

CWP No. 5239 of 2013

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 5239 of 2013.

Date of Decision : 15.09.2015.

Dr. Sunil Singla

...Petitioner

Versus

Punjab State Consumer Disputes Redressal Commission and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) *Whether Reporters of the local papers may be allowed to see the judgment?*
- 2) *To be referred to the Reporters or not?*
- 3) *Whether the judgment should be reported in the Digest?*

Present: Mr. Sehaj Bir Singh, Advocate for the petitioner.

Mr. Yagyadeep Advocate, for respondent No. 2.

Mr. Prateek Mahajan, Advocate for respondent No. 3.

Paramjeet Singh, J.(Oral)

Instant petition has been filed under Articles 226/227 of the Constitution of India for setting-aside the order dated 30.10.2012 (Annexure P-3) to the extent it pertains to the petitioner, passed by the State Consumer Disputes Redressal Commission, Punjab, whereby direction has been issued to the Medical Council of India to take

appropriate action against the petitioner for allegedly filing a false affidavit.

Brief facts of the case are that one Rajesh Kumar son of Baisakhi Ram filed a Consumer complaint against the Life Insurance Corporation of India, which was allowed by the District Consumer Disputes Redressal Forum, Patiala (for short the 'District Forum'). Aggrieved against the said order, the Life Insurance Corporation filed an appeal before the State Consumer Disputes Redressal Forum, Punjab at Chandigarh (for short the 'State Consumer Commission'). The Insurance Company had filed an affidavit of the petitioner in support of the case of the Life Insurance Corporation before the District Forum. In appeal, the State Commission recorded the following findings with regard to the genuineness of the affidavit of the petitioner :-

“14. We have also perused form No. 3784 Ex. R-8 which was issued by Dr. Sunil Singla, who treated the patient. In column No. 6(2)(c) it is mentioned that history of ailment was explained/told by the patient herself. We have also perused the copy of bed head ticket Ex. R-9. It is stated in the said document that the patient was received at 7.15 PM in the hospital and the detail of the treatment is mentioned on page No. Ex. R-9(8) but no document is produced by the appellants where history of the patient was recorded. It is mentioned in page No. R-9(6) that the patient had suffered sudden chest pain at 6.00 P.M. and she was brought to Rajindera Hospital, Patiala at 7.15 P.M. So how it was possible that when the patient was suffering from a severe

heart attack, had narrated the history of her ailment to the doctor. The doctor in Form No. 3784 mentioned that the history of ailment was narrated by the patient herself. A person can speak lie but documents never speak lie. From the documents it is proved beyond doubt that the patient i.e. Kala Devi was not in a position to narrate the history of her ailment to doctor when she was under severe heart attack. Dr. Sunil Singla had given a wrong affidavit to favour the appellant when it was very much in his notice that the patient was not in a position even to talk.

18. Dr. Sunil Singla son of Shri R.D. Singla, R/o 60-B, Ranbir Marg, Model Town, Patiala had given a wrong affidavit to help the Insurance Company which is not as per the ethics of the medical practice. A letter be sent to the Medical Council of India as well as a copy of the order to enquire under what circumstances Dr. Sunil Singla had made a false affidavit in favour of the Insurance Company to help it. The people in India believe the doctor as a God and if it happened in future the confidence of the people will be shaken. A copy of the report be sent to this Commission within three months from the receipt of copy of the letter regarding the action taken against Dr. Sunil Singla.”

After considering the evidentiary value of the affidavit of the petitioner, State Consumer Commission has come to a conclusion that it appears to be false and matter has been referred to Medical Council of India for enquiring into the matter of filing a false affidavit in favour of the Life Insurance Corporation. In the end, it has been observed by the Commission that the report with regard to the action taken shall be sent

to the Commission within three months.

The contention of the learned counsel for the petitioner is that before passing the impugned order by the State Consumer Commission, neither he was impleaded as a party nor he was afforded any opportunity of hearing.

The contention of the learned counsel for the petitioner is not sustainable. While examining the evidentiary value of an affidavit particularly when it has direct bearing on the controversy, the Court can always go into the truthfulness and falseness of such evidence led before the Court. When the evidence is led by way of tendering of an affidavit, it is always on oath and it should be in accordance with law. Ultimately, after appreciating the contents of the affidavit viz-a-viz other relevant material on record and facts of the case, the State Consumer Commission has come to a conclusion that this is a false affidavit which is contrary to the facts on record particularly the affidavit of Dr. Anju Gupta and thereafter the matter has been referred to the Medical Council of India to look into the falsity of the affidavit. It is for the Medical Council of India to examine the same before the action is taken against the petitioner by the Medical Council of India. Needless to say, the petitioner will be provided adequate opportunity to defend himself by the Medical Council of India. Otherwise also, petitioner cannot avail the remedy under writ jurisdiction. Since against the order passed by the State Commission, appeal/revision can be filed before the National Consumer Disputes

Redressal Commission.

I do not find any merit in the contention of the petitioner that he has not been afforded any opportunity of hearing, therefore, prejudice has been caused to him. Only affidavit has been assessed by the State Consumer Commission and it is to be finally decided by the Medical Council of India.

In view of the above, present petition is dismissed.

September 15, 2015.
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(PARAMJEET SINGH)
JUDGE