

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Abhijit Chowdhury, Member.

Dr. Madhusudan Banerjee, Member.

COMPLAINT ID: HOW/2017/000250.

Mr. Nabarun DeyComplainant.

-versus-

Belur Sramajibi Swasthya Prakalpa Samity.....Respondents.

Date of judgment: 7th March, 2018.

J U D G M E N T .

The complainant, the son of the service recipient Tapasi Dey has approached this Commission alleging that due to the sheer negligence in treatment at Belur Sramajibi Swasthya Prakalpa Samity by the doctors Dr Adit Dey and Dr Bastav Saha, his mother died.

2. According to him, his mother was admitted at Belur Sramajibi Swasthya Prakalpa Samity on August 9, 2017 with left knee fracture and according to the opinion of doctors which needed surgical intervention. However on blood test as it was found that her haemoglobin level was around 8.60gm% the complainant expressed his reservation for operation until the haemoglobin level is elevated. Still the doctor fixed August 12, 2017 for her operation. Finally, ignoring his request and against the medical protocol doctor

operated her on August 12, 2017 and due to the loss of blood in a case of low haemoglobin level his mother died. He urged for compensation.

3. On receipt of the complaint, the Commission sought for response from the clinical establishment and to furnish the medical file of the patient. In response to such notice, the clinical establishment submitted its response and produced the bed head ticket.

4. It be noted at the very outset, the complainant stated that he has no grievances against the clinical establishment, Belur Sramajibi Swasthya Prakalpa Samity and desirous to proceed only against the doctors who operated his mother.

At this stage it is pointed out by the counsel of the clinical establishment that Dr Adit Dey was not involved in the treatment of the mother of the complainant.

5. In response to the allegation against Dr Bastav Saha, it was submitted by his counsel, that on August 9, 2017, the patient was admitted with fracture in left Patella and was surgically operated on August 12, 2017. The post-operative condition of the patient was uneventful and finally on August 15, 2017 she was discharged from the hospital in stable condition. Again on August 20, 2017 the patient was readmitted with acute gastroenteritis in a case of post TBW (total loss of body water) associated with hypoglycemia and dyselectrolytemia. It is then urged, the medical condition with which she was readmitted was not due to any adverse consequence arising out of the operation of the patient. On August 21, 2017 she was discharged from the hospital referring her to any State Medical College/Hospital for better treatment and she expired thereafter at the nursing home where she was removed. It is vehemently contended that she never died due to negligence in operation but having suffered from some other diseases not related to the operation.

6. Be that as it may, the case of the complainant tends to make out a case of medical negligence. However, on the face of the above allegations and the prohibition

contained in the first proviso to Section 38 (1) and regulation (iii) of the West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act, 2017, this is beyond our purview to adjudicate.

With the above observations, this case stands closed.

We make it clear that we have not gone into the question whether there was at all any medical negligence in the patient care service on the part of the Clinical Establishment or not.

Sd/-
Justice Ashim Kumar Roy
Chairperson

Sd/-
Dr. Sukumar Mukherjee, Member.

Sd/-
Dr. Abhijit Chowdhury, Member.

Sd/-
Dr. Madhusudan Banerjee, Member.

Authenticated

[Signature]
7/3/2018



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