory.”

3. The above matter has been examined in this Ministry and it is hereby clarified that clause 6B of Transplantation of Human Organs Rules, 2008 is applicable only for unrelated cases (and all foreigners) but not for the cases involving ‘near relative’ donor/recipient.

4. I, therefore, request you to issue necessary instructions to all concerned to follow the law as laid down in the Transplantation of Human Organs Act, 1994 and Rules, 1995 (as amended in 2008) in both letter and spirit.

With regards,

Yours sincerely,

[L.C. Goyal]