

Case Reference: INT/HOW/2022/213

Present: Justice Ashim Kumar Banerjee (Retired), Chairman

Dr. Sukumar Mukherjee,

Prof. (Dr.) Makhan Lal Saha

Dr. Maitrayee Banerjee

Sri. Sutirtha Bhattacharya, IAS (Retd)

Sri. Tanmay Roy Chowdhury, IPS

Smt Madhabi Das

Mr. Dibakar ChakrabortyComplainant

- Versus-

**i) Narayana Super Specialty Hospital, Howrah (ii) KPC Medical College
and Hospital (iii) AMRI, DhakuriaRespondents**

Heard on : December 14, 2022, December 23, 2022.

Judgment on : November 17, 2023

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APOLOGY

We heard this matter on December 14, 2022 and December 23, 2022 when we reserved our judgment to enable us to consider the police report that we asked from the Howrah Police Commissionerate and Kolkata Police.

We got the report from the Howrah Police Commissionerate on March 6, 2023.

By a letter dated October 17, 2023 Commissioner of Police sent an enquiry report that we received through Whatsapp on November 01, 2023.

Hence, the delay.

We express our sincere regret for the delay.

BACKDROP

The complaint would relate to refusal to admit a patient under Swasthya Sathi who unfortunately died, practically without any treatment after visiting six hospitals out of which three would be private hospitals that would be within our domain.

The patient Smt Nilima Chakraborty, wife of Dibakar Chakraborty of village- Sarpota, Post office- Debandi in the District of Howrah, was suffering from some physical ailment and was treated at SSKM Hospital from time to time. On June 27, 2022 she developed acute pain. She was initially taken to SSKM Emergency on July 9, 2022 and July 11, 2022. The Emergency did not advice admission.

The patient was then taken to Narayana superspeciality Hospital, Howrah, on July 11, 2022 afternoon. According to the complainant, a tall gentleman sitting in the adjacent chamber to the Emergency, came out of his room and looking to the medical papers he categorically denied admission under Swasthya Sathi. He physically prevented the patient to come inside the Emergency and the patient was thus refused at the gate.

She was then taken to KPC Medical College, Kolkata where a lady junior doctor declined admission as according to her, the patient would need neuro set-up that the hospital would not be having at that moment.

The third hospital approached was AMRI, Dhakuria where also admission was refused under Swasthya Sathi.

Patient was then taken to a government establishment where the patient breathed her last after a brief treatment.

COMPLAINT

The ill-fated husband of the patient filed a complaint before us on November 23, 2022 as against SSKM Hospital, Chittaranjan Medical College and Hospital, Narayana Supersepeciality Hospital, KPC Medical College and Hospital and AMRI, Dhakuria alleging refusal to admit the patient who practically died without any treatment. Since the first two hospitals being Government Hospitals would be outside our domain we made it clear, we would be considering the complaint restricted to the three private hospitals named above. Accordingly, we entertained the complaint and asked for response from all the above named three hospitals, each one denied the allegations made against them.

HEARING

We placed the matter for hearing on December 14, 2022. We heard the complainant Mr. Dibakar Chakraborty. He narrated what had been stated in his complaint as against those two private hospitals. Narayana Superspeciality Hospital and AMRI, Dhakuria hospitals categorically denied having received the said patient at any point of time.

KPC Medical College however, admitted the fact that the patient had come to their hospital, however, they expressed their inability to admit the patient in absence of appropriate neuro set-up and not on the ground of Swasthya Sathi admission.

Let us now decide the case as against those three hospitals one after the other.

NARAYANA SUPERSPECIALITY HOSPITAL

The complaint would reveal, the patient reached Narayana when they were straight-away refused admission under Swasthya Sathi quota. The behaviour was not only unexpected but also “primitive and barbaric nature.”

In course of hearing, on December 14, 2022 the complainant narrated in detail the incidence of refusal. According to him, the patient was taken to Narayana on July 11, 2022 afternoon. A tall gentleman sitting in the adjacent chamber to the Emergency, came out of his chamber and looking to the papers and coming to know of the fact that the patient want to be admitted under Swasthya Saathi, straight-away declined to admit the patient and literally prevented her to come inside the Emergency. In fact, the patient was refused at the gate.

We gave liberty to the complainant to visit the Hospital on the next day to identify the tall gentleman referred by him as recorded in the order dated December 14, 2022. Accordingly, the complainant approached Narayana Hospital on the next day however, could not identify the gentlemen. The audio recordings were produced on the next day of hearing on December 23, 2022 by the complainant as well as Narayana Hospital where from it would appear that the complainant could not identify the person concerned.

On the final date of hearing on December 23, 2022 the complainant contended, Mr. Arnab Banerjee actually refused admission. However, anticipating trouble

he did not identify Mr. Arnab Banerjee on December 15, 2022 when he visited Narayana Hospital and was practically surrounded by the staff of the hospital.

We directed Commissioner of Police, Howrah City Police to make a thorough enquiry.

The Additional Deputy Commissioner of Police (Central Division) Howrah Police Commissionerate made a thorough enquiry and submitted his report.

The report itself being relevant is extracted below:-

"The gist of the issue is that, Nilima Chakraborty w/o Dibakar Chakraborty of Village- Sarpota, PO- Debandi, Dist- Howrah was suffering from some physical disorder and was treated at SSKM Hospital from time to time and had developed acute pain since midnight on the 27th of June, 2022. Subsequently, the local medical practitioner at first and then a registered M.B.B.S. practitioner treated her. Since there was no improvement, the patient was taken to SSKM Hospital, Emergency department on the 9th of July, 2022 where she was given a pain killer injection. The petitioner alleges that, further on the 11th of July, 2022 the patient started suffering profuse pain for which she was taken to SSKM Hospital where a lengthy prescription was given and the OPD, Neurosurgery refused to admit the patient. Then the patient was taken to Narayana Multispeciality Hospital, Howrah where the admission was refused. Then the patient was taken to KKPC, Medical college where a lady doctor refused admission and then the patient was taken to AMRI, Hospital where



again the patient was not admitted. Afterwhich, the patient was taken to Calcutta Medical college where preliminary tests were done but the patient was not admitted and then the patient was taken to NRS Hospital where the patient was admitted in the female observation ward. The next day, on the 12th of July, 2022 she became unconscious and on the 13th of July, 2022 she suffered suffocation and spasm and passed away at 10 PM, the same day.

In this regard, the family members of the deceased, Dibakar Chakraborty (husband of the deceased), Debanik Chakraborty (son of the deceased), Sudhakar Chakraborty (brother-in-law of the deceased) and others have registered a complaint before the Chairperson, West Bengal Clinical Establishment Regulatory Commission against the Superintendent cum Vice Principal of all the above mentioned Hospitals. The Commission has requested that an enquiry be conducted regarding the case of Narayana Multispeciality Hospital, Howrah and accordingly, on being endorsed, the undersigned had taken up the enquiry.

In the course of enquiry, Narayana Multispeciality Hospital was asked to submit the CCTV footage of the hospital for the day in question (11th July, 2022). A reply was received in which it was mentioned that the storage capacity of the hard disk of CCTV is 2 TB which can store a maximum of seven days of images. Since the incident occurred on the 11th of July 2022, no CCTV footage could be obtained to verify the allegations by the petitioner.

Further, the petitioners' were intimated to be present before the undersigned along with relevant documents for the enquiry and accordingly, Dibakar Chakraborty (Husband of the deceased) and Sudhakar Chakraborty (Brother-in-law of the deceased) appeared for the enquiry. In the enquiry, the petitioners corroborated the complaint, that the patient was suffering acute pain since midnight on the 27th of June, 2022. Subsequently, the local medical practitioner at first and then a registered M.B.B.S practitioner treated her. Since there was no improvement, the patient was taken to SSKM Hospital, Emergency department on the 9th of July, 2022 where she was given a pain killer injection.

Further, they stated the following. On the 11th of July, 2022 the patient started suffering profuse pain. After hiring an ambulance at around 09: 30 AM Dibakar Chakraborty, Sudhakar Charkraborty and Dipankar Chakraborty took the patient to SSKM Hospital in an ambulance at around 10:00 AM but they refused to admit the patient. From there they went to Narayani Hospital, Howrah at around 11:40 AM. Further, they stated that they tried to admit the patient there but admission was refused by the authority present at the Emergency ward, whose name and details they could not properly recollect. Subsequently, they stated that they left at around 12:00 PM. On being enquired, they said that the patient was not examined by anybody but they could not produce any documents regarding their presence at the hospital. Instead they produced an ambulance service bill named ; Barisha Silpara Ambulance

Service' as proof for the hiring of the ambulance. When enquired regarding one 'Arnab Banerjee' whose name the petitioners have mentioned before the commission, the petitioners stated that as per the commission's order they had been to Narayana Hospital and Arnab Banerjee accompanied them from the Hospital side to identify the individual who had refused admission. But they could not properly conclude that Arnab Banerjee was the reason for refusal. Further, Dipankar Chakraborty (brother of the petitioner) was contacted over phone in front of his brothers and he corroborated his brothers' statements and when enquired regarding any documents he also stated they only have the ambulance bill.

Further in the course of enquiry, Palash Panti whose signature was present in the ambulance bill was asked to be present before the undersigned. Accordingly, he was present and when enquired he stated that the bill was not prepared on the actual date of the journey but was prepared on the request of Dipankar Chakraborty on the 14th of December, 2022. Which could be seen in the ambulance bill. Regarding the reporting place mentioned he stated that he made it from a rough sheet where the details were written and as was informed by Dipankar Chakraborty but did not verify it properly.

Furthermore, the driver of the ambulance, Bapan Sarkar was asked to be present before the undersigned. Accordingly, he was present and when enquired he stated that on the 11th of July, 2022 he was the driver of the said ambulance and said that first they had taken the patient to Narayani at around 10 AM and

stayed there for about 15/20 mins and they went to the PG hospital. He further stated that he has no knowledge of what had happened inside of the Narayana hospital and that they had asked him to move to SSKM Hospital. The driver also mentioned that he had given the same version when enquired through phone in front of the commission. That the ambulance had first been to Narayana was not as informed by the petitioners. And the time of going to Narayana Hospital in the two versions had some time differences.

Subsequently, the CDR of all the petitioners and the driver was taken to verify their claims. From the CDR analysis, it came to light that none of their probable location could be found in and around the hospital or near its vicinity in the time between 10AM as claimed by the driver to be the time they had reached the hospital and 12 PM as claimed by the petitioners to be the time that they have left the hospital. Also, the probable location Sudhakar Chakraborty for the whole of the 11th of July, 2022 was not found in and around the hospital or near its vicinity. The probable location of Dibakar Chakraborty and Dipankar Chakraborty at around 01.45 PM to 02.10 PM and that of the driver from 01.52 PM to 01.57 PM was around the vicinity of the hospital. But around this time the petitioners had claimed that they were in Kolkata. Hence, nothing conclusive could be drawn from this analysis.

Further, Narayana Multispeciality Hospital was asked to submit the relevant documents for enquiry including the register maintained at the Emergency ward, the visitors register and the vehicle registry for the 11th of July, 2022.



Accordingly, the 'Emergency ward Register' which is a composition of three ledgers, Emergency Admission Register, Emergency Non-Admission register for the 11th of July, 2022 was provided along with the Emergency tracker, which was an Excel sheet. Further, the visitor register, Ambulance register and Admin Duty Roster was also produced. On perusal, there were no records present of the patient Nilima Chakraborty neither was there any record of the petitioners visiting the hospital. The Ambulance register which registers the details of the third party ambulances coming to the emergency ward also did not have any record of the said ambulance.

Also, Arnab Banerjee was asked to be present before the undersigned. Accordingly, he was present and when enquired he stated that he was the manager on duty on the 11th of July, 2022 but he does not have any knowledge of the patient Nilima Chakraborty coming to the hospital. He further stated that any person coming to the Emergency ward even for enquiry is noted down in the 'Emergency No-Admission Register' but there is no record of the said patient. He further stated that he was the one who facilitated the petitioners to identify the person who had refused the admission, as instructed by the Commission, by taking them to different departments within the hospital and that he had no clue why his name was said by the petitioners before the Commission.

Further, Mr. Aniruddha Kayal from the Administrative department of the Narayani Hospitals who was also present stated that from the hospital authority

the documents have been presented before the Commission that no patient named Nilima Chakraborty visited the hospital on the 11th of July, 2022. Further he stated that on a regular basis, the hospital admits around 35/40 patients per day under Swasthya Sathi card and there are no instances of refusing admission based on this reason, which he stated was also again reiterated before the commission. Thus, from the careful consideration of the records and documentary evidence on hand along with the CDR analysis, the fact that the petitioners had visited the hospital and were refused admission could not be substantiated totally."

Enclosures:

Sl. NO.	Enclosure	Annexure	No of pages.
1.	Original Memo	A	07
2.	Reply from Narayana Hospital regarding CCTV Footage.	B	04
3.	Ambulance bill as produced by the peitioners	C	09
4.	Documents produced by Narayana Hospital including Emergency ward Register, Ambulance register and Visitors Register.	D	22
5.	Extract copy of CDR analysis of the phone numbers of the petitioners and the driver of the Ambulance for 11 th July, 2022.	E	21

From the entire episode and on carefully listening to the audio recordings produced before us as also the rival contentions we are little bit perplexed.




There is nothing to show, the parties had any previous enmity for which there could be a chance of a false complaint being made by the complainant against Narayana.

The patient died at the 6th establishment being NRS Hospital as we saw from the medical records. The ill-fated has come up with a complaint that would inspire our confidence. However, such inspiration cannot be totally relied upon without any corroborative evidence.

We are happy to have a detailed exercise made by the Additional Commissioner of Police Howrah. The incident happened in July 2022. The complaint was filed in the third week of November 2022. It is not expected to have the benefit of the CCTV footage after about five months.

The ambulance driver was also examined by us who could be contacted over phone. He supported the case of the complaint. He also appeared before the Police administration. However, his statement could not be corroborated from the ambulance record. There was also an anomaly in the call recordings as found out by the Additional Deputy Commissioner of Police Howrah, as it appears from his report. Hence, we are unable to blame Narayana for want of evidence.

AMRI, DHAKURIA

In case of AMRI, Dhakuria the complainant could not identify the person namely Mr. Jaydeep Dey who was responsible for such refusal. In absence of



such identification we cannot hold AMRI responsible for the alleged refusal.

We also exonerate AMRI for want of evidence.

Rabindra Sarobor police station made an enquiry at AMRI, Dhakuria. They interacted with Mr. Joydeep Roy against whom the allegation was made. Sri. Joydeep Roy denied the allegation made by the complainant as to Swasthya Sathi admission refusal.

Police also recorded the statement of the hospital authority, they do Swasthya Sathi admission. They already treated 3000 odd patients under such category. However, such admissions are always subject availability of bed in that quota.

The statement of Mr. Roy on their behalf, could not be corroborated in absence of the CCTV footage. According to the police, the complainant was belated and it was difficult for them to verify the same in absence of CCTV footage.

KPC MEDICAL COLLEGE

KPC admitted having received the patient and seen by the concerned RMO who declined admission in the absence of appropriate neuro set-up.

KPC is a Medical College. It is unusual that they do not have a regular neuro set-up. The patient was too critical that was not in dispute. From the interaction that we had with KPC and the concerned doctor, we come to know, they have neurologist, who however, do not visit regularly.

When the KPC received the patient she was too critical and they must have been told about the earlier refusal. They should have treated the patient giving her emergency aid and at the same time should have made endeavour to send her at an appropriate establishment having a required setup. Such endeavour was not made.

We deprecate the conduct of KPC and caution them being a medical college, they must give due emergency aid to a critically ill patient visiting emergency and in case they feel, that they do not have adequate infrastructure to treat such patient they must make an endeavour and assist the patient companion so that the patient would not have to move like a shuttlecock from one hospital to the other. It is high time, an appropriate guideline be issued to all to deal with such emergency and a composite endeavour must be made in this regard.

DIRECTION

We thus direct the Director, Health Services as well as the Director, Medical Education to consider forming a composite guideline for the entire health sector (Private and public) running in the State to act in tandem giving due care to a patient visiting emergency and at the same time assist the patient and / or the patient family to have admission at an appropriate establishment in case they did not have due infrastructure required for the patient treatment.



CONCLUSION

The incident is too unfortunate. The condition of the lady might be critical. However, she was entitled to due medical care at a proper congenial atmosphere having due infrastructure to treat her. The incident would reveal a very sorrow state of affairs. She had to move from one establishment to the other.

It is very difficult for us to fix the responsibility on the government establishments that would be outside our domain. Consideration of the private hospitals in isolation, is also a difficult task. Yet, we have tried our level best and dealt with all the three, one by one as above. It is high time we must work in tandem so that there is no such recurrence in future when a patient in dire need of treatment would not be given due care at the appropriate time.

With this observation we dispose of the complaint.

Sd/-

(ASHIM KUMAR BANERJEE)

We agree,

Sd/-

Dr. Sukumar Mukherjee,

Sd/-

Prof. (Dr.) Makhan Lal Saha



Sd/-

Dr. Maitrayee Banerjee

Sd/-


Sri. Sutirtha Bhattacharya, IAS (Retd)

Sd/-

Sri. Tanmay Roy Chowdhury, IPS

Sd/-

Smt Madhabi Das

Authenticated

Secretary
West Bengal Clinical Establishment
Regulatory Commission