

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) 01 of 2024**

Goutam Datta

.....Petitioner.

Versus

State of Tripura and others

.....Respondent.

For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.
Mr. Kawsik Nath, Advocate.

For Respondent(s) : Mr. SS Dey, Advocate General.
Mr. K. De, Addl. G.A.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

23.04.2024

This writ petition is filed under Article 226 of the Constitution of India for issuance of writ in the nature of mandamus and/or any other direction or directions and/or order or orders of like nature directing the respondents to reimburse MR Bill for Rs.2,93,230/- to the petitioner along with 9% interest thereon from the date of submission till the payment is made to the petitioner.

[2] The case of the petitioner in brief is that he along with his family members went for LTC trip from Agartala to Bengaluru (Karnataka). During the tour when the petitioner along with his family members were in Bengaluru, the daughter of the Petitioner, Ms. Sneegdha Datta suddenly became seriously ill and on urgent basis, she was taken to Narayana Hrudayala Hospital, Bengaluru and consulted with Dr. Suresh PV (Pediatric Cardiologist). Dr. Suresh PV. Pediatric Cardiologist, diagnosed the daughter of the Petitioner on 19.05.2023 and advised for admission. As per advice of Dr. Suresh PV. Pediatric Cardiologist, the daughter of the petitioner was admitted on 24.05.2023 and underwent treatment of Secundum ASD upto 26.05.2023.

[3] It is contended in the petition that the petitioner was not in a position to travel back to the State for getting the reference. After availing treatment of his daughter, the petitioner returned to Agartala. Thereafter on 27.05.2023, the petitioner submitted MR bills for an amount of Rs 2,93,230/-. The petitioner submitted representation to the Medical Superintendent, AGMC & GBP Hospital to accord ex-post facto approval for treatment of his daughter

outside state during LTC tour. Thereafter, the Tripura Standing Medical Board. AGMC & GBP Hospital, rejected the prayer of the petitioner for obtaining ex-post facto approval.

[4] According to the petitioner, the Standing Medical Board absolutely failed to consider, that, as the daughter of the petitioner suddenly became ill in Bengaluru and it was a life threatening illness, there was no scope to bring back his daughter to Agartala for obtaining reference from the Standing Medical Board. Narayana Hrudayalaya Hospital, Bengaluru is one of the renowned Hospitals in the Country for specialized treatment for heart ailment and doctors of that institution suggested immediate treatment of the daughter of the petitioner. It is contended that if the daughter of the petitioner was not taken to that hospital at Bengaluru and was not given timely treatment, her life could not have been saved. It is contended that Medical Board failed to consider, that, it is a fit case for post facto reference.

[5] Thereafter, the petitioner filed writ petition before this Court vide W.P (C) No. 615 of 2023. In the said writ petition the petitioner prayed for necessary direction upon the respondents to reimburse the MR Bill for Rs 2,93,230/- to the petitioner alongwith 9% interest thereon. This Court vide order dated, 09.10.2023, disposed of W.P(C) 615 of 2023 directing the respondents to consider the case of the petitioner in accordance with law and thereafter, the petitioner vide representation, dated, 12.10.2023, forwarded a copy of the said order of this Court to the Medical Superintendent, AGMC & GBP Hospital, through proper channel. Subsequently, the Principal/Chairman, Standing Medical Board, AGMC & GBP Hospital vide letter, dated. 21.11.2023 informed the petitioner that his application seeking ex-post facto referral for undertaking treatment of his daughter at Narayana Hrudayala Hospital, Bengaluru, for ASD2 secundum atrial septal defect has been examined and after careful examination of the documents it is evident, that, patient was Asymptomatic on presentation and ASD was incidentally detected and ASD closure was done on follow up admission and not on emergency basis and hence it does not qualify for ex-post facto approval.

[6] According to the petitioner, the Standing Medical Board without any application of mind most casually in cavalier manner and unreasonably declined to grant post facto referral in connection with the treatment of the daughter of the petitioner at outside the State i.e. Narayana Hrudayala Hospital, Bengaluru. Aggrieved thereby, the petitioner has preferred this present writ petition seeking following reliefs:

“(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 directing the Respondents to reimburse MR Bill for Rs 2,93,230/- to the Petitioner alongwith 9% interest thereon from the date of submission till the payment is made to the Petitioner.

(iv) 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, 21.11.2023, issued by the Principal / Chairman, Standing Medical Board, AGMC & GBP Hospital.

(v) Make the rules absolute.

(vi) Call for records.....”

[7] Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the petitioner. Also heard Mr. K. De, learned Addl. G.A. for the State respondents. On request, Mr. SS Dey, learned Advocate General after perusal of the records has assisted this Court.

[8] Mr. P. Roy Barman, learned senior counsel for the petitioner submits that the petitioner on earlier occasion filed writ petition before this Court vide W.P (C) No. 615 of 2023 for similar relief. This Court vide order dated, 09.10.2023, disposed of the said writ petition directing the respondents to consider the case of the petitioner in accordance with law. The relevant portion of the order of this Court dated 09.10.2023 passed in WP(C) No.615 of 2023 as referred by the learned senior counsel, is quoted herein-below:

“..... [6] After perusing the records, this court is of the opinion that ex-post approval of medical bills cannot be bar for considering the case of the petitioner. As per the documentary evidence placed before this court by way of an affidavit, it is evident that the petitioner belongs to Group B employee and Group B employees and their dependent family members may avail treatment in any enlisted referral hospital inside/outside of the states with approved by the State Government without referral of the Standing Medical Board subject to condition that ex-post facto approval shall be given in case of emergency/acute illness arising while the government servant is staying outside the state with station leave permission. This court has also decided earlier in several matters that no appropriate instructions is required indicating that the medical reimbursement bills need not be necessarily referred through the penal doctors. The medical bills can be released provided the same is not disputed.

[7] Without any expressing any opinion on the merits of the case, the present case is disposed of directing the respondents to consider the case of the petitioner in accordance with law within a period of two months from the date of the receipt of the copy of this order.....”

[9] Mr. Roy Barman, learned senior counsel further contends that, the Standing Medical Board without any application of mind by its communication dated 21.11.2023, declined to grant post facto referral in connection with the treatment of the daughter of the petitioner at outside the State. They failed to consider, that, as the daughter of the petitioner suddenly became ill in Bengaluru and it was a life threatening illness, there was no scope to bring back his daughter to Agartala for obtaining reference from the Standing Medical Board. He, therefore, urges this Court to set aside the impugned letter dated 21.11.2023 issued by the respondents allowing the instant writ petition with all the reliefs as sought for.

[10] Heard the submissions made before this Court. Perused the record.

[11] In all fairness, the learned Advocate General, Mr. S.S. Dey has submitted that the endeavor of the State is to attend the needy citizens on priority by relaxing any such conditions that would cause hindrance in providing medical assistance and expressed his displeasure against the manner the impugned order is passed by respondents rejecting the request of the petitioner.

[12] With the above discussions, this Court is of the view that the Standing Medical Board absolutely failed to consider the fact that as the daughter of the petitioner was under treatment at Bengaluru, there was no scope to bring back his daughter to Agartala for obtaining reference from the Standing Medical Board. Doctors of the institution at Bengaluru suggested immediate treatment of the daughter of the petitioner. If the daughter of the petitioner was not taken to Narayan Hrudayalaya Hospital, Bengaluru and was not given timely treatment, her life might not have been saved.

[13] This Court by order dated 09.10.2023 in earlier writ petition filed by the petitioner i.e. WP(C) 615 of 2023 had already opined that ex-post approval of medical bills cannot be bar for considering the case of the petitioner. As per the documentary evidence placed before this Court by way of an affidavit in that writ petition, it was evident that the petitioner belongs to Group B employee and Group B employees and their dependent family members may avail treatment in any enlisted referral hospital inside/outside of the State approved by the State Government without referral of the Standing Medical Board subject to condition that ex-post facto approval shall be given in case of emergency/acute illness arising while the government servant is staying outside the State with station leave permission. But, the respondents have rejected the claim of the petitioner for medical reimbursement by its letter dated 21.11.2023 with the following observation(s):

"....In reference to your application seeking ex-post facto referral for undertaking treatment of your daughter, Miss Sneegdha Datta at Narayana Hrudayalaya Hospital, Bengaluru for ASD2 secundum atrial septal defect & After careful examination of the documents, it is evident that the patient was Asymptomatic on presentation and that ASD was incidentally detected, ASD closure was done on follow up admission & not on emergency basis. Hence it does not quality for ex-post facto approval (memo-F.2(10-43A)-DHS/ESTT/MR/2022, clause no.-b & d).

Therefore, your application for ex-post facto referral is regretted by the Standing Medical Board, AGMC....."

Hence, an adverse inference is drawn against the State respondents due to non-compliance of the order of this Court dated 09.10.2023 passed in W.P.(C) 615 of 2023.

[14] In view of the above, this instant petition filed by the petitioner is allowed with all the reliefs as sought for and the impugned letter dated 21.11.2023 is set aside. Respondents are directed to reimburse the medical bills of the petitioner within a period of one month from the date of receipt of the copy of this order.

As a sequel, miscellaneous application(s), pending if any, shall stand closed.

JUDGE

Sabyasachi. G.

**SABYASACHI
GHOSH**

Digitally signed by SABYASACHI
GHOSH
Date: 2024.04.26 13:06:35
+05'30'