

Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference: ID- INT/KOL/2023/199

Present: Justice Ashim Kumar Banerjee (Retired), Chairman

Dr. Sukumar Mukherjee,

Sri Sutirtha Bhattacharya

Dr. Maitrayee Banerjee,

Smt. Madhabi Das.

Ms. Manisha Chakraborty ..... Complainant

vs

(i) Narayana Superspeciality Hospital, Howrah (ii) R N Tagore Hospital (iii)  
Sarada Nursing Home.....Respondent/ Respondents

Heard on: November 11, 2023

Judgment on : December 21, 2023 .



## BACKDROP

Mira Maitra, 79 year old patient was under treatment at Howrah Narayana Super Specialty Hospital under Dr. Chandrakant M.V, Dr. Vivek Agarwala and Dr. Ashutosh Daga for her oncology treatment. She had stage four lung cancer and was being treated at Howrah Narayana since November 2021. She was having Tagrisso 80 mg and Versavo 400 injection as per prescription of the treating team. As a part of the planned therapy she was admitted at Narayana on August 9, 2023 for taking cycle 15 Versavo as also for having PET-CT Scan. PET-CT Scan was done on August 11, 2023. Versavo was administered on August 11, 2023. PET-CT Scan report was given on August 13, 2023. The progress was good. The other co-related tests also yielded good result. She was released on August 14, 2023. On the day of release the patient was feeling discomfort. Her husband talked to Dr. Chandrakant and sought his advice when Dr. Chandrakant assured that there would be no further problem. The patient had dementia and could not inform her actual discomfort to anyone. Later on it transpired she was having constipation and did not have defecation for last few days. The complainant, the daughter of the deceased would have a grievance, the food

was not good and the patient did not have sufficient food that resulted in constipation. It transpired, she was having constipation for three days being August 12 to August 14, 2023. During PET-CT Scan and Versavo administration she was also kept on fasting. The nurse and the attendant were also not sure whether she ate enough. They provided bed pan, did not take her to the toilet so that she could give pressure to clear her bowel.

She went back home at Barrackpore after release. While going to toilet, she was having so much discomfort, she fell down. She was immediately taken to a nearby hospital being Sarada where despite giving purgative, the patient could not have defecation. The condition deteriorated. As per the advice of Dr. Chandrakant the patient was shifted to R.N. Tagore and was admitted under the same treating team. Pertinent to note, both the hospitals being Howrah Narayana and R.N. Tagore would belong to the same group of hospitals and the same treating team used to treat patients at both the establishments.

At R.N. Tagore Hospital, Dr Vivek Agarwala was supposed to look after her. Constipation continued. Yet, the treating team neither consulted any Gastroenterologist or a general surgeon for that purpose as complained

by the complainant. As a result, after about six days of constipation the patient succumbed to her illness at R.N. Tagore Hospital on August 19, 2023.

## **COMPLAINT**

Ms Manisha Chakraborty, the daughter of the deceased patient made this complaint initially against Howrah Narayana on October 4, 2023. Subsequently she also roped in R.N. Tagore Hospital.

The gist of the complaint would relate to non-action on the part of both the hospitals in treating the patient for her constipation and lack of defecation. As observed hereinbefore, the patient was stage four cancer patient. The treating team were having Oncologist at the pay-roll of both the hospitals. Despite being stage four, the patient's PET-CT Scan report was good and she was improving and slowly coming out of her primary illness. The treating team always looked into her treatment from the angle of oncology. They did not give any importance to the fact that the patient did not pass stool for days together and being a patient of dementia she could not remember whether she ate any food or not. It was in doubt whether food was sufficient or not. Paramedical staff were also not sure about her intake

as well as defecation. The patient died because of intestinal obstruction created due to constipation for six days. The complainant would make serious grievance as to why any general surgeon or any gastro were not consulted.

We asked for response from all the hospitals for comprehensive consideration. We also gave notice to Sarada where the patient had a brief stay after Howrah Narayana. The complainant did not make any grievance as against Sarada and in any event during that brief stay they did what they could do with their little infrastructure that they had.

## **RESPONSE**

### **Narayana and R N Tagore**

By letter dated November 7, 2023 Narayana gave detailed report as to what treatment was given to the ill-fated patient. However, those would mainly relate to the oncology treatment that we are not concerned with. They made a vague reply on the issue. They would refer to the PET-CT Scan report. They also observed that laxatives were administered to alleviate the patient's constipation and other rehabilitative measures were implemented

at Narayana. In this regard, they would refer to the discharge summary. However, they are silent on the issue as to why the patient was discharged from Narayana without removing the discomfort the patient had for last three days due to constipation.

At R.N. Tagore Hospital the patient was taken to ITU and was seen by a Nephrologist and Gastro surgeon. They were thinking of contrast enhanced CT Scan to identify the cause of obstruction. They would allege, there was delay in obtaining consent primarily due to patient's relatives that the complainant would strenuously deny. They also gave explanation as to why Colonoscopy was not done.

The relevant paragraph is quoted below-:

*Intestinal obstruction is generally considered a surgical emergency, and in such cases, it is common practice to refer the patient to a surgeon rather than a medical gastroenterologist. In this particular case, the management of the infection was handled by the critical care team and the primary oncology team. Additionally, a nephrologist was consulted for the patient's acute renal failure, ensuring comprehensive care by involving the relevant specialists. Collaboration between multiple specialties is often vital in*

managing complex cases like this one. The patient received daily care from highly qualified specialist doctors who were part of the dedicated team overseeing the patient's admission. Each day, detailed notes regarding the patient's condition and progress were documented in the patient's medical file. These notes were signed by the specialist doctor who examined the patient.

Furthermore, the patient's relatives had regular communication with the specialist doctor, receiving updates on the patient's status and discussing any concerns or questions they had. This comprehensive approach to patient care ensures that the patient's needs are met, and their family remains informed and engaged throughout the treatment process.

The healthcare team ensured effective and thorough communication with the patient's relatives regarding the deteriorating condition of the patient. The discussions involved in-depth conversations to inform the family about the changes in the patient's health status. These discussions were carefully documented in the patient's medical file, providing a comprehensive record of the conversations and decisions made during this critical period. This documentation not only serves as a reference for future care but also

*demonstrates the commitment to transparency, shared decisions-making, and collaboration with the patient's family in providing the best possible care for the patient.*

*The primary responsibility of a doctor is to provide the best possible care, using their medical expertise and available resources to optimize the patient's chances of a positive outcome. However, the survival and results of treatment are influenced by various factors, including the patient's underlying condition, response to treatment, and the natural progression of the disease. While doctors work diligently to achieve the best possible outcome, they must also acknowledge that certain factors may be beyond their control. The focus remains on providing compassionate care and supporting patients and their families throughout their medical journey.*

At the end, they would treat such reply as a composite one also on behalf of R.N. Tagore Hospital. The BHT were also shared that were evaluated by our experts.

## HEARING

We heard the complaint on November 17, 2023. At the hearing both Dr. Chandrakant and Dr. Vivek Agarwala were present and assisted us at the hearing giving inputs as to the treatment protocol.

Our esteemed members, including Dr. Sukumar Mukherjee posed question to both the CEs as to why the paramedical staff did not try manually to clear such obstruction. They were also of the view, when enema given through rectum yielded no result the paramedical staff, with the advice of the doctors, could have tried by giving the oral purgative that could make the stool soften and the process could be successful in clearing the obstruction.

Unfortunately, we do not find any such attempt being made as recorded in the BHT. The General surgeon was also not consulted.

The treating team was constituted with oncology experts. They did their job that resulted positive towards cure. Complication being the immediate cause of death, was totally overlooked.

## POST HEARING EPISODE

We concluded the hearing on November 17, 2023 and reserved our judgment. Pending consideration, we received two mails dated November 24, 2023 and November 25, 2023 sending further documents being medical records pertaining to treatment of the ill fated patient. Both the mails were sent by Mr. Debabrata Rakshit on behalf of Narayana Superspeciality Hospital as well as R.N Tagore hospital. Surprisingly none of the said mails were sent to the complainant by endorsing a copy thereof. Such procedure is unheard of.

We received the complaint on October 4, 2023. We asked for response from both the hospitals. They gave their response on November 7, 2023 along with whatever records they would want to rely upon in support of their response.

We have considered the said response. Our esteemed members evaluated such medical records. We heard the parties at length on November 17, 2023 hence, there is no question of any further communication on behalf of the hospital that too, without any copy being endorsed to the complainant. We

do not give any credence to those documents and those are kept on record accordingly.

## **OUR VIEW**

The patient was admitted at the CE at Narayana and then at R.N. Tagore. They were responsible for giving treatment to the patient for removing her discomfort. Pertinent to note, the patient was getting treatment at their institution for a long time. The problem that we find, is generally taken care of by the nursing staff as also the paramedical staff. The Oncologist did not have any role to play. It is unfortunate, two reputed hospitals having appropriate infrastructure, could not effectively clear the obstruction for six days and allowed the patient to die out of a problem that happened during treatment of the ill-fated patient.

Our esteemed member Dr. Sukumar Mukherjee has given his opinion that is extracted below:-

### ***“Facts:***

*1. Mrs. Mira Mitra, 79 years (since deceased) was being treated at Narayana Super Speciality Hospital, Howrah since 2021 under oncologist*

Dr. Chandrakant Mv, Dr. Vivek Agarwala and Dr. Ashutosh Daga for Adeno carcinoma Lung stage IV with multiple metastasis to abdominal, thoracic lymph nodes, spine and skull bones. She had multiple comorbidities like hypertension, hypothyroidism, impaired renal function and dementia with frailty.

2. Unfortunately she had to travel 3 hospitals for terminal care namely

a. Narayana Superspeciality Hospital, Howrah 9-14 August, 2023.

b. Sarada Nursing Home 16th August 2023 at 2 am for few hours.

c. R N Tagore Hospital 16th August 2023, 12-30 pm till 19<sup>th</sup>

August 2023 where she expired at 10-38 am.

3. At Narayana Superspeciality Hospital she was admitted for pre-planned biological therapy with Taggriso 80 mg and Versavo 400mg injection and follow up PET- CT for assessing disease progression. PET-CT was reportedly better. However, problem started with increasing constipation from 12- 14 August 2023 without any substantive result. She was advised proper diet and medication to improve bowel evacuation. However, post discharge on 14<sup>th</sup> August 2023, she remained unwell and got exhausted while passing stool, almost to the point of near-fainting on 16<sup>th</sup> August 2023

last midnight at about 2 am and was taken to local Sarada Nursing Home for few hours without any result however, after enema.

4. On transfer to R N Tagore Hospital as directed by above Nursing Home she was admitted at around 12-30 pm on 16/08/2023. With increasing constipation only on 18/08/2023 large gut obstruction with faecal impaction was diagnosed with CT abdomen after a delay of 48 hours since admission. Unfortunately, the patient repeatedly developed sepsis and septic shock leading to death on 19/08/2023 at 10-38 am as per death certificate.

**Comments:**

1. No doubt the patient was serious with irreversible complex health problems with metastatic lung adeno carcinoma stage IV while undergoing treatment since 2021 at Narayana Superspeciality Hospital, Howrah.
2. But subacute large gut obstruction with impaction was over looked which could have been taken care of in time with collaborative effects of surgical and medical gastroenterologist team and this appeared very unfortunate.

3. *Perhaps early protocol-based dis-impaction of faecal large gut obstruction was only retrievable factor in the natural history of incurable cancer of this elderly patient.*
4. *The rapid development of Septic shock in this patient, when follow up PET-CT was better remained unexplained in absence of possible gut gangrene due to undetected prolonged obstruction. It appears there was no post-mortem examination to confirm this issue.*
5. *Medical certificate of immediate cause of death should be septic shock with subacute large gut obstruction in a patient of metastastatic lung cancer rather than reported antecedent or contributory cause as mentioned in Form 4 (medical certificate of cause of death)."*

## **CONCLUSION**

Our esteemed Member Dr. Mukherjee in his considered opinion categorically observed, immediate cause of death was subacute obstruction and not the cause that the CEs highlighted in the death certificate as well as consistently ventilated before us.

Chance of complete cure of the stage IV adeno carcinoma patient is very remote.

In the instance case, the treating team categorically contended, her PET-CT scan report was good and it was showing progress of cure.

We do not have any idea as to how long the patient could survive.

We are concerned with the immediate cause of the death that was sub-acute gut obstruction and no effective steps were taken by both the CEs being

Narayana Superspeciality Hospital, Howrah as well as R N Tagore Hospital that resulted in unfortunate death of the patient.

## **RESULT**

We impose compensation of Rs. 5,00,000/- to be paid jointly by Narayana Superspeciality Hospital, Howrah as well as R N Tagore Hospital to the complainant on sharing of her bank details and submit report of compliance with the Commission.

The complaint is disposed of accordingly.

Sd/-

**(ASHIM KUMAR BANERJEE)**

15



We agree,

Sd/-

Dr. Sukumar Mukherjee,

Sd/-

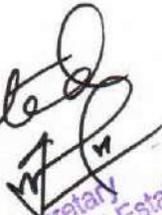
Dr. Maitrayee Banerjee,

Sd/-

Sri Sutirtha Bhattacharya

Sd/-

Smt. Madhabi Das.

*Authenticated*  
  
Secretary  
West Bengal Clinical Establishment  
Regulatory Commission

*Q*