

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

**Present: Justice Ashim Kumar Roy, Chairperson.**

**Dr. Sukumar Mukherjee, Member.**

**Dr. Makhan Lal Saha, Member.**

**Dr. Gopal Krishna Dhali, Member.**

**Dr. Madhusudan Banerjee, Member.**

**COMPLAINT ID: NPG/2017/000135.**

**Mr. Sekhar Dutta.....Complainant.**

**-versus-**

**Care and Cure Hospital & others.....Respondents.**

**Date of judgment: 7<sup>th</sup> March, 2018.**

**J U D G M E N T.**

The complainant who himself is the service recipient, has come up before this Commission against Care and Cure Hospital (hereinafter referred to as "the hospital") with the following allegations:

On May 10, 2017 evening, as the complainant was feeling pain on his left chest, on the next day ECG was done and a local doctor was consulted. Since, in spite of having medicine as prescribed by him, pain did not reduce on 12<sup>th</sup> May at around 6.30 he consulted Dr. Subir Saha, a specialist attached to Barasat Government Hospital. When Dr. Saha after prescribing injection and medicine, referred him to Barasat Hospital. At Barasat Hospital he was started oxygen therapy and also ECG was done. Although there was quick response to the treatment but after sometime, some disruption arose in oxygenation. When the complainant requested the sister on duty to transfer him to medical college hospital. At that time, his 2 brothers and



his friends were present there and as the arrangement for his admission in the medical college on the next morning was finalized, the complainant asked them to arrange for an oxygen cylinder and mask. The complainant was then shifted to *"the hospital"* for oxygen therapy on that night. However, nursing home authority shifted him to ICU on the pretext that there was false pulse beat, associated with irrelevant talking and has suffered a stroke. During his treatment, two injections and 14 other medicines were administered and hospital authority raised a huge bill. He was surprised, how an ordinary MBBS doctor undertook his treatment. Due to the administration of wrong injection, he had a fever with convulsion associated with vomiting and frequent urination. It is alleged that the injection which was administered cannot be administered without the consent of the patient. In the medical document, it was shown that he was admitted under a cardiologist but that cardiologist never attended him. On the next day, he went to Medical College Hospital where his attending doctors advised for ECG and were of the further opinion that after 2 weeks treatment, the question for his admission in hospital shall be considered. According to the complaint, his condition of health has been severely deteriorated and he was spending sleepless night with severe headache and frequent vomiting. The complainant claimed for punishment of Dr. Gopal Ghosh who treated him at *"the hospital"* and be sufficiently compensated for deficiency in patient care service.

2. Upon receipt of the aforesaid complaint, notice was issued to the hospital authority seeking their response against the allegation made by the complainant and also the medical file of the patient was called for.

3. In response to the notice, *"the hospital"* submitted a reply in writing and contended as follows.

The complainant came to their hospital on May 12, 2017 at about 10pm in acute condition. The RMO, Dr. Gopal Ghosh suggested the patient party to take him in any higher center considering his acute condition and the infrastructure of the hospital which is not sufficient to treat a patient with such medical condition. However, the patient party did not incline to follow their advice and insisted at least for that night, the complainant be treated there. The patient was accompanied by his relatives and members of the neighbouring people



and due to their insistence he was admitted. It was the patient party who asked the hospital authority to get the patient admitted under the care of Dr. Himadri Saha and the RMO tried to contact him but Dr. Saha was not available. The RMO at once contacted Sekhar Paul, who although did not visit the patient but over phone advised him the necessary treatment. Following the advice of Dr. Sekhar Paul, the RMO who is an experienced doctor, treated the patient with life saving drug following standard protocol and able to save the life of the patient on that day and the patient is still alive. On the next day i.e. May 13, 2017 at around 8.10am in the morning the patient was transferred to another hospital at Kolkata for better treatment as there was no critical care unit at their hospital. Over the selfsame issue on June 25, 2017 a meeting was held at the hospital premises and was attended by the complainant including his own brother and the local residents who brought him to the said hospital.

4. According to the said hospital, the complaint simultaneously approached both the Commission and the CMOH, North 24 parganas and as desired by the CMOH, a meeting was held with the family member, friends and neighbor of the complaint, on 12<sup>th</sup> May, 2017 who brought him at the hospital and got him admitted there. They also filed before the Commission, a minute of the said meeting. We find that at the time of the meeting, the brother of the complainant, Sekhar Dutta and his neighbor, P. Deb Barma, by whom he was admitted at the nursing home, were present. Beside them other persons, namely, Subodh Dhar, Kingshuk Ghosh, Sudipta Das Gupta, Ankur Chakraborty, Saibal Dutta, Avimannu Dey, Ashok Mukhopadhyay and Pronobangsu Mukherjee were also present. The following facts appeared from the minutes,

a) Around 10.30 hours on 25<sup>th</sup> June, 2017, the complainant Sekhar Dutta, who was suffering from chest pain and breathing problem was taken to *the hospital* by his neighbor, friends and his own brother.

b) The attending doctor after doing ECG and examined the patient, requested them to shift him to a better hospital as they have no sufficient infrastrure for treatment of a cardiac patient. However, due to late night, on their request, he was admitted there.



c) Dr. Gopal Ghosh, who treated him is an experienced doctor and he was attached to SSKM Hospital and was associated with ICU.

d) The local residents are very much dependent on the medical service they are getting from the said hospital and on their request, the authority of the said hospital agreed to admit the patient in the hospital on that night apprising them the health condition of the patient and the risk involved.

e) On the next day, they took the patient to another hospital and his brother signed on the consent form.

f) The patient was never aware about the prevailing situation and its consequence.

5. On 05/01/2018, at the time of hearing, the complainant disputed the signature of Subodh Dhar and Sudipta Das Gupta. On the face of such allegation the Commission not only directed the presence of the persons who participated in the meeting but that of the Subrata Dutta and Sudipta Das Gupta.

6. On 19/01/2018, Subodh Dhar, Kingshuk Ghosh, Sudipta Das Gupta, Ankur Chakraborty, Saibal Dutta, Avimannu Dey, Ashok Mukhopadhyay and Pronobangsu Mukherjee were present as also Subrata Dutta.

Each one of them admitted their signature in the minutes. The allegation of the complainant that the signature of Subrata Dutta and Sudipta Das Gupta were forged were denied by them and they admitted their signature.

7. Now going through the materials on record, Dr. Gopal Chandra Ghosh, MBBS Cal, started his career with SSKM Hospital and was attached to ICCU, Department of Cardiology of that Hospital for sufficiently long time, So it cannot be said that he is not competent to treat a cardiac patient at least to give the primary treatment even when the hospital is not equipped with ICCU. On the other hand, at such late night when patient with acute cardiac symptoms was brought to the said hospital, if they had refused to give preliminary treatment to the patient that might have led to a disastrous situation and would have been contrary to the



guidelines framed by the Hon'ble Apex Court in the case of Paramananda Katra versus Union of India & Ors, AIR 1989 SC 2039. We appreciate the role of the hospital authority. Now going through the treatment document and more particularly the test report changes demonstrate in ECG positive TROP T, the diagnosis of acute coronary syndrome cannot be said to be wrong. The patient was given thrombolytic therapy and there was nothing wrong. Under these circumstances, the hospital authority cannot be held guilty for deficiency in service either by itself or through the doctor by whom they provided patient care service.

However, one lapse on the part of the hospital cannot be overlooked. The hospital admitted the patient under Dr. Himadri Saha on the mere request of the patient party without his knowledge and taking his consent which is not at all desirable and acceptable. The hospital authority must be very careful henceforth so that this kind of lapses may not occur in future.

With the above observations, this case stands closed.

Sd/-

Justice Ashim Kumar Roy  
Chairperson

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

Dr. Gopal Krishna Dhali, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.



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*Authenticated*

*W.B.C.E.R.C.*  
*7/3/2018*

Secretary  
W.B.C.E.R.C.  
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