

**THE HIGH COURT OF TRIPURA**  
**AGARTALA**

**W.P(C)(PIL) No. 1 of 2013**

**Petitioner :**

**Court on its own motion**

**By Advocate :**

None.

**Respondents :**

- 1. The State of Tripura,**  
Through the Chief Secretary, Government of Tripura, Agartala.
- 2. The Additional Chef Secretary,**  
Government of Tripura, Health & Family Welfare Department, Agartala.
- 3. The Director of Health Services,**  
Government of Tripura, Agartala.
- 4. The Principal,**  
Agartala Government Medical College & G. B. P. Hospital.
- 5. The Director,**  
Vigilance, Government of Tripura, Agartala.
- 6. The Medical Superintendent,**  
G.B.P. Hospital, Agartala, West Tripura.
- 7. The Medical Superintendent,**  
I.G.M. Hospital, Agartala, West Tripura.

**By Advocates :**

Mr. S. Chakraborty, Addl. G. A.  
Mr. B. Banerji, Adv.

**B E F O R E**  
**THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA**  
**THE HON'BLE MR. JUSTICE S. TALAPATRA**

Date of hearing &  
Judgment & Order : **23<sup>RD</sup> November, 2015.**

Whether fit for reporting :

| Yes | No |
|-----|----|
|     | √  |

## **JUDGMENT & ORDER (ORAL)**

(Deepak Gupta, C.J.)

This petition was initiated by the Court on its own motion after a news item appeared in the "Syandan Patrika" dated 24<sup>th</sup> July, 2013 in which it was reported that a mother had lost her son since he was not treated with due care in the G.B. P. Hospital at Agartala.

**[2]** Before initiating these proceedings the Additional District and Sessions Judge, Belonia was directed to record the statement of mother, Smt. Marulata Das which was recorded on 6<sup>th</sup> September, 2013 in which the mother complained that nobody attended to her son, Prasanta Das despite the fact that he was seriously unwell.

**[3]** The story of the mother, Smt. Marulata Das is heartrending. According to her, she is a widow and she had one son and one unmarried daughter. Her son Prasanta fell ill on 21st July, 2013. She got her son treated at Belonia by a private doctor who prescribed medicines. Since he did not recover next day she took her son to the hospital at Belonia where some further treatment was given to him but his condition did not improve and on that day itself in the evening the son was referred to G.B.P Hospital, Agartala at about 7.00 p.m.

**[4]** After taking *suo motu* notice this Court had constituted a committee comprising of Sri K. V. Satyanarayana, the then Additional Chief Secretary as its Chairman, Dr. J. K. Debbarman, the then Addl. Director, Medical Education, member, Dr. Partha Sarathi Chakraborty, Retd. Medical Superintendent, AGMC & GBP Hospital member, Shri Subash Ch. Saha, a

Retd. Addl. District Judge as Member and Sri P. K. Biswas, the then President of the High Court Bar Association as its Member. This Committee submitted its report to this Court and the conclusion of the committee reads as follows:

**"In view of the above, Committee came to the conclusion that the Nurses on duty in the Night Shift on 22<sup>nd</sup> July, 2013 to 23<sup>rd</sup> July, 2013 morning hours were grossly negligent in their duty and had not looked after the patient properly as per standards expected of a trained Nurse and also not informed the duty Doctors.**

**The emergency Doctors have done their job well but the Doctors in the MMW particularly Dr. Prasun Bhattacharjee and Dr. Raja Jamatia have not taken due care as should have been taken in the given circumstances of the case. They have also not put any call to senior Doctor. Even if one presume they may have felt sufficient to handle the case, the way they attended to the case or not attended leaves no doubt about their gross negligence. It is established that no Doctor attended the patient on the fateful night of 22<sup>nd</sup> July, 2013 after 11.45 PM till just before his death though it was recorded in the bed head ticket that the patient was suffering from breathing problem and wheezing, etc. for which oxygen S.O.S was indicated. Hence, the Committee found them grossly negligent.**

**The confusion about whether the patient was on the floor or on the bed has arisen because on the bed head ticket, bed No. was not written. Hence, a system should be developed by the Department in such a way that bed number should be given after duly numbering the beds in each cubicle and if the patient is on the floor there should be some mechanism to clearly state that the person/patient is on the floor.**

**The Sister's Khata is a kutcha register at present and sisters have not been recording any significant events of a patient. There should be a Chart for each patient in which all the significant developments of a patient should be recorded by the Nurses concerned.**

**The committee places on record the assistance rendered by the Health Department particularly the Secretary of the Department for facilitating the enquiry of the committee."**

We may also mention that keeping in view the manner in which the treatment of the patient, Prasanta Das had been conducted we had

expanded the scope of petition and various orders have been passed from time to time to improve the working in the hospital. Those orders have been by and large complied with by the State and that aspect of the matter is closed.

**[5]** After the Inquiry Committee headed by the Additional Chief Secretary submitted its report we had directed that departmental action be taken against the officers concerned and Sri S. Chakraborty, learned A.G.A has placed before us an order dated 12<sup>th</sup> November, 2015 whereby penalty of withholding of 3(three) increments with cumulative effect has been imposed upon Dr. Raja Jamatia, THS, Dr. Prasun Bhattacharjee, THS and Smt. Anima Das, Staff Nurse. Sri Mousami Das, Staff Nurse who was working on fixed pay basis has also been imposed penalty and her eligibility for regular pay scale has been deferred by 3(three) years. We are satisfied by the action taken by the State and no further action in the writ petition is required.

**[6]** The fact however remains that both in the inquiry conducted pursuant to the orders of this Court by the committee headed by the Sri K. V. Satyanarayana, the then Additional Chief Secretary as well as in the disciplinary proceedings the doctors and nurses have been found grossly negligent in attending upon the patient. The Inquiry Officer in his report has held as follows:

**"7.4 On the substantive issues relating to the charge framed against the AOs, following points emerged for consideration:**

**(1) Dr. B. Debbarma, Jr. Resident who attended the patient at the time of his admission in MMW on 22-7-2013 night had recorded breathlessness, constipation and coughing problem. Apart from**

advising chest X-Ray, PA view etc. and some other diagnostic tests, he prescribed for nebulisation and oxygen on SOS. The findings of the Enquiry Report [Exhibit-1] establishes this fact. {It is substantiated from the copy of Bed ticket of the patient obtained by the PO as additional document and verified by the PW2 in his deposition}.

(2) Dr. Raja Jamatia, THS, Gr.-IV & 2<sup>nd</sup> Year PG Student had physically examined the patient at 11.45 pm on 22.07.2013 night. Nebulization and oxygen on SOS was prescribed making it imperative for continuous [or atleast periodical] monitoring of the patient to check whether the patient's condition warrant for nebulization and /or oxygen but he did not make any further visit to the patient thereafter till just before his death next day morning at 8.45 am,. His reply of explanation to Show cause notice dated 26-4-2014 does not mention of any further visit made by him. The said Enquiry Report also establishes this fact.

(3) Dr. Prasun Bhattacharjee did not physically examine the patient, as admitted by him in his reply of explanation to Show cause notice dated 26-4-2014. He submitted during the inquiry that his duty as per roster was in Female Medical Ward (FMW) as reflected in the Duty Roster of doctors of Unit-I, Department of Medicine for 22-07-2013 & 23-07-2013{obtained by the AOs as additional document}. However, it is noted that this position was not mentioned by Dr. Bhattacharjee either in his reply of explanation or in his statement recorded in the Enquiry Report of the 5-members Enquiry Committee. On the contrary, in reply to explanation, he admitted that all the patients of MMW and FMW were to be attended by him on round to the wards, alongwith other doctors on duty. Thus, he is equally responsible for not taking due care of his patient admitted in MMW.

(4) As on examination and monitoring of the patient was done after 11.45 pm on 22-07-2013 till his death next day, any change in his treatment and medicine was not feasible for want of diagnosis. Thus, it is unlikely that having a specialist in medicine in the 5-members Enquiry Committee would have resulted in the committee taking any other view on treatment aspect.

(5) In view of the above circumstances and based on the statement of Shri K.V. Satyanarayana (Chairman of the 5-members Enquiry Committee) as PW-2, it is concluded that the aforesaid two doctors had not taken due care of the patient, Prasanta Das and there was negligence of duty on their part.

(6) The two staff nurses, Smt. Anima Das and Smt. Mousumi Das(No.3), on duty in MMW on 23.07.2013 also did not provide due care to the patient, Prasanta Das. As mentioned in clause (2) above, despite prescription for nebulization and

oxygen on SOS, no proper and continuous monitoring of the patient was done even by the staff nurses to ascertain whether nebulization and/or oxygen is required to be given because they had also not visited the patient throughout the night after giving initial medical care just following his admission. They also not made any call to the duty doctors. Enquiry report of the 5-membes Committee and statement of Shri K.V.Satyanbarayana as PW2 establishes this fact.

(7) Smt. Mousumi Das(No.3), staff nurse did not appear before the Inquiring Authority in any hearing on health ground being on maternity leave. She prayed for time but since the inquiry was to be conducted as a common proceeding against four AOs including her, the hearing was continued. The Reply to explanation in response to show cause notice dated 26.04.2013 filed by her is found to be exactly similar as that of the other staff nurse involved in this inquiry, Smt. Anima Das. Further, the written brief dated 25.11.2014 and Reply brief dated 11.09,2015 jointly submitted by the AOs bear the signature of Smt. Mousumi Das(No.3) also. Thus, it can be safely presumed that her response to different stages of this inquiry would have remained similar to that of Smt. Anima Das. Like Smt. Anima Das, she was equally responsible for providing medical care to the patients of MMW on 22.07.2014 night. Hence, she is entitled to same treatment as that to Smt. Anima Das in this inquiry.

(8) In view of the position mentioned in clauses (6) & (7) above, it is concluded that Smt. Anima Das and Smt. Mousumi Das(No.3), staff nurses were negligent in their duty in providing due care to the patient, Shri Prasanta Das.

(9) From the Duty Roster of Nursing Staff for 22-07-2013 and 23-07-2013 {obtained by the AOs as supplementary document}, it is revealed that there was another staff nurse, namely, Smt. Bandita Das, who was also having night duty in MMW on 22.07.2013. As responsibility of providing nursing care to patients of MMW was to be equally shared by all three staff nurses, Health & Family Welfare Department and GA(AR) Department may consider initiating a separate inquiry against her with consequent disciplinary proceeding.\*\*\*\*\*".

This clearly shows that the unfortunate young man died as a result of negligence on the part of the doctors and nurses of the G. B. P. Hospital. The mother in her statement had clearly stated that though she moved from pillar to post to get treatment for her son none came to attend upon. The State cannot be absolved of its liability to compensate the mother

for the loss of her son. This lady (Smt. Marulata Das) has lost her son because of the callous and negligent acts of the doctors and the nurses who are supposed to attend upon the patients but the records clearly reveal that right from 11.45 pm till 8.00 am none attended to the patient, Prasanta Das.

**[7]** We are, therefore, clearly of the view that even in this public interest litigation some compensation should be awarded to the mother, Smt. Marulata Das, W/o-Late Narayan Chandra Das, residence-South Belonia (Children's Park). P.S-Belonia, District-South Tripura. We accordingly direct the State to pay a sum of Rs.5,00,000/- to the mother. This amount shall be kept in a fixed deposit for five years at the first instance and the interest accruing thereupon shall be paid to her on quarterly basis to meet her day to day expenses by remitting it to her personal Bank Account details whereof along with photocopy of the first page of the passbook be submitted in the Registry of this Court within 3(three) weeks from today. After expiry of five years in addition to interest a sum of Rs. 50,000/- shall be released in her favour every year till the entire amount is paid to her. The amount be deposited with the Registry of this Court for investment in terms of this order on or before 28<sup>th</sup> February, 2016. The Registry shall ensure that the amount of interest is remitted to the lady without any deduction of charges.

**[8]** With these observations, this petition is disposed of. No order as to costs.

**JUDGE**

**CHIEF JUSTICE**

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