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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 452/2021 and CM APPL. 1164/2021**

BHUSHAN KUMAR SINGHAL Petitioner

Through: Mr. Prashant Vaxish with Ms. Tushy Singh, Mr. Aayush Jain, Mr. Shubhender Singh, Advocate, with Petitioner in person. (M:8130250698)

versus

**HEALTH AND FAMILY DEPARTMENT,
GNCTD & ANR.**

..... Respondents

Through: Mr. Anupam Srivastava, ASC for GNCTD with Mr. Dhairya Gupta, Adv. for R-1&2. (M:9811032151)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **13.01.2021**

1. This hearing has been done through video conferencing.
2. The present petition has been filed by Shri Bhushan Kumar Singhal who filed a complaint alleging that his brother had passed away due to negligence of a private hospital and the doctor concerned. An enquiry was directed by an order passed by the Chief Minister of Delhi on 8th May, 2019. However, the said enquiry exonerated the hospital and the doctors.
3. The background of this case is that the brother of the Petitioner, Shri Pawan Kumar, had suffered a cardiac ailment on 28th March, 2016. Upon some chest pain being experienced by Mr. Pawan Kumar, the Petitioner and Mr. Kumar consulted with one Dr. B.B Channa of the Heart Lab Clinic, Rohini, who had recommended them to Maharaja Agrasen Hospital. The Petitioner and his brother then went to the Maharaja Agrasen Hospital, where certain procedures were conducted. On 1st April, 2016, the Petitioner's brother passed away. According to the Petitioner, the consent form for the Angiography test

was never signed by the Petitioner or his brother, and the signature therein was forged.

4. Due to the unfortunate death of his brother, the Petitioner filed a complaint against the said hospital, with the Chief Minister of Delhi during the Chief Minister's Janta Samvad on 24th August, 2018. Vide order dated 31st August 2018, a committee was directed to be constituted under the Directorate General of Health Services, Delhi, to enquire into the facts. Thereafter the Petitioner had again approached the authorities claiming that the committee constituted was not taking his submissions into consideration. On 8th may 2019, another order was passed by the office of the Chief Minister which, the committee was directed to give an opportunity to all the parties concerned and also made a video recording of the enquiry proceedings. The Petitioner has preferred the present writ petition on the ground that though an enquiry was conducted, the video recording of the proceedings of the same were not conducted, as per the order that was passed by the Chief Minister.

5. Mr. Srivastava, Id. counsel for the Respondent State, however, points out that there is a final enquiry report on record, which states that an enquiry has been conducted by the four-member committee consisting of doctors, and the committee found that the patient was treated as per regular medical practice and within the time as mentioned in the protocol.

6. Mr. Vaxish, Id. counsel for the Petitioner submits that a perusal of the order of the Chief Minister would show that specific direction for a video recording was given, however, the committee did not comply with the said order.

7. After hearing Id. counsels for the parties and perusing the impugned order, it is clear that the final enquiry report is quite cryptic and does not discuss any of the facts or the evidence which were recorded by the committee.

The entire report is in fact of one paragraph, which reads as under:-

“The committee unanimously is of the opinion that the case under consideration was handled as per medical practice and in the line with acceptable protocol. One already accepted mistake by the treating physician is regarding the mentioning of septicemic shock in the death certificates. This mistake seems to be on the part of RMO who made the death certificate and which is nowhere mentioned in the treatment report of the diagnosis. Barring that, the administrative discrepancies with regard to consent form, timings (Angiography, intubation etc.) doesn't fall under the purview of this committee.”

8. Considering the factual matrix where the allegations against the hospital are quite serious, the committee does not seem to have followed the proper procedure and has also failed to give any detailed reasoning while rejecting the complaint of the Petitioner.

9. Therefore, this court is of the opinion that the final enquiry report would be liable to be set aside, and an independent committee deserves to be appointed to look into the medical conduct *qua* the Petitioner's brother, who unfortunately passed away after a simple procedure of angioplasty was stated to have been conducted on him.

10. Accordingly, it is directed that a fresh enquiry shall be conducted by a Committee headed by Dr. Anita Saxena, Professor & Head, Department of Cardiology, Chief of Cardio Thoracic Sciences Centre, AIIMS, New Delhi (M:9818323880). Dr. Saxena is permitted to include two other suitable members in the Committee.

11. The committee duly constituted by Dr. Anita Saxena is directed to firstly issue notice to the Petitioner herein, the hospital i.e., the Maharaja Agrasen Hospital (M:7042129624) as well as to Dr. B.B. Channa (M:9821619129),

against whom various allegations have been made. After obtaining the written responses of all the three parties and also after recording evidence which they wish to produce, opportunity of hearing shall be provided. Thereafter a reasoned enquiry report shall be submitted to the GNCTD for appropriate action, if any. A copy of the said report shall also be made available to the Petitioner.

12. On behalf of the Petitioner, a representative of the Petitioner is permitted to participate in the proceedings of the committee. The Principal Secretary – Health, GNCTD shall nominate a responsible official for making the logistical arrangements for the conduct of the enquiry proceedings, if required. The name of the said official shall be communicated to the Chairperson of the committee by Mr. Anupam Srivastava, Id. Counsel.

13. Let the enquiry be concluded within four months from the date of the first hearing. The proceedings of the committee shall be video recorded by the independent videographer, appointed by the Chairperson of the committee. The charges and expenses for the conduct of the enquiry including arranging of venue, secretarial arrangements, videography etc., shall be borne by the GNCTD. An honorarium of Rs.50,000/- each shall be paid to each of the Committee members for conducting the enquiry by the GNCTD.

14. With these observations, the petition and all pending applications are disposed of. Copy of this order be sent to the Medical Superintendent, AIIMS, by the Registry of this Court. In addition, the order be also communicated to Dr. Anita Saxena for information.

PRATHIBA M. SINGH, J.

JANUARY 13, 2021
MR/Ak