

**THE WEST BENGAL CLINICAL ESTABLISHMENT
REGULATORY COMMISSION.**

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Madhusudan Banerjee, Member

Dr. Makhan Lal Saha, Member.

Dr. Gopal Krishna Dhali, Member.

Prof.(Dr.) Debashis Bhattacharya, Member.

Dr. Maitrayee Banerjee, Member.

Smt. Madhabi Das, Member.

COMPLAINT ID: HGY/2017/000195.

Mrs. Alivia MukherjeeComplainant.

-versus-

B.K. Dutt Memorial Medical Centre & others.....Respondents.

Date of judgment: 22nd December, 2017.

J U D G M E N T.

The case of the complainant, Ms. Alivia Mukherjee, friend of the service recipient, Prabir Das is as follows:-

On December 6, 2016, her friend Prabir Das consulted Dr. Ranjan Paul at B.K. Dutt Memorial Medical Centre with nose related problem. He advised operation and accordingly, operation was done by Dr. Ranjan Paul on April 19, 2017 at the same hospital. The patient was discharged on April 20, 2017. He again consulted Dr. Ranjan Paul two days after the operation i.e., on April 22, 2017 and was advised 15 days rest and they were told by Dr. Paul that

operation was successful. After some days, the service recipient Prabir Das started to have pain in his nose and also breathing problem. The doctor was consulted over telephone and the doctor advised medicine but frequently changed it. He was again admitted at the said hospital on April 29, 2017 with pain and inability to breathe through his nose. Dr. Paul examined the patient and changed the medicine. Even thereafter, breathing problem and the pain did not subside and the service recipient was unable to do any work. Dr. Paul was again consulted on May 10, 2017 but the treatment did not provide any relief, though the doctor was sure that it would be fine soon. Ultimately, as the pain was aggravated on July 6, 2017, Dr. Nitin Mittal was consulted. Dr. Mittal examined the patient and opined that operation was not successful and during the procedure a perforation was caused in the nasal cavity. He further opined that there is least chance of recovery. Immediately, Dr. Paul was contacted when the patient was asked to come at Chittaranjan Medical College on July 28, 2017. During telephonic conversation, his lapse was admitted by Dr. Paul. Since no bill was given to the patient party, Dr. Paul again called on July 11, 2017 for the bill. Later, when she tried to talk with Dr. Ranjan Paul, he lodged a complaint to the Benia Pukur police station and one officer from Benia Pukur police station asked the complainant not to call the doctor again. Later Dr. Rahuldeb Chatterjee and N.K. Mohan was consulted who opined that no treatment was possible.

In addition to the letter of complaint, subsequently a further complaint was filed in the form of affidavit.

2. On receipt of the complaint, response was sought for from Dr. Ranjan Paul and the Clinical Establishment, B.K. Dutta Memorial Medical Centre.

a. The clinical establishment in its reply categorically denied the allegation that no bill was submitted.

b. Dr. Ranjan Paul in his reply in the form of affidavit stated as follows.

The patient Prabir Das was admitted under him at B.K. Dutt Memorial Medical Centre on April 19, 2017 with history of nasal obstruction more on the left side due to gross Deviated Nasal Septum to the left with huge septal spur. A classical septoplasty operation was performed

on April 19, 2017 for removal of spur and excess portion of nasal septum. The septum was straightened perfectly with intact mucoperichondrium on both the sides and Merocele packing was given on both nasal cavities. The patient after his complete and uneventful recovery was discharged on April 20, 2017 and was advised to come after 4 days for removal of Merocele Pack and it was removed accordingly after 4 days. The patient came to the doctor after 10 days of the operation for routine follow-up and no abnormality was detected except slight pain in the nose which is common after such surgery. Next visit of the patient also did not reveal any abnormality. After 3 months of surgery, the patient came to Dr. Paul at Calcutta National Medical College where he is posted as Professor and Head of the Department of ENT, accompanied by lady friend and complained of nasal obstruction on the left side. The patient was examined and a mild deviation of nasal septum on the left side with small septal perforation in the middle of the nasal septum was found. It was not due to the causes of the surgery. It was also found that right nasal airway was absolutely clear without any obstruction. At the insistence of patient another surgery was advised by Dr. Paul. However, the patient party was not satisfied and started alleging that he failed to perform the surgery correctly and there was gross negligence on his part. They also in the name of compensation started extorting money and threatened him with dire consequences. At that time Dr. Paul suggested that the patient be managed at the department of ENT in Calcutta National Medical College and Hospital and if required a medical board may be constituted with senior medical faculty. But they declined. It is his further case that patient party also demanded Rs.1.30 lakhs for the treatment cost but he did not agree to their proposal as there was no negligence but offered to provide such sum as loan. However, the patient party was not happy and they went on threatening him with dire consequences, when finding no option he was compelled to lodge a General Diary in Benia Pukur Police Station.

3. The parties were heard at length and their respective affidavits and the medical file of the patient were taken into consideration.

4. Now on the face of the allegation of the complainant, it appears that their allegations against Dr. Paul primarily is one of medical negligence, which is beyond the domain of this

Commission and adjudication over the issue is statutorily prohibited by the first proviso to sub-Section (iii) of Section 38 of the West Clinical Establishment (Registration, Regulation and Transparency) Act, 2017.

5. It is true that the patient had developed a complication in the primary operation done by Dr. Ranjan Paul. After operation the patient did not attend Dr. Paul for three months and attended and treated by another ENT surgeon and according to their case, from him (the other ENT surgeon) only they came to know about the complication in the primary operation. On July 28, 2017 when the patient party met Dr. Paul, he offered them for treatment at Calcutta National Medical College and also offered for formation of a board. But the patient party did not agree to such proposal and intended to be treated by any other private set up and demanded Rs.1.30 lakhs as compensation.

6. Not only that on the face of the allegation of the complainant, primarily a case of medical negligence is made out and therefore it is beyond the purview of the commission but at the same time, considering the materials transpired from the medical file, we do not also find any deficiency in service either on the part of the doctor or on the part of the clinical establishment, although only allegation against it was of non-supplying of bills.

7. This case has no merit and stands dismissed.

Sd/-

Dr. Madhusudan Banerjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

Dr. Gopal Krishna Dhali, Member.

Sd/-

Prof.(Dr.) Debashis Bhattacharya, Member.

Sd/-

Dr. Maitrayee Banerjee, Member.

Sd/-

Smt. Madhabi Das, Member.

Sd/-
Justice Ashim Kumar Roy
Chairperson



Authenticated

Secretary
W.B.C.E.R.C.
Kolkata-1