

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

Present: Justice Ashim Kumar Roy, Chairperson.

Dr. Sukumar Mukherjee, Member.

Dr. Gopal Krishna Dhali, Member.

Dr. Madhusudan Banerjee, Member.

COMPLAINT ID: NPG/2018/000401/404.

Mr. Gautam Roy.....Complainant.

-versus-

Charnock Hospital.....Respondents.

Date of judgment: 3rd January, 2019.

J U D G M E N T.

It is the case of the complainant that he is a State Government employee covered by the West Bengal Health Scheme, 2008, and Charnock Hospital is empanelled under the said Scheme. On 17.05.2018 he had made an online appointment with Dr. Santanu Chatterjee, a dermatologist, through their official website of the hospital. But on 17.05.2018 at 15pm when he reported to the reception counter of Charnock Hospital, the hospital refused to accept the consultation fees of Dr. Chatterjee and clearly told him that Dr. Chatterjee would not attend him against the consultation fees of Rs.200/- as prescribed under WBHS.

Against the refusal by Dr. Chatterjee to entertain him at OPD for consultation under WBHS, the complainant now approached this Commission.

In his oral submission it is further contended that as to how a doctor attached with any empanelled hospital under WBHS refused to treat or consult a patient who is covered under

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the said scheme. It is further added that in spite of several communication made to the hospital in this regard, no satisfactory response was received.

2. On receipt of the complaint, response was sought from Charnock Hospital and the contention of the hospital is mentioned hereinbelow,

It is not disputed by Charnock Hospital Pvt. Ltd. that it is an empanelled hospital under the WBHS, 2008 and the complainant, Mr. Goutam Roy had a confirmed appointment under Ref. No.BZKPDVA9M3 for having consultation in their out patient department with Dr. Santanu Chatterjee, a dermatologist on 17.05.2018 between 5pm-7pm. However, it is their contention that the hospital in no way responsible for this inconvenience caused to the complainant. It is submitted that the complainant with confirmed reported at their reception counter at around 5.15pm on 17.05.2018 and offered Rs.200/- as consultation fees of Dr. Santanu Chatterjee but Dr. Chatterjee surprisingly refused to attend the patient for consultation at such minimum fees and did not pay any heed to their request for attending the patient who was enrolled under WBHS. Due to such refusal of Dr. Chatterjee to attend the patient and having no other alternative, the hospital was compelled to cancel the said appointment and the same was verbally communicated to the complainant/patient. It is further contended that the hospital was never aware that the complainant was enrolled under WBHS, 2008 as he never disclosed the fact before entering in the OPD. It was also contended that it is clearly written in their OPD that the patients under West Bengal Health Scheme, 2008 will be treated by the doctors who are directly in their payroll. Visiting consultants of the hospital are free to choose patients in out patient department. Dr. Chatterjee is not in their payroll and is merely a visiting consultant, and therefore had the liberty to choose the patient in OPD. On refusal by Dr. Chatterjee, the hospital had communicated to the complainant that Dr. Nidhi Jindal and Dr. Abhijit Saha who are empanelled under WBHS and in their payroll may be consulted by him. But the complainant declined to consult by any of the two doctors.

3. After hearing both the parties and on perusal of the materials on record, we find that it is an admitted position that the complainant who is covered by WBHS, got a confirmed booking

for consultation with Dr. Santanu Chatterjee on 17.05.2018 between 5pm-7pm at the OPD of Charnock Hospital. It is also an admitted position, accordingly, he went to the hospital to consult Dr. Chatterjee but the hospital authority cancelled his booking on the pretext that Dr. Chatterjee refused to provide consultation on a fee of Rs.200/- as prescribed under WBHS, 2008.

It was also contended that before reporting to the OPD it was never known to the hospital authority that the complainant sought for the appointment under WBHS, 2008 and in the OPD it was noted that the doctors in their payroll can only be consulted by the patient who are covered under WBHS.

4. It be noted that no materials could be provided by the Charnock Hospital to show that the list of doctors whose service can be obtained by any patient covered under WBHS, 2008. We have also examined the website of Charnock Hospital and found that there is no such list. The hospital authority also could not provide any materials to show that in the OPD it was clearly displayed that no doctor can be consulted by a patient under WBHS, 2008 other than the doctors in their payroll. Top of everything we find, although it was vehemently contended by the Charnock Hospital that until the complainant came to their OPD they were never aware that he was covered under WBHS, 2008 whereas on careful scrutiny of the online booking format of the website maintained by Charnock Hospital that no space is provided for referring, if the person booking for consultation is covered under any scheme.

5. Having regards to the fact that Charnock Hospital, a hospital empanelled under WBHS 2008 in their website has not reflected the list of the doctors who can be available for consultation for a patient covered by WBHS and when in the on line booking system there is no space provided for the person to mention the scheme, if any, he is covered, the Clinical Establishment cannot be absolved of its responsibility when a doctor attending their hospital refused to give consultation to a patient on the pretext that he is merely a consultant and not in their pay roll. The position would have been otherwise if the hospital in their website had displayed the list of doctors who are available for consultation for a patient under WBHS 2008

or at least a space is provided in the online booking system for mentioning, the patient inclined to have booking to a particular doctor, whether he is covered by any health scheme.

In the above backdrop, we are unable to accept the contention of the hospital and are of the opinion due to the above lacking of communication, the complainant had to suffered and face harassment and for his remedy had to approach the Commission.

In our further opinion, this is a fit case where we find there are materials for deficiency in patient care service and a case for awarding compensation has been made out.

6. Now, considering the nature and extent of harassment suffered by the complainant including the cost of litigation if a sum of Rs. 5,000/- is awarded that would be enough to meet the ends of justice.

The Clinical Establishment is directed to pay a sum of Rs. 5,000/- to the complainant by account payee banker's cheque within 15 days' from the date of this order and report compliance.

Sd/-

Justice Ashim Kumar Roy
Chairperson.

Sd/-

Dr. Sukumar Mukherjee, Member.

Sd/-

Dr. Gopal Krishna Dhali, Member.

Sd/-

Dr. Madhusudan Banerjee, Member.

Authenticated

[Signature]

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

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