

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Gopal Krishna Dhali, Member.

Dr. Makhan Lal Saha, Member.

Dr. Maitrayee Banerjee, Member.

Dr. Debasis Bhattacharyya, Member.

Mr. Anuj Sharma, IPS, Member.

COMPLAINT ID: PAB/2017/000098.

Mr. Prasad DasguptaComplainant.

-versus-

Vivekananda HospitalRespondents.

Date of judgment: 16th February, 2018.

J U D G M E N T.

According to the complainant, following the advice of Dr. Swapan Khan, a Cardiologist, who considering her ECG report diagnosed that his wife was suffering from a heart block, for confirmation advised for institutional checkup of Echocardiogram, halter monitor etc. Accordingly, on May 10, 2017, she was

admitted at Vivekananda Hospital, Durgapur (hereinafter referred to as "the hospital"). Although the complainant wanted to get his wife admitted in general ward but RMO insisted that she should be treated at ICU. At ICU, he was informed by his wife that her sugar level has reached to 453 although she was not a diabetic. However, Dr. Rajasekar told him that sugar level might have been increased due to tension. The complainant was also told that halter monitor would be done on the next day and angiogram thereafter. On May 11, 2017, halter monitor commenced but before receipt of the report on May 12, 2017, Dr. Rajasekar told him that he would go for temporary pacemaker implantation and angiogram. On May 12, 2017, after the tests were done, the complainant asked the hospital authority to release his wife but he was told that the patient would be transferred to general ward on that day and on the next day, at 12 noon i.e., on May 13, 2017, she would be discharged. On May 13, 2017, Dr. Rajasekar, however, refused to discharge the patient and insisted for temporary pacemaker implantation on the plea of heart block and fatal consequences. The complainant was compelled to concede to implantation of temporary pacemaker and then permanent pacemaker implantation and on May 19, 2017 permanent pacemaker was implanted. It was further alleged that pacemaker implantation was defective and since there was gaping hole, the patient developed infection and as a result, she was again admitted at Apollo Hospital, Kolkata. The pacemaker was removed from right chest, sterilized and re-implanted on her left chest by Dr. P.C. Mondal and the error was corrected. It is claimed that Dr. P.C. Mondal opined that the cut (incision) along the clavicle was improper and due to movement the gap would never unite.

It is further case that the complainant is a Ex. Dy. Secy, Finance Dept. Government of West Bengal and his medical expenses for self and his family members are covered under West Bengal Health Scheme and he was informed by the hospital authority that the price of single chamber vitatron pacemaker was Rs.1,13,000/- and implantation charge was Rs.19,400/-. Finally, a bill for Rs.1,39,824/- was raised out of which Rs.87,400/- (Rs.68,000/- for pacemaker single chamber with red modulation and Rs.19,400/- for permanent pacemaker implantation- 4 days'package) but the hospital authority obtained from him a further sum of Rs.37,801/- extra.

It is also his case that the staffs of the hospital authority misbehaved and harassed him at the time of release of the patient.

2. Immediately upon receipt of the complaint, the Commission sought for written explanation from the Clinical Establishment against the allegations made against it. The Bed Head Ticket was called for and also the explanation about overcharging.

3. Finally the case was decided on exchange of affidavits.

4. So far as the allegation of the medical negligence and the deficiency in service against Dr. Rajasekar is concerned, the same is not only beyond the scope of adjudication of the Commission as provided in sub-Section III of Section 38 of the West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act 2017, at the same time the allegation of the complainant that the implantation of pacemaker as was defective and that left gaping wound, as a result the service recipient, subsequently developed infection and she was again admitted at Apollo Hospital and there, the pacemaker was removed from right

chest sterilized and re-implanted on her left chest by Dr. P.C. Mondal has also not been established.

The discharge certificate of the Apollo of the service recipient was filed by the complainant. We find that chief complaint was *"Gaping and discharging wound at permanent pacemaker implantation site on right infraclavicular area (permanent pacemaker implantation done on 19.05.2017 at Vivekananda Hospital, Durgapur) and diagnosis was "Status post permanent implantation [19/05/2017] permanent pacemaker implant site infection old infected pulse generator of permanent pacemaker explanted under temporary pacemaker backup from right chest on 05/06/2017 permanent pacemaker (old pulse generator) [VVI-Vitatron] re-implanted after sterilization on left side on 06/06/2017 type 2 diabetes mellitus (Newly detected) systemic hypertension LV systolic dysfunction"*.

The above note in the discharge summary does not indicate that there was any defect in implantation of pacemaker and due to such defect, the service recipient developed infection and required re-implantation of the pacemaker.

In any event, we are restrained entering in detail as to whether there was any medical negligence or not on the part of the doctor at Vivekananda Hospital, Durgapur but as insisted by the complainant, we have to make the above observation and make it clear that the same shall have no bearing if the question of medical negligence arose for adjudication before any competent forum.

5. So far as the allegation of misbehavior is concerned, no further materials are forthcoming except what has alleged by the complainant.

6. Now coming to the only other point of overbilling, we find that although a bill for Rs.1.39 lakh was raised but the hospital actually realized Rs.87,400/- from the Government and a further sum of Rs.37,801/- was paid by the complainant. We are satisfied with the explanation of the Clinical Establishment as to the question on what account Rs.37,801/- was charged. According to the Clinical Establishment, it was the complainant who insisted for the pacemaker which cost Rs.1,13,801/-, with a clear understanding the extra amount above the maximum approved rate of the Government shall be paid by the complainant and, therefore, from him the Clinical Establishment realized Rs.37,801 and he was granted a discount of Rs.8000/-. The tax invoice was produced before us and we find that the pacemaker was purchased on account of Ms. Sumita Das Gupta and for that a bill for Rs.1,13,801 was raised against the Clinical Establishment.

7. It be noted that from the side of the Clinical Establishment it has been made clear that there is no outstanding and nothing due.

8. For the reasons stated above, we do not find any merit in this complaint and the case stands closed.

Sd/-
Justice Ashim Kumar Roy
Chairperson

Sd-
Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Gopal Krishna Dhali, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

Dr. Maitrayee Banerjee, Member.

Sd/-

Dr. Debasis Bhaattacharyya, Member.

Sd/-

Mr. Anuj Sharma, IPS, Member.

Authenticated

[Handwritten Signature]

16/2/2010.



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