

\$~6

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

+ **W.P.(C) 8024/2016**

TASNEEM FATIMA

..... Petitioner

Through Ms Padmini Kumar Gupta, Advocate
and Mr Parvez Sidram, Advocate.

versus

INDIAN SPINAL INJURIES CENTRE

..... Respondent

Through Mr Preet Pal Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **13.07.2017**

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

- "(a) Issue a writ of mandamus or any other appropriate writ directing the respondent to release and hand over to the petitioner all the documents/medical records pertaining to the petitioner;
- (b) Direct the respondent to provide medical services to the petitioner upon payment of requisite charges/fee from the petitioner.
- (c) Direct the respondent to pay compensation of Rs.25,000/- to the petitioner for failing to discharge its duty and compelling the petitioner to take recourse to legal remedy."

2. The petitioner suffered a spinal injury in an accident and was under treatment of the respondent hospital for the period from 27.06.2015 to 23.07.2016.

3. It is the respondent's case that all the necessary treatment that was required to be given to the petitioner as an indoor patient was provided and further follow up did not require her to be admitted to the hospital. The respondent claims that in the circumstances, the petitioner was required to take a discharge but she had delayed doing so. He further states that the petitioner and her brother had made a nuisance of themselves and had misbehaved with the doctors and hospital staff. There is also some controversy as to whether the petitioner had agreed for the discharge but had finally not completed the formalities; however, it is undisputed that no separate discharge certificate has been given to the petitioner.

4. The averments made by Mr Singh, learned counsel for the respondent also indicates that there was some altercation between the petitioner and the hospital staff and she/her brother had threatened the staff and doctors of the hospital. In the circumstances, the respondent is no longer willing to accept the petitioner as its patient.

5. The petitioner, however, submits that she requires hydrotherapy treatment and the said facility is available with the respondent. The treating doctors of the respondent contest the aforesaid contention and state that hydrotherapy treatment is not required at this stage. Mr Singh further states that such treatment may be available in other hospitals as well. Ms Gupta,

the learned counsel for the petitioner, on the other hand, insists that such treatment is required and that the respondent be directed to provide the same.

6. Having heard the learned counsel for the parties, this Court is of the view that respondent cannot be compelled to provide any treatment to the petitioner against the professional opinion of its doctors. Since it has been unequivocally stated that the doctors at the respondent hospital do not recommend hydrotherapy treatment; the basis on which the petitioner has sought the relief no longer holds good. It is possible that other medical practitioners may recommend such treatment but the respondent hospital cannot be compelled to provide the same contrary to the professional opinion of its doctors and they in turn cannot be compelled to supervise the same.

7. Insofar as the prayer for issuance of medical records are concerned, Mr Singh has made a statement that the certified copies of the medical records of the petitioner would be provided to her on 28.07.2017 at 11.00 A.M. He states that the originals of the records cannot be given since this is a Medico-Legal Case and the respondent hospital is required to retain the original records with it.

8. Given the peculiar circumstances, the petitioner would require the original of some of the records such as X-rays, and MRI reports and the respondent is directed to provide the original of those records while retaining a copy of those records for the purposes of identification. However, the originals of other records (the originals of which are not

necessary for treatment) would be kept by the respondent and only a certified copy would be provided to the petitioner. The said records will be provided to the petitioner or her authorised attendant on 28.07.2017 at 11 AM at the respondent hospital.

9. The petitioner is required to ensure that all the original records - the X-rays, MRI etc. - handed over to the petitioner are preserved and she will produce the same as and when called upon to do so in any proceedings.

10. The petition and pending application are disposed of with the aforesaid directions.

11. Order *dasti* to both parties.

VIBHU BAKHRU, J

JULY 13, 2017

pkv