

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.410 OF 2023**

Dr. Mihir Kr. Das

Vs.

Tripura State Pollution Control Board and ors.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Present:

For the Petitioner(s)

: Mr. P.Roy Barman, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.
Mr. K. Nath, Advocate.

For the Respondent(s)

: Mr. K. De, Addl. G.A.
Mr. R. Datta, Advocate.

05.07.2023

Order

This present writ petition has been filed under Article 226 of the Constitution of India seeking the following reliefs:-

"i. Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to reimburse MR Bill for Rs.3,93,693/- to the petitioner along with 9% interest thereon from the date of submission till the payment is made to the petitioner.

ii. Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing the letter, dated 26.04.2023, issued by the Member Secretary, TSPCB.

iii. Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing the letter, dated, 26.04.2023, issued by the Chairman, Standing Medical Board, AGMC & GBP Hospital.

iv. Make the rules absolute.

v. Call for records.

vi. Pass any further order/orders as this Hon'ble High Court considered fit and proper."

Heard Mr. P. Roy Barman, learned Sr. counsel assisted by Mr. S. Bhattacharjee, learned counsel, and Mr. K. Nath, learned counsel appearing for the petitioner as well as Mr. R. Datta, learned counsel appearing for respondents No.1, 2, and 3 and Mr. K. De, learned Addl. G.A. appearing for State-respondents.

Mr. Roy Barman, learned Sr. counsel appearing for the petitioner submits that in the earlier round of litigation, this Court

vide order dated 10.03.2023, directed the respondents to consider the case of the petitioner following the latest scheme of medical reimbursement and pass appropriate order in accordance with law. But the chairman Standing Medical Board most mechanically and arbitrarily without any application of mind and in defiance of the letter and spirit of the order, dated 10.03.2023, rejected the MR claim of the petitioner.

Heard and perused the evidence on record.

It is seen from the record that vide letter dated 26.04.2023, the Member Secretary TSPCB informed the petitioner, that, the standing Medical Board opined, that ex-post facto referral for payment of the said medical bill cannot be considered as per the latest guidelines. The Standing Medical Board communicated its views as follows:-

".....after examination, the standing Medical Board is of opinion that ex-post facto referral for payment of the said medical bill cannot be considered, as per the latest guidelines vide No.F.2(10-43a)-DHS/ESTT/MR/2022 dated 22.12.2022. The guideline has come into effect from 22/12/2022, whereas. The petitioner has undergone treatment in ILS Hospital w.e.f. 18.07.2020 to 24.07.2020 and submitted the Medical bill on 23.11.2020."

Heard and perused the evidence on record.

In a catena of decision of the Hon'ble Supreme Court and High Court, it has been held that in the event of a medical emergency, a Government servant has the right to preserve his life and he cannot be expected to wait in the queue for obtaining referral from the Medical Board to avail treatment. As such, this Court is of the opinion that the interpretation as given by the respondents in there impugned correspondence is arbitrary and is not just and proper.

With the above observation and direction, this present writ petition stands allowed and the letter dated 26.04.2022 is set aside and quashed. The respondents are directed to release the said

Medical Reimbursement Bill to the petitioner within a period of 1(one) month from today.

As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

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SUHANJIT SINGHA
Date: 2023.07.06
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