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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 1656/2016

MAJOR RAJ KISHORE KUMAR (RETD.) Petitioner

Through Petitioner in person.

versus

DIRECTOR GENERAL ARMY DENTAL

SERVICES & ORS

..... Respondents

Through

Mr. Dev P. Bhardwaj, CGSC with
Mr. Kavindra Gill, Advocate and
Maj. Jitender for R-1.Mr. Anuj Aggarwal, ASC (Civil) for
R-2 and 3.Mr. T. Singhdev with Ms. Puja Sarkar
and Ms. Biakthansangi, Advocate for
R-4/DCI.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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26.02.2016

Present writ petition has been filed seeking a direction to respondent no.1 to initiate necessary measures to ensure that Doctors of all Army Hospitals obtain written consent in Hindi and English from the patients prior to extracting their tooth whether damaged or healthy. Petitioner also seeks a direction to the respondent no.1 to increase the number of Dental Doctors and Para Medical Staffs in Dental Centre of Base Hospital, Delhi

Cantonment.

Petitioner who appears in person states that the petitioner visited dental centre of Base Hospital, Delhi Cantonment for treatment of his painful tooth molar 26 in upper left jaw. He states that he was advised by the concerned doctor to get the said tooth extracted. He further states that after receiving a second opinion from AIIMS, he returned to the Dental Centre of Base Hospital for extraction. It is, however, petitioner's case that in extraction proceeding the concerned doctor extracted a healthy tooth i.e. molar 28 without prior knowledge and consent of the petitioner.

Petitioner states that he has already filed a criminal complaint with the Naraina Police Station and has also subsequently filed a petition under Sections 156(3) and 200 Cr. P.C.

In the opinion of this Court, a doctor has to be given full flexibility to deal with his patients. A straight jacket formula cannot be prescribed. It is well known that doctors deal with all kinds of emergencies, including injuries sustained in an accident. Consequently, petitioner's suggestion that prior written consent should be obtained before extracting any tooth is neither feasible nor practical.

As far as the number of Dentists is concerned, this Court is of the view that the Base Hospital, Delhi Cantonment is the best judge of it. Consequently, no orders need be passed by this Court on this issue.

From the facts stated by the petitioner, it seems to be a case, at the highest, of alleged medical negligence or mistake.

Consequently, present writ petition is disposed of with liberty to the petitioner to approach the concerned State Dental Council of India with his complaint. However, this Court clarifies that it has not expressed any

opinion on the merits of the case. Rights and contentions of all parties are left open.

MANMOHAN, J

FEBRUARY 26, 2016

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