

Office of the West Bengal Clinical Establishment Regulatory Commission

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Case Reference: INT/KOL/2023/062

Mr. Joy Saha Complainant

vs

Charnock Hospital..... Respondent/ Respondents

ORDER SHEET

Office Note	Order No.	Date	Order
	2.	05/06/2023	<p>This application for review is made by CE being aggrieved by our judgment and order dated May 3, 2023. At the outset, CE is candid enough to say, their application may not have the true compliance of the legal requirement for a review application. They are consistent on their stand which they took on the day of passing of the order by us. However, according to them, on that day they could not explain their stand properly. In effect they want a fresh hearing on the issue.</p> <p>If we follow the strict letters of law the application for review as drafted, is bound to fail. However, for ends of justice, we wish to give a further hearing on the issue to both the parties.</p>

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S.P. [Signature]
21/06/2023.

Dr. Suman Ghosh, representing the CE, would contend, the 83 year old patient was under regular treatment of Dr Arnab Kundu. She had her earlier admission under Dr. Kundu.

Mr. Saha, the complainant would however, deny such assertion. He would contend, Dr. Kundu treated the patient only once when she had brain stroke last time.

This time, when she came and got her admitted she was having respiratory distress. Dr. Kundu examined her. According to him, he did not feel it necessary to have any pulmonary referral. However, on the insistence of the patient family he referred this case to Dr. Saibal Ghosh, consultant pulmonologist in the CE. Dr. Ghosh did come to see the patient, although belatedly, and advised accordingly. However, it was too late and the patient breathed her last within a short while.

Medical negligence is always outside our domain. Our esteemed medical members on the panel, examined the BHT and found, Dr. Ghosh saw the patient and did advise treatment protocol that would appear from the

		<p>BHT. The complainant categorically contended last time, they were not informed about Dr. Ghosh's visit. Hence, they would doubt whether Dr. Ghosh at all examined the patient or not. In absence of documentary rebuttal we relied on the BHT and observed accordingly. However, in course of hearing, the representative of the CE, informed us that Dr. Leena Mistry, another Pulmonologist attached to the CE, examined the patient however, did not make any observation in the BHT. In the application for review, the CE would contend, Dr. Mistry examined the patient "unofficially".</p>
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On this issue we found fault with the CE. We observed, when Dr. Mistry visited the ward and saw other patients she should have seen the patient and advised accordingly. Initially, the CE contended, Dr Mistry did not see the patient. Subsequently such statement was modified as recorded above. On this issue we imposed a penalty of Rs. 1,00,000/-.

We have heard the complainant in detail. We have also heard Dr. Ghosh on behalf of the CE. It is true, the

patient was being regularly treated by Dr. Kundu. Being a doctor of medicine, it was fully his prerogative either to refer to a pulmonologist or not. The CE consistently contended, on the insistence on the patient family, Dr. Kundu referred the patient to Dr Saibal Ghosh. Dr. Ghosh came belatedly and advised appropriate treatment protocol that did not change the treatment protocol prescribed by Dr. Kundu.

Considering the entire scenario and giving a fresh look to the issue we feel, interest of justice would subserve, if we reduce the amount of penalty to Rs. 60,000/-.

The review application is disposed of accordingly

We hope and expect, money would be transferred to the complainant at once by the CE.

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
S. P. M
21/06/2023.

Secretary
West Bengal Clinical Establishment
Regulatory Commission

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