Office of the West Bengal Clinical Establishment Regulatory Commission

1st Floor, 32 B.B.D Bag, West Bengal, Kolkata – 700001.

Phone:- (033) 2262-8447 , Email: wbcerc@wb.gov.in Website: www.wbcerc.gov.in

Case Reference: INT/KOL/2022/219

Mr. Dipankar Chakrabarti ..... **Complainant**

vs

Charnock Hospital and Spandan Hospital, VIP Road ..... **Respondent/ Respondents**

ORDER SHEET

Office Note	Order No.	Date	Order
	2.	30/01/ 2023	The complaint would principally pertain to medical negligence in a case of unfortunate death of a young girl of 32 years. The complainant, being a medical practitioner, initially treated her daughter in-house. Subsequently, his daughter was taken to Charnok at Emergency. According to Dr. Chakraborty, the patient was quite stable. She had beverage before going to the hospital. Her condition was quite normal. She had acute gastroenteritis. Since it was a covid period the complainant was not allowed to enter the Emergency area. While he was waiting outside the

			patient was intubated without any consent being obtained from him. CE would contend, the patient was having saturation level at 44 % . She was in a gasping condition and as a life saving attempt the patient had to be intubated. We have also heard the concerned Emergency officer who attended the patient. The facts would reveal, at that time, he was a fresh medical graduate. Dr. Chakraborty would contend, he did not have sufficient experience or training to do intubation. He would also deny, the patient was in gasping condition or having saturation at the level of 44 per cent. The subject issue would depend upon a proper evaluation of the medical records particularly when the parties are not ad-idem on the condition of the patient. The issue could only be resolved by a thorough investigation by medical experts that could only be done by the Medical Council.

			We permit the complainant to approach the West Bengal Medical Council. The complainant has also grievance as against the CE. According to him, the patient was practically driven out from the Emergency. She was taken by ICU ambulance that would require proper recording of the vitals at the moment of transfer of the patient to be handed over to the ICU ambulance driver that was not given to him despite request being made. The CE, is represented by Dr. Suman Ghosh. He would contend, no such instruction was given to the ambulance driver. Hence, they do not have any such record. They had case summery that was already given to the complainant. This issue can only be considered by us at the appropriate moment once the West Bengal Medical Council proceeding is taken to a positive logical conclusion, if approached.

			With regard to the second CE, Spandon, where the patient was admitted in intubated condition Dr. Chakraborty would have grievance as against the CE to the extent that they did not give any investigation report evaluating the Xray plate. Dr. Partha Pratim Ghosh is present online representing Spandan. Dr. Ghosh would contend, when the patient died all medical records including Xray plate were handed over to Dr. Chakraborty. They could not evaluate the Xray plate at that time as such, no formal report was given. They do not have any digital record of such Xray. In case the Xray plate is produced by Dr Chakraborty they would get the report prepared by the then Radiologist attached to the CE. We leave it open to Dr. Chakraborty to have such report from Spandan on presentation of the Xray plate lying in his possession. Dr. Chakraborty would further contend, as per Medical Council direction every hospital should maintain

			digital records for three years. We refrain from making any comment at the present moment and keep it open to be decided at the appropriate time. Ms. Jayati Chowdhury, Ld Advocate representing both the CEs would contend, the complainant has already approached the Consumer Forum. Hence, this complaint would not be maintainable before this forum. Since we are disposing of the complaint without any interference such question may be kept open to be decided, if occasion so arises in future. We permit Dr. Chakraborty to apply afresh before us after disposal of the Medical Council proceedings, if approached. This case was initially heard by us on December 23, 2022. Despite repeated calls, Dr. Chakraborty was absent. We considered the whole issue in his absence including the bills raised by the CEs. We found that in case of

Spandan there had been over billing to the extent of Rs. 17,438/-. Spandan had already paid the said sum by an account payee cheque that was received by Dr. Chakraborty. We permit Dr. Chakraborty to encash the said cheque without prejudice to his right to approach the Medical Council pursuant to the liberty granted by us.

The complaint is disposed of accordingly.

Sd/-
The Hon'ble Chairperson

Sd/-
Prof. (Dr.) Sukumar Mukherjee – Member

Sd/-
Prof. (Dr.) Makhan Lal Saha – Member

Sd/-
Dr. Maitrayee Banerjee – Member

Sd/-
Smt Madhabi Das – Member

Authenticated

Secretary
West Bengal Clinical Establishment
Regulatory Commission