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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8055/2010

SANJAY KUMAR SHARMA Petitioner
Through: Mr Somnath Makhija, Advocate.

versus

STATE OF NATIONAL CAPITAL
TERRITORY DELHI & ORS. Respondents
Through: Mr Siddharth Dutta, Advocate for R-1
to R-4.
Mr Praveen Khattar, Advocate for
DMC.
Mr T. Singhdev, Advocate for MCI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
17.08.2017

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1. The petitioner has filed the present petition, *inter alia*, praying as under:-

- "a. Order by issuance of Writ of mandamus or any appropriate writ against the respondent No.1 and 2 directing the Respondents No.1 and 2 for submitting all papers and documents of treatment of the patient Harsh Sharma, who was admitted in the Pt. Madan Mohan Malviya Hospital and was treated from 12.7.2010 to 16.7.2010;
- b. Order by issuance of writ of mandamus or any appropriate writ against the respondent No.1 and 2 to hold proper enquiry of the incident and to initiate appropriate legal and departmental action against the erring Doctors involved in the operation / treatment of Harsh Sharma from 12.7.2010 to 16.7.2010 in the Pt. Madan Mohan Malviya Hospital;

- c. Order by issuance of writ of mandamus or any appropriate writ against the respondent No.3 and 4 to submit all papers and information about steps taken after complaint lodged on 15.10.2010 by the petitioner;
- d. Order by issuance of writ of mandamus or any appropriate writ to the respondent No.3 for taking appropriate steps against the respondent No.3 or erring official for not taking immediate steps in connection to the complaint lodged on 15.10.2010;
- e. Order by issuance of writ of mandamus or any appropriate writ against the respondent No.3 for engaging any expert/independent agency for investigation in connection of the incident about which complaint was lodged on 15.10.2010 with the Respondent No.3;
- f. Order by issuance of writ of mandamus or any appropriate writ against the respondent No.1 and 2 for payment compensation to the tune of Rs. 6 lac for damages, financial loss/expenses, mental and physical torture litigation expenses and other contingent expenses etc;
- g. Order by issuance of writ of mandamus or any appropriate writ to the Respondents No.1 and 2 with direction for taking every care of free treatment to the minor son of the petitioner - Harsh Sharma, whenever is necessary in future in case any complicity arises due to such negligent and damage to his bodily limb and parts;"

2. The petitioner had taken his minor son Master Harsh Sharma for treatment as an outdoor patient to respondent no.2 hospital and it is stated that Harsh Sharma was attended by Dr Arun Kapoor and other doctors. The petitioner alleges that there was gross medical negligence in the surgery that was conducted by the said doctors and Harsh Sharma's bladder was

ruptured.

3. It is also the petitioner's case that doctors at respondent no.2 hospital were negligent and didn't attend Harsh Sharma after post surgery and, therefore, the petitioner was compelled to take his child to another hospital. The petitioner has set out details of the treatment provided by other hospitals in support of his contention that doctors conducting surgery on the child were grossly negligent.

4. The allegations made by the petitioner are denied by the respondents. The learned counsel for the respondents further states that Delhi Medical Council (DMC) had also found Dr Arun Kapoor to be negligent and issued a warning to him. Dr Kapoor had preferred an appeal against the order of the DMC. The Medical Council of India examined the allegations of medical negligence, in the said appeal, and by an order dated 13.12.2016, exonerated the doctors in question.

5. Insofar as the issue of compensation is concerned, this Court had on 04.02.2016 passed an order clarifying that the said relief would not be granted in this petition as it entailed disputed questions of fact. This Court had further granted liberty to the petitioner to initiate appropriate proceedings in accordance with law.

6. Insofar as the petitioner's prayers regarding conduct of investigation are concerned, it is seen that the Medical Council of India has already examined the same issue and if the petitioner is aggrieved by the findings of Medical Council of India, it would be open for the petitioner to take appropriate steps to challenge the same.

7. Insofar as the petitioner's prayer for seeking documents and other records of the treatment provided to Harsh Sharma is concerned, it cannot be disputed that the petitioner would be entitled to the copies of the relevant records maintained by the hospital, including documents related to the treatment of patient. The learned counsel for the respondents states that almost all the papers had already been given to the petitioner. Notwithstanding the same, to put quietus to the controversy, respondent nos. 1 and 2 are directed to ensure that all papers and documents pertaining to the treatment of Harsh Sharma are provided to the learned counsel for the petitioner within a period of four weeks from today.

8. In view of the above, no further orders are required to be passed in this petition. All rights of the petitioner to challenge the order of Medical Council of India and to seek appropriate remedies for compensation are kept open.

9. It is clarified that this Court has not expressed any opinion as to the manner in which the patient (Harsh Sharma) was treated or the merits of the allegations made and nothing stated in this order shall be construed as such.

10. The petition is disposed of.

11. Order *dasti*.

VIBHU BAKHRU, J

AUGUST 17, 2017
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