

**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: HGY/2017/000258.

Md. Sawkat AliComplainant.

-versus-

N.G. Nursing Home & others.....Respondents.

Date of judgment: 20th April, 2018.

J U D G M E N T.

The case of the complainant as it transpires from the letter of complaint, coupled with the oral submissions of the complainant who appears in person goes as follows,

Sometime in the 1st week of December, 2015, the exact day which the complainant was unable to recall, his brother had a fall at the railway station and suffered a fracture of femur. Immediately his brother was removed to Sramajibi Hospital, Belur, where he was operated upon and on 17.02.2016 was discharged. After discharge, although his brother was recovering slowly and even started walking with the walker but all of a sudden on 24.12.2016 he lost his mobility and could not even independently walk with the walker. Immediately Dr. Santosh Kumar, a Doctor attached to the Belle Vue Nursing home was contacted and Dr. Santosh Kumar

advised for surgical intervention. As per his advice, on 19.01.2017 his brother was admitted at N.G. Nursing Home, for such operation on a package of Rs.1.5 Lakh. Finally, on 20.01.2017 operation was done and on 25.01.2017 he was discharged. Even after operation, as there was no improvement, he again contacted Dr. Santosh Kumar. This time Dr. Santosh kumar opined that further surgical intervention is necessary and advised his brother to be admitted at ILS Hospital, Dum Dum. His brother was then admitted at ILS, Dum Dum for such operation on a package of Rs.2.20 lakh. According to the complainant that in spite of repeated operations, for which he has to spent Rs.3.70 lakh, neither his brother was cured and recovered nor there was any improvement and his brother is completely bedridden. He alleged that Dr. Santosh Kumar had not done the operation correctly and as a result there was no positive outcome. He further alleged that at the time of second operation, over and above the package amount of Rs. 2.20 lakh, Dr. Santosh Kumar demanded a further sum of Rs.20,000/-. Now, Dr. Santosh Kumar again advised for a third operation and asking him to arrange Rs.5/6 lakh more for the operation which would be done at Belle Vue Nursing home. It is added that during the previous operation, the Nursing Home authorities, as dictated by Dr. Santosh Kumar always insisted him to clear the package amount. In reply to a specific query of the Commission, the complainant categorically stated that his entire grievance is against Dr. Santosh Kumar due to whose fault and in spite of wrong operations, as many as on two occasions, for which he has to spend about Rs.3.70 lakh, his brother has become crippled and completely bedridden.

2. Now taking the case of the complainant, as above, at its face value and assuming the same to be correct, for the sake of argument, we find, if at all, a case which is likely to be made out, is one of medical negligence. However, in view of the prohibition contained in first

proviso to section 38(iii) of the West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act, 2017, this is beyond the authority of this Commission to adjudicate the complaint.

Having regards to above we do not find any reason to keep this complaint survives and to proceed with. Accordingly, this case stands closed.

We make it clear that we have not gone into the merits of the case so far as the medical negligence by the doctor is concerned and the petitioner, if so advised, may approach the concerned State Medical Council and any other forum in accordance with law.

Sd/-

Justice Ashim Kumar Roy
Chairperson.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Abhijit Chowdhury, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Authenticated.

[Signature]

20/4/2018
Secretary

West Bengal Clinical Establishment
Regulatory Commission

