

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

Present: Justice Ashim Kumar Roy, Chairperson.

Smt. Sanghamitra Ghosh, IAS, Vice-Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Makhan Lal Saha, Member.

Dr. Madhusudan Banerjee, Member.

Dr. Maitrayee Banerjee, Member.

COMPLAINT ID: KOL/2017/000259.

Mr. Arshe Azam.....Complainant.

-versus-

CMRI.....Respondents.

Date of judgment: 11th December, 2018.

J U D G M E N T.

The wife of the complainant, Firdaus Jahan, in an advance stage of pregnancy, got admitted at CMRI Hospital under Dr. Kakuli Acharya on a package of Rs.60000/- which was duly paid by the complainant and on 01.04.2017, she gave birth to a male child. On the very next day, the complainant was informed by Dr. Kakuli Acharya that even after passing of twenty four hours, his son was not able to pass stool and hence, his son has been referred to a paediatric surgeon, Dr. Biswajit Bhaduri, another in-house doctor of CMRI Hospital. On 03.04.2017, after examining the baby, Dr. Bhaduri informed him that his son needed immediate surgery. There was non-passing of stool since there was gangrene in his intestine. He was told that nothing to be worried and the disease is curable. Before undertaking the surgery Dr. Bhaduri explained the complainant that in the said surgery, they are going to create a Stoma for passing of stool

and same was temporary in nature and once the baby recovers they will do another surgery to reverse the same Stoma and, therefore, his son would be able to pass stool naturally. The complainant gave his consent with full faith on Dr. Biswajit Bhaduri. On the same day, under the supervision of Dr. Bhaduri and Dr. Sharat of CMRI his son underwent an operation and a Stoma was made and on 10.04.2017 the son of the complainant was discharged. For this operation, CMRI the complainant was charged Rs.230000/- and the amount was duly paid by him. After discharge, for the next three months, his son was under the treatment of Dr. Biswajit Bhaduri at a specialty clinic of CMRI and finally, the complainant was informed by Dr. Bhaduri that his son is fit and healthy and a second surgery for closing of the Stoma will be done. Accordingly, on 11.07.2017, his son was again admitted at CMRI for second surgery on a package of Rs.166000/- only and he paid Rs.30000/- on 11.07.2017 and then on the next day, he paid Rs.50000/-. After the second surgery, his son started suffering from high fever but the doctors assured him that nothing to be worried and everything will be alright shortly. But the condition of the baby started deteriorating and the entire body was swelling and still, Dr. Bhaduri assured that nothing to be worried.

On 11.07.2017, an x-ray was done and Dr. Bhaduri advised that another surgery is necessary otherwise his son may die due to infection. He was further informed by Dr. Bhaduri that in the third surgery, they are going to make a parallel line inside the abdomen for passage of stool. The said operation was done on the same day at CMRI under the supervision of Dr. Bhaduri and Dr. Sharat. However, in the third surgery, instead of making any parallel line for passage of stool, they again made Stoma. After knowing the above facts, the complainant immediately made a serious objection but Dr. Bhaduri in a deceptive way specified him and assured him that within six weeks, his son will be fully recovered. On 19.07.2017, the complainant was informed by his wife that Dr. Bhaduri told her that he cannot say within how many days, his son will be recovered. On the same day, the complainant received a phone call from his wife and he was told that Dr. Bhaduri and Dr. Sharat and other sister-in-charge of PICU tried to get her signatures in some blank papers. Such attempt was also made on the next day i.e. on 20.07.2017 and informed that his son will be discharged from the hospital very soon.

At this stage, on the very day i.e. on 20.07.2017, he lodged a complaint with the Alipore Police Station against Dr. Biswajit Bhaduri and Dr. Sharat, who were involved in the treatment, being Alipore Case No.175/2017 under Section 338/34 of IPC. On 21.07.2017, a medical board was constituted headed by Dr. Subhasish Saha to supervise the treatment. In the board meeting, Dr. Bhaduri and Dr. Sharat accepted the negligence on their part. Then again, on 22.07.2017, the complainant lodged another complaint with the officer-in-charge, Ekbalpore Police Station some unknown persons for abusing and threatening him and his family members. In the said board meeting dated 26.07.2017 two issues arose as to why after the third surgery no further operation can be done in any circumstances for the next six months and hence the question of staying of the baby at the hospital is of no use and there were several patients of different kind of disease who were staying in CMRI and there were every chance of getting any kind of infection to his son. On 31.07.2017, when the complainant visited CMRI, he found a channel on his son's hand which was dislodged and some pus in and around the area of channel as a wound was formed. On the next day, i.e. on 01.08.2017 when the complainant prayed for discharging of his son, CMRI completely waived off all or any outstanding amount due against the treatment of the son of the complainant.

Along with the letter of complainant dated 21.09.2017, upon direction of the Hon'ble Commission, the complainant submitted one affidavit dated 22.12.2017. In the said affidavit, he stated further that the bills generated dated 01.08.2017, during the final discharge reflected various headings but from the said bills it transpired that there had been no doctor charge between 24.07.2017 to 01.08.2017 amounting to Rs.227923/- ironically from the legal demand dated 21.10.2017, the CMRI inflated the dues to the tune of Rs.242589/- which prima facie suggested malpractice to the complainant.

The complainant approached before the necessary steps against such deliberate negligence and deficiency causing serious physical injury to his son and adequate compensation.

2. On receipt of the letter of complaint in the form of affidavit, the Commission issued notice against CMRI Hospital and the concerned doctors asking them to submit their reply in this regard.

During the course of hearing on 15.12.2017 certain issues regarding the billing were raised by the Commission like levy of additional OT charges, charges for the test of Potassium, Sodium and Creatinine apart from complete hemogram, the components of surgical consumables etc.

On the same day, the Commission directed the complainant to submit his detailed complaint in the form of affidavit.

4. On the next date of hearing i.e. on 23.03.2018, a question arose whether Dr. Biswajit Bhaduri, the concerned paediatric surgeon was duly qualified to perform paediatric surgery on the strength of his postgraduate degree and whether the degree possess by him are recognised by the Medical Council when the Clinical Establishment was directed to deposit the appointment letter of Dr. Biswajit Bhaduri and his postgraduate qualification recognised by concerned Medical Council.
5. On 25.05.2018 the appointment letter of Dr. Bhaduri and the documents relating to renewal of his employment were produced by the Clinical Establishment. However, it was found that the credential of Dr. Bhaduri was not verified by the hospital either before his appointment or during renewal of his term of employment.

Till that date, Dr. Bhaduri has not also produced his registration certificate with the State Medical Council and the Commission was informed by him that in the month of April 2017, he applied for the same but the State Medical Council has not taken any steps in this regard. On that day, Dr. Bhaduri was directed to produce his updated registration certificate positively by the next date of hearing otherwise the Commission shall have no option but to proceed on the footing that the postgraduate qualification of Dr. Bhaduri is not recognised by the State Medical Council and consequently, he is not eligible to claim to be a specialised paediatric surgeon on the strength of those certificates and practice that branch of surgery. However, he was given an another opportunity and four weeks' time was granted to do the needful.

6. It be noted that in this regard, from the side of the complainant, on the day itself i.e. on 25.05.2018, our attention was drawn towards Third Schedule of Medical Council Act, 1956 and

It was pointed out that postgraduate qualification possessed by Dr. Bhaduri is not included in the said schedule as one of the recognised qualification.

At that time, a copy of the resolution of the Credentialing and Privileging Committee of C.K. Birla Hospital in respect of Dr. Biswasjit Bhaduri was produced by Ms. Sweta Sharma, the legal head of the Clinical Establishment. The relevant portion of the said resolution is reproduced below,

“The degree is not registerable in MCI but is equivalent to M. Ch. Hence he can be allowed to practice as paediatric surgeon.”

7. On the next date, i.e. on 26.06.2018 Dr. Bhaduri did not turn up and represented by his learned Counsel, Mr. Samrat Mukherjee. On that day, a representation was filed by Mr. Mukherjee and it is claimed, according to the Third Schedule of the Medical Council Act, 1956, Dr. Biswajit Bhaduri is eligible to claim himself to a specialised paediatrician and practice in that field in such capacity.

On the other hand, from the side of the complainant, two documents have been filed. Those two documents the complainant obtained under RTI Act from the Medical Council of India and West Bengal State Medical Council. According to the said two documents, the Medical Council of India and West Bengal State Medical Council have in writing disclosed, in response to an application made by the complainant under the RTI Act, that the purported postgraduate qualification, possessed by Dr. Bhaduri is not recognised by any of the Councils. On the face of the aforesaid two replies of the Councils, it was claimed by the learned Counsel of the complainant that on the strength of the said postgraduate degree, Dr. Bhaduri is not eligible to claim to be a specialised paediatric surgeon and practice as such.

8. In this regard, the information received by the complainant from the Registrar West Bengal Medical Council and from the Medical Council of India in terms of RTI Act, 2005 is reproduced below,

A. The reply received from West Bengal State Medical Council in terms of RTI Act, 2005,

- a. Whether Dr. Biswajit Bhaduri vide his Resolution No.42407 dated 13.02.1984 has applied for updation of his PG Degree through West Bengal Medical Council?

Ans. As per our records Dr. Biswajit Bhaduri (Registration No.42407) had applied for updation of his PG Degree i.e. "Fachart fur Kinderchirurgie" in Paediatric Surgery & Doctor of Medicine in paediatric Surgery.

- b. Whether West Bengal Medical Council has received his application for updation, if received then what is the date of receipt and status of application?

Ans. As per records, we have received his application for updation of his PG Degree i.e. "Fachart fur Kinderchirurgie" in Paediatric Surgery on 28.05.2018.

However, it is learnt from MCI that Postgraduate Medical Qualifications with the title of "Fachart fur Kinderchirurgie" in Paediatric Surgery & "Doctor of Medicine" in Paediatric surgery cannot be considered for registration u/s 26 of the IMC Act, 1956.

B. The reply received from the Medical Council of India in terms of RTI Act, 2005

- a. Whether Dr. Biswajit Bhaduri vide his Registration No.42407 has permanent Details of information, address Maurigram Rly Station Para PO-Unsani, Howrah-711302 West Bengal has obtained any additional qualification/higher qualification other than M.B.B.S and is there entry of the higher qualification or additional qualification into the records of Dr. Biswajit Bhaduri with M.C.I. as per law.

- b. If there is entry of additional qualification of higher qualification of Dr. Biswajit Bhaduri with M.C.I. then what is the date of entry into his records and what are those additional qualification or higher qualifications.

The reply of this query by the MCI is quoted as under,

As per available records in the Indian Medical Register (IMR), Dr. Biswajit Bhaduri R/o Maurigram Rly Quarters, PO- Jagacha, District- Howrah who possess MBBS degree from Calcutta University in 1983, is registered with the West Bengal Medical Council vide Regn. No.42407 dated 13/02/1984. No other information is available with this Council office.

2. Upon receipt of the RTI Request Registration No.MEDCI/R/2018/50506, the query made by Mr. Arshe Azam to the Medical Council of India is that,

1. *Is it possible for a doctor who is registered with a state medical council with only MBBS, then acquires a master degree (MCH in paediatric surgery) can practice in this specialised field of this degree without adding or informing or registering his new degree with that state medical council as per law.*
2. *What is the qualification that is required for a doctor which qualifies him or makes him eligible to perform NEONATAL surgery.*

The reply of the Medical Council of India is quoted as under,

The queries are in the nature of eliciting opinion and therefore, it does not constitute information as defined u/s 2 (f) of the RTI Act, 2005. However, as per Section 26 of the IMC Act, 1956, a person whose name is borne in the Indian Medical Register and possess a recognised postgraduate medical qualification, is required to obtain registration of his/her additional qualification to practice in the speciality concerned.

Lastly, under the RTI Request Registration No.MEDCI/R/50488 made by the complainant Mr. Arshe Azam to the Medical Council of India is reads as under,

1. *I require list of universities and colleges in Germany whose PG Degrees are recognised by Medical Council of India.*
2. *Is M.ch in paediatric surgery from FACH ARTZ FUER KINDERCHIRUTGIC MEDICAL COUNTRY of SAXONY recognised by MEDICAL COUNCIL OF INDIA.*
3. *It is recognised then from which date and year it has been recognised.*

The reply of the Medical Council of India in this regard is reads as under,

The foreign postgraduate medical qualifications are included in the Part-II of Third Schedule to the IMC Act. To know the status of recognition of a particular medical qualification, you may, therefore, refer the Schedule to the IMC Act which is available on the MCI website.

9. Thereafter, Dr. Biswajit Bhaduri submitted an affidavit dated 26.06.2018 before the Commission and stated as follows,

a. The contention of the complainant that the Third Schedule, Part II of the Medical Council Act, 1956, does not include the post-graduate qualification of the treating doctor, Dr. Biswajit Bhaduri is out and out misconceived and unfounded.

b. The said schedule includes the degree *Facharzt fuer Chirurgie* in Part II. It is further submitted that a degree named *Facharzt fuer Kinderchirurgie* from Germany which means Specialist Surgeon in Paediatrics and the said qualification in itself is included within the meaning of *Facharzt fuer Chirurgie* which means Specialist Surgeon in its broad and wide purport.

c. The said qualification does not exclude from the IMC Act, 1956 from its ambit and scope as the said degree includes and means specialist surgeon without making any discrimination.

d. It is further submitted that the qualification namely *Facharzt fuer Chirurgie* means specialist surgeon irrespective of surgery. All categories of surgical categories (For example, general surgery, thoracic surgery, orthopaedic surgery, etc, along with paediatric surgery) come under the broad umbrella of **specialist surgeon**.

e. It is further submitted that in course of a bilateral treaty between India and Germany, different ventures in the field of study including modern medicine were undertaken pursuant to which the deserving students were chosen by Germany with an avowed objective that they would serve their home country with the postgraduate qualification as specialist, on return to their respective native countries on culmination of having completed the course successfully.

f. It is also submitted that he was selected by DSE (Deutsche Stiftung fuer Internationale Entwicklung, that is, German Foundation for International Development) as one of the very handful of students from all over the world to be eligible for postgraduate surgical training in Germany. The entire education was funded by the German Government. Dr. Bhaduri had fulfilled all the criteria to become a *Facharzt fuer Chirurgie* as laid down in the DAAD website (Deutscher Akademischer Austausch Dienst) which is federally funded student exchange agency.

g. It is added that Dr. Bhaduri has undergone basic training and then a further speciality training in the field of paediatric surgery. Anyone wishing to be a Facharzt fuer Chirurgie in Germany needs to undergo a basic training of 24 months and subsequently has to choose a field of surgery to complete his degree of Facharzt fuer Chirurgie. For the purpose of further illustration a photocopy of the regulation of the DAAD has also been enclosed with the affidavit which is marked as letter-B.

10. Heard the parties at length. Considered their respective submission and perused the materials on record.

The medical members of the Commission played a very active role in the deliberation and gave their valuable opinion, which is considered to be a great bearing in the decision of the case.

11. Now going through the medical records, we find that the wife of the complainant Firdous Jahan was admitted on 01.04.2017 at CMRI under Dr. Sikha Sarengi and delivered a male child on the same day at around 7.45 pm by LUCS. The progress note reflects that immediately after birth an Apgar score was 7/9. After birth, the baby was under the observation of Dr. Kakali Acharya.

12. Now from the progress note of the baby, we find that on 02.04.2017 till 8pm, during 24 hours, the baby did not pass meconium and was advised nothing orally and further advised IV fluid, rylestube and x-ray abdomen. According to the the x-ray report showed small bowel with huge abdominal distension (7 am, 03.04.2017). Abdominal distension with bilious vomiting and no meconium passed. It was diagnosed that a possible case of neonatal intestinal obstruction (9 am, 03.04.2017). NEC was made and patient was referred to paediatric surgeon. Then the around 9.30 pm on 03.04.2017 the grave condition of the baby was explained to the relatives and Dr. Biswajit Bhaduri, in house paediatric surgeon, attended the patient at 10 am on 03.04.2017 and advised for urgent surgical intervention and simultaneously counselled the patient party about the necessity of the same but the relatives declined to give consent for surgery. Then consent was obtained, OT booked and preoperative advice was given (1.40 pm,

03.04.2017). The high risk informed consent was obtained from the father of the baby around 3.55 pm on 03.04.2017.

Then operation was done on 03.04.2017 from 4.30 pm to 6.10 pm. Postoperative diagnosis was terminal ileum volvulus with devitalised and dilated ileum. Torsion was corrected and about 15 cm segment of terminal ileum was resected and a stoma was made at the lower abdomen. Postoperatively, the baby was kept in NICU and given inotropic support. On 04.04.2017 the baby was advised to review daily by Dr. Mall.

It appears from the medical note from 04.04.2017 to 10.04.2017 the baby was recovering gradually and started tolerating oral diet and ileostomy was functioning well and the case was uneventful.

Finally on 10.04.2017 at 11 am the baby was discharged with an advice to attend OPD for follow up by Dr. Biswajit Bhaduri.

13. The baby was then readmitted on 11.07.2017 for stoma closure under Dr. Biswajit Bhaduri. Against the heading chief complaints, it was noted a follow up case of intestinal obstruction due to malrotation of midgut and operation was done on 03.04.2017.

However, the previous operation note which was recorded by Dr. Biswajit Bhaduri himself, there was no note of malrotation of midgut.

Preoperative advice was given and lower GI contrast study was planned. 11.7.2017 at 4.30pm-- Lower GI contrast study was done. The study revealed colon functioning, ileocecal junction and ileum well visualized.

On 12.7.2017 at 1.15pm 2nd operation done - ileostomy closure was done. In the postoperative period patient was deteriorating with respiratory distress on 12.7.17. Patient father gave consent for shifting the baby to PICU and baby was shifted to PICU on 12.7.17 night. On 13.7.2017 Patient was advised to be shifted to ward. Patient was improving on 14.7.2017 and 15.7.2017 but on 16.7 patient was having abdominal distension for which glycerine suppository was given as the baby was not passing stool. Later, abdominal distension was increased.

It appears from the medical note recorded by Dr. Bhaduri (06.07.2017) suggested that the case was one of intestinal obstruction. The further note of Dr. Bhaduri on 17.07.2017 reflects abdominal distension ++. Rectal was given with water—no stool.

Acute intestinal obstruction, exploratory laparotomy to be done today at 12noon under GA. X-ray revealed multiple air fluid levels, no gas shadow in rectum or cecum, dilated small bowel loops (17.07.2017, 11am).

14. Third operation was done on 17.07.2017. According to the postoperative note Santulli procedure was done under GA. After operation, the baby was gradually improved and started on oral feeds.

According to a further note recorded by Dr. Bhaduri (22.07.2017) there was discussion with the family members of the baby and medical administration that from then surgical management would be jointly undertaken by Dr. Subhasis Saha and Dr. Bhaduri. On the same day, Dr. Bhaduri advised to intermittently compress the stoma site with gauge piece to encourage distal loop to function. Dr Subhasis Saha was asked to brief the party about the development and Dr Kakali Acharya to manage the nutritional aspect. Around 6th postoperative day patient had excoriation around the stoma for which regular dressing and application of egg albumin was advised.

On 25.7.2017 Dr S.K Biswas Professor of Pediatric surgery NRSMC saw the patient on referral and advised about stoma care and application of enema. He opined that the best possible treatment has been done to this child.

On 26.07.2017 the baby was advised to be discharged at its earliest to prevent hospital acquired infection.

There is note of Dr. Bhaduri (31.07.2017) according to that, mother of the patient did not allow removal of stitches and distal bowel wash and noted concerned about hospital acquired infection. Then the baby was discharged from CMRI on 01.08.2017.

15. Subsequently, the baby was attended and examined by Dr. Jamal Khan, Dr. Subhasis Saha, Dr. Janaki Nagmoni and Dr. Saron Ishika Ghosh. The baby while under the care of Dr. Saron Ishika Ghosh died.

16. Thus the entire surgical treatment of the baby at CMRI was done, on being referred by Kakali Acharya, pediatrician, by Dr. Biswajit Bhaduri, who was an in house pediatric surgeon of CMRI. On 03.04.2017, Dr. Bhaduri operated the patient for the first time and resected a segment of small gut and performed an ileostomy and on 10.04.2017 the baby was discharged and was under follow up treatment of Dr. Bhaduri.

As observed hereinabove, the baby was then readmitted on 11.07.2017 for stoma closure under Dr. Biswajit Bhaduri. Against the heading chief complaints, it was noted a follow up case of intestinal obstruction due to malrotation of midgut and operation was done on 03.04.2017. However, the previous operation note which was recorded by Dr. Biswajit Bhaduri himself, there was no note of malrotation of midgut.

Before surgery a lower GI contrast study was done on the day before surgery. The contrast study only gives a structural delineation and the functional status of the colon cannot be ascertained by contrast study. In this patient of neonatal intestinal obstruction long segment Hirschprung's disease was a strong possibility as was stated by Dr Subhasis Saha and Dr Sharon Ishika Ghosh and both them were of the opinion that the baby should have undergone a rectal biopsy before closure of the stoma.

So closure of the stoma without rectal biopsy was not a sound decision.

After stoma closure the baby developed neonatal intestinal obstruction. The notes of 3rd surgery only revealed edematous stoma. As per opinion of Dr Sharon Ishika Ghosh the 3rd surgery could have been delayed for optimization of the baby.

Be that as it may, whether the advice of Dr. Biswajit Bhaduri and consequent steps taken thereupon amounts to medical negligence or not, or whether such medical decision of the doctor caused the death of the baby is a question, which ought to be decided by the West Bengal State Medical Council not by this Commission as provided statutorily. We, however, very much concerned to ascertain whether there was any deficiency in patient care service or not.

17. Now, coming to the issue whether there was any deficiency in patient care service or not, we find from the materials on record i.e. the treatment documents, that the baby was surgically intervened as many as on three occasions and those surgeries were done by Dr. Biswajit Bhaduri, who at the relevant time, was the in house pediatrician surgeon of CMRI. Medical documents further reveal, in between the surgeries, the baby was on follow up treatment of Dr. Bhaduri and consulted him at the OPD of CMRI. During such follow up treatment, Dr. Bhaduri used to advice the patients on different counts. Those advices were noted in the printed prescription pad of CMRI, where Dr. Bhaduri was described as M.S., M.C.S, M.Ch (Pediatric Surgery- Germany) Phd. (Germany). But from his academic records, submitted

by Dr. Bhaduri before the Commission, we find that he did not possess any postgraduate degree, M.S. or M.C.S or M.Ch. As a matter of abundant caution, it be noted that Dr. Bhaduri has not produced any certificate to show that he possesses postgraduate degree M.S. or M.C.S or M.Ch. On the other hand, we find in response to an enquiry made from the side of the complainant under RTI Act, the West Bengal Medical Council conveyed that as per their record Dr. Biswajit Bhaduri only possesses MBBS degree and no postgraduate degree. Therefore, the clinical establishment illegally allowed and permitted Dr. Biswajit Bhaduri to use those postgraduate degrees, in their printed in house OPD prescription pad, which actually Dr. Biswajit Bhaduri never possessed. Dr. Bhaduri, during the course of hearing claimed that he has obtained a degree of Master of Pediatric Surgery (M.P.S.) from Germany and he has obtained Phd from Germany. Those postgraduate qualifications which Dr. Bhaduri claimed to have acquired from Germany, far less being equivalent to any of the degree namely, M.S. or M.C.S or M.Ch., the same are not recognized postgraduate qualification in India as has been communicated to the complainant by the West Bengal Medical Council in response to an enquiry made by the complainant under RTI. It be added similar enquiry under RTI Act was addressed to the Indian Medical Council by the complainant and in response to that the medical council communicated that unless such degree is included in the schedule of the Act, same to be considered as not a recognized degree. At the time of hearing, from the side of the complainant our attention has been drawn to such schedule and pointed out such degree does not find place therein. The Clinical Establishment and Dr. Bhaduri were unable to dispute such position. An attempt was, however, made by Dr. Bhaduri to explain the case in his favour in his affidavit fully referred hereinabove. The contention of Dr. Bhaduri made in his affidavit and noted hereinabove in full by no stretch of imagination can prevail over the rules and regulation framed by the Medical Council of India and West Bengal Medical Council, the statutory authorities, authorized to maintain medical register for India and for matters connected therewith. If Dr. Bhaduri is at all aggrieved for non-inclusion of his qualification as a recognized postgraduate degree by the Medical Council then in that case his remedy lies elsewhere and not before the Commission. The facts remain that at the time Dr. Bhaduri represented him as a qualified pediatric surgeon, on the strength of a degree he obtained from Germany, such degree was not recognized by the Medical Council and he was registered with the State Medical

council as merely an MBBS. The decision of the credentialing and privileging committee of the CMRI, to the effect..... *although that degree possessed by Dr. Bhaduri was not registerable in MCI, it is beyond our comprehension how then the committee considered the degree of Dr. Bhaduri as equivalent to M.Ch and permitted him to practice as pediatric surgeon* is an extra-legal decisions and has no legal force. However, such observation of the credentialing and privileging committee of CMRI clearly shows that CMRI was very much aware that the degree possessed by Dr. Bhaduri was not recognized by MCI, still he was permitted to practice as a pediatric surgeon by taking an extra-legal decision. In fact, CMRI in their institution allowed a doctor, who is merely possessing MBBS degree to practice and undertake surgical operation claiming him a specialized pediatric surgeon. Therefore, the above facts clearly bring this case within the ambit of deficiency in patient care service on the part of the CMRI and consequently invite penal consequences.

18. In the result, this case succeeds and stand disposed of with a direction that CMRI should pay a sum of Rs.10lakh as compensation to the complainant. The above amount shall be paid within 15 days from this date to the complainant by an a/c payee banker's cheque.

Sd/-

Justice Ashim Kumar Roy
Chairperson.

Sd/-

Smt. Sanghamitra Ghosh, IAS, Vice-Chairperson.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Makhan Lal Saha, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Sd/-

Dr. Maitrayee Banerjee, Member.

Authenticated


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