

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Madhusudan Banerjee, Member.

Dr. Maitrayee Banerjee, Member.

COMPLAINT ID: NPG/2018/000296.

Mr. Sourav Gupta.....Complainant.

-versus-

Spandan Diagnostic Center.....Respondents.

Date of judgment: 11th December, 2018.

J U D G M E N T.

It is the case of the complainant that his daughter Arshika Gupta, aged about 3 years, was suffering from high fever since 23.11.2017 evening. She was under the treatment of Dr. Bhaskar Maitra and the doctor advised for blood test including the test for dengue to ascertain the real reason for her fever. According to the advice of Dr. Mitra on 24.11.2017 the complainant with his daughter went to Spandan Diagnostic Centre where blood sample was collected from her and in the evening the report was obtained on full payments. According to the said test report, it was found that she was "Dengue is+ve". Immediately having come to learn that his daughter having Dengue is+ve the complainant immediately got her admitted at Apollo Hospitals. At Apollo her blood samples were again collected and on test it was found that the same was Dengue is-ve and the hospital authority has not found any symptom of Dengue clinically.

2. On going through the report of Spandan, we find that according to the same the daughter of the complainant Dengue NS1 antigen is positive. However, according to the discharge summary of Apollo (date of admission 24.11.2017 and date of discharge 27.11.2017), the patient was suffering from acute gastroenteritis with dehydration and the child was tested for Dengue NS1 antigen and found positive on second day of the fever but on test of her blood at Apollo, it was found Dengue NS1 antigen was negative.

3. The clinical establishment is represented by its Centre incharge, Ms. Mohuya Sanyal on the first day of hearing (14.08.2018). On that day, since she was unable to refute the charge brought against the clinical establishment, we thought it fit that the pathologists and the technicians by whom the tests were done, be examined and accordingly, December 4, 2018 was fixed. The Centre incharge of the pathological laboratory was specifically asked to produce the run validity record on the next date fixed for hearing.

However, on December 4, 2018 although pathologist and Ms. Mohuya Sanyal were present but not the technician. We are informed that technician has left the job long back and not traceable. When we examined the pathologist, he not only unable to clarify this discrepancy, he was also unable to recall anything about the test. Even, the run validity record was not produced and it is claimed by Ms. Mohuya Sanyal that same is misplaced. The run validity record is the only document from which it can be tallied, as to from whom the blood sample was collected and whether the report of the blood sample matches with the registration number allotted in name of such person. Therefore, while testing the blood, there was no mistake. We mean to say that the report was of that person from whom the blood was collected. Failure to preserve such important records is a serious lapse on the part of the Clinical Establishment and against the mandate of conditions of licence.

4. In the above backdrop, we are of the opinion this is a fit case where intervention of the Commission is called for and the Clinical Establishment be adequately penalized.

5. It be noted the complainant in his fairness submitted the entire expenses he made for the treatment of his daughter at Apollo Hospital has been borne out by the Insurance Company. Even if that be so, we are of opinion that he must get the refund of the amount that he was charged for blood test along with litigation cost. Simultaneously, a penalty be imposed against the Clinical Establishment for not only giving a wrong blood test report but also for not maintaining the records.

6. We, therefore, direct that a sum of Rs.5000/- be paid to the complainant as compensation inclusive of the amount charged for blood test and a further sum of Rs.15000/- is imposed as penalty.

7. The Clinical Establishment shall pay the compensation amount to the complainant by an account payee bankers' cheque and shall deposit the penalty amount in account of West Bengal Clinical Establishment Regulatory Commission Fund. Both the amount shall be paid within 3 weeks from the date of this order.

The office is directed to communicate this order.

Sd/-

Justice Ashim Kumar Roy
Chairperson.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Sd/-

Dr. Maitrayee Banerjee, Member.

Authenticated


ARSHAD HASAN WARSI
WBCS (Ex)
Secretary
W. B. C. E. R. C.