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

+ W.P.(C) 4907/2018

DR. VEENA MATTU

..... Petitioner

Through: Mr. R. Sudhinder, Ms. Ekta Bhasin,
Mr. Anurag Tripathi and Mr.
Deepanshu Arora, Advocates.

versus

REVENUE/DIVISIONAL COMMISSIONER GOVT. OF NCT OF
DELHI AND ANR.

..... Respondents

Through: Ms. Shobhana Takiar, Advocate for
R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **08.05.2018**

1. Issue notice.
2. Ms. Shobhna Takiar accepts notice on behalf of the respondents.
3. Learned counsel for the respondents says that in view of the order that I propose to pass, she does not wish to file a counter affidavit in the matter.
4. Briefly, the background in which the present writ petition has been filed is as follows:-

(i) The petitioner before me is aggrieved by the fact that there was negligence in transporting her father late Mr. H.N. Kaw from Max Hospital Patparganj to Saket City Hospital.

(ii) Broadly, the grievance is articulated under two heads. First, that the ambulance did not have a functional ventilator. As a matter of fact, the allegation is that the ambulance did not carry an Ambu bag. Second, the personnel, who were accompanying the patient, were not medically qualified. According to the petitioner, the committee enquiring into the matter failed to examine the material on record and consequently reached an erroneous conclusion.

5. It is the petitioner's case that there is a serious infirmity in the enquiry report, dated 9.9.2017. The aspect qua which particular emphasis is laid by Mr. R. Sudhinder, who, appears for the petitioner, is set forth in paragraph 8(iii) of the enquiry report. For the sake of convenience, the same is extracted hereafter:

“From the available medical records before the committee, it is established that the condition of patient Sh. H.K. Kaw did not deteriorate during the transportation in the ambulance. As per the discharge summary, Patient's general condition was poor and risk of transportation was explained. At the end of transport patient's Saturation was 93% at 3:40 PM on 25/12/2013, when the patient arrived at Saket City Hospital. The committee observed that as per Saket City Critical Care Initial Assessment, the saturation at Saket City Hospital on 25/12/2013 at 18:09 PM was recorded as 78-80% (Page No.100).”

5.1 Mr. Sudhinder submits that because the ventilator was not functioning and the Ambu bag was not available, the patient's oxygen saturation level dropped from 100% to 78%.

5.2 To buttress this submission, my attention is drawn to Annexure P-4 at page 57 of the paper-book. Learned counsel submits that the committee instead of relying upon the oxygen saturation level, recorded in the said document, relied upon a document filled in by the personnel of the ambulance owner wherein the saturation level of the patient on the day of transportation i.e., 25.12.2013, has been shown as 93%. Learned counsel draws my attention to the fact that the signatures of the petitioner were not obtained on the said document.

6. I am also informed by counsel for the petitioner that a representation has been made for review of the inquiry report *vis-a-vis* which detailed submissions have been made in the petition.

7. Counsel for the respondents, on the other hand, says that while there is no mechanism in place for a review, the representation filed by the petitioner can be examined by the Committee.

8. Having looked at the document, which, personnel of the ambulance owner have generated and the said document is marked as Annexure P-4 at page 57 of the paper-book, I tend to agree with the counsel for the petitioner that the apparent discrepancy in the two documents appears to have been missed by the Committee. This aspect is, perhaps, vital to the conclusion that the Committee would reach in the matter.

9. Accordingly, the writ petition is disposed of with the direction to the Committee to consider the representation of the petitioner. The Committee will hear the petitioner who, herself, is a trained doctor and will record her deposition. The petitioner will be entitled to place before the Committee

any other contemporaneous record that is available with her. The Committee will deal with the petitioner's contentions and thereafter, pass a speaking order qua the representation dated 5.1.2018.

10. Needless to say, this direction is being issued in the peculiar facts and circumstances of the instant case. Furthermore, a copy of the order passed by the Committee will be furnished to the petitioner. The petitioner will be at liberty to assail the same in the manner known to law.

11. The Committee will conclude the aforementioned exercise as expeditiously as possible, though not later than six weeks from today.

12. *Dasti.*

RAJIV SHAKDHER, J

MAY 08, 2018
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