

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Madhusudan Banerjee, Member.

COMPLAINT ID: NPG/2017/000247.

Mr. Soumya BhattacharjeeComplainant.

-versus-

Zenith Super Specialty Hospital. & others.....Respondents

Date of judgment: 16th March, 2018.

J U D G M E N T.

This is a case where the complainant deposed before the Commission on oath and also tendered himself for cross-examination. Besides, making his complaint in writing.

All the allegations made against it by the complainant has been refuted and disputed by the Clinical Establishment, Zenith Super Specialty Hospital. The Clinical Establishment has also presented their case by filing written reply.

2. According to the case of the complainant, on 08.09.2017, at around 8pm, he received a glass cut injury accidentally while cleaning his furniture. Immediately, he rushed to R.G. Kar Medical College and Hospital. Since the hospital was overcrowded, he went to Colombia Asia and reached there around 9.30pm. At Colombia Asia, he received first aid but was declined admission on the pretext of non-availability of bed. Then the complainant went to the emergency ward of Zenith Super Speciality Hospital on 09.09.2017 at around 1:10am, was attended by the doctor and admitted for treatment. Thereafter, at the ward, he was first attended by Dr. Anirban Banerjee, a general surgeon, and according to him a surgical intervention was necessary and referred him to Dr. Kalyan Das, Plastic Surgeon. Dr. Das visited him at around 2.30pm and it was planned that around 8.30pm operation will be done and

accordingly advised medicine and other related treatments. Since at 8.30pm Dr. Das did not turn up and there was no preparation for OT, he got annoyed. Finally at around 9.30pm the complainant was taken to OT. Since, he was not happy with the approach of the hospital authority, he declined to undergo any further treatment there and by executing a discharge bond, he left the hospital at around 11pm. On 10.10.2017, at around 9.30am morning, he had been to Belur Sramajibi Swasthya Prakalpa Samity. Since they had no infrastructure for operation, he went to Ruby Hospital and took admission there and underwent operation. At Zenith he did not receive any quick response for his treatment and due to that healing process was delayed. However, at present he has no problem and he has resumed his normal works a month back.

During his cross-examination, he denied that he had sustained injury not while cleaning furniture but when he hit the table glass. When, from the side of the Clinical Establishment, his attention was drawn to the statement of his wife, noted in the admission sheet, he denied his knowledge about the same. According to him, the necessary medical treatment was not provided to him and only at around 12.30pm Dr. Kalyan Das did POP slab. He admitted that he is a psychiatric patient and having regular medicines and also had suicidal tendencies but after taking medicines, such tendencies have been overcome. He had no knowledge that one anesthetist attended him who is also a qualified psychiatrist. He admitted that at the time of operation his attending doctor, relatives tried to convince him for undergoing operation but he refused and forcibly took a bottle of water and finally got himself discharged against medical advice. He also admitted that after getting discharge from Zenith on 09.09.2017 at around 9.30 hours he took admission at Ruby on 10.09.2017 at 8.30pm and his operation was done on 12.09.2017.

3. The Clinical Establishment in their reply categorically denied all the allegations made against it by the complainant.

It is their case that at the time of admission of the patient at late night, the doctors of their hospital had taken the background/history of the illness of the patient i.e. mood disorder on medication. Dr. Anirban Banerjee attended the patient and advised accordingly and informed plastic surgeon for further treatment. Dr. Kalyan Das also attended the patient and pop slab immobilization was done. Consenting investigation was also done and operation was advised and fixed at 8 pm on 09.09.2017. Since the patient party desired mediclaim facility, the hospital staff explained the procedure. The patient insisted for MRI of injured hand and he was explained, since there was no skeletal injury and vascularity of fingers was not jeopardized, no MRI was required before surgery. However, blood tests, ECG was done and outcome was communicated to him. The hospital also informed the patient party that a psychiatrist needs to be consulted, preferably before surgery for any dose adjustment. The nature of anesthesia was explained. The anesthesiologist Dr. H.K. Roy agreed for anesthesia and was given the history of

mood disorder. Since anesthesiologist had experience of handling such cases (Having diploma in psychiatric medicine), for which he was specifically sought for before the said proposed operation. The time of surgery was fixed to be at 8pm since a 6 hours NPM and investigations and psychiatry opinion would require time. It is stated by the Clinical Establishment that right from first consultation in ward, dressing, medication and thereafter pre-operative the patient was restless, agitated and not satisfied with the treatment. After all arrangements was made and was communicated to patient's party via phone by Floor manager of our hospital and the patient was called to OT, he refused to get anesthesia and surgery as suggested. The family members of the patient, his psychiatrist, ward nurses, the General Manager of the hospital and anesthesiologist all together proceeded to ward and made efforts to make the patient understand that surgery was required. The patient drank a liter of water forcefully in spite of asking not to do so. His family members ward sisters all tried the patient to cool down. It is submitted by the hospital that they tried to co-operate the patient with fullest sincerity and ability. But the patient relentlessly refused to get operated realizing the consequences. He was all throughout in very threatening and narcissistic mood. His family members and also his psychiatrist Dr. Rajarshi Neogi failed to make him understand his situation and he wanted to be treated by better surgeon. As per the desire of the patient, a written declaration was given by his wife that he can be taken release from the hospital against DAMA on September 9, 2017 at 10:30pm and was accordingly released against DAMA.

4. We have given our anxious and thoughtful consideration to the rival submissions of the parties. Perused the letter of complaint as also the reply of the Clinical Establishment, the content thereof has also been very carefully considered. We have also considered the materials available from the medical file and the deposition of the complainant.

5. Going through the letter of complaint as also the verbal submissions of the complainant who appeared in person, we find essentially his allegation is one of not providing timely and quick treatment and consequently, the healing process and recovery was delayed.

Now, from the materials on record we find that the complainant sustained injury on September 8, 2017 at around 8pm. He first went to R.G. Kar Hospital and found the hospital being overcrowded, went to Colombia Asia and getting first aid then around 11pm, he went to Zenith Super Specialty Hospital around 1.10am on September 9, 2017. We find from the record that he was immediately attended by the doctors both at emergency department as well as in the ward. Thereafter, on the next he was attended by the surgeon and according to his advice, a plastic surgeon attended him around 2.30 pm and operation was planned around 8.30pm. We find from the nature of injury he sustained, depending on the availability of the surgeon and the O.T., fixing time for operation at 8.30pm, does not substantiate his allegations and amount to deficiency in service.

On the other hand, we are of the opinion that if anybody has delayed the healing process, that is none else other than the complainant himself. Firstly, he before taking admission at Zenith Super Specialty Hospital, spent more than 5 hours for deciding in which particular hospital he should take his treatment. At Zenith, truly, there was a little delay in commencement of his operation, as scheduled. But that cannot be a valid reason for refusing to undergo operation. Admittedly, his relations and wife tried to appease and convince him but he declined and took a bottle of water forcibly and intentionally to prevent operation. Thereafter, on the next day, nearly about 10 hours of his discharge from Zenith, he went to Belur Sramajibi Swastha Prakalpa Samity. He was also not satisfied with the said hospital and finally took admission at Ruby General Hospital on that day at around 8.30pm i.e. also after 8 hours, he left the Belur Sramajibi Swastha Prakalpa Samity. Finally the operation was done on September 12, 2017, i.e. nearly 3 days after he took discharge from Zenith Super Special Hospital. These facts clearly demonstrate that if at all anyone is responsible for delaying the operation and the healing process, it is the complainant himself and none else. We do not find that the complainant has been able to establish the charge brought against the Clinical Establishment.

6. For the reasons stated above, we do not find any merit in the complainant and, the same stands dismissed.

Sd/-
Justice Ashim Kumar Roy
Chairperson

Sd/-
Dr. Sukumar Mukherjee, Member.

Sd/-
Dr. Madhusudan Banerjee, Member.



Authenticated

A handwritten signature in blue ink, appearing to be "W.B.C.E.R.C.", written over a horizontal line.

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