

**221 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.20850 of 2018 (O&M).
Date of Decision: 18.07.2019**

Chander Mohan Sharma

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mrs. G.K. Mann, Advocate,
for the petitioner.

Ms. Bhawna Gupta, DAG Punjab.

Mr. S.K. Choudhary, Advocate,
for respondent No.4.

JITENDRA CHAUHAN J.

CM-7381-CWP-2019

This is an application for setting aside the order dated 14.02.2019 passed by this Court vide which applicant/respondent No.4 was proceeded against *ex parte*.

Having pleaded no objections from the opposite side, the present application is allowed. The applicant is allowed to join the proceedings from now.

Main case

The petitioner prays for direction to respondent Nos.1 and 2 to take strict action against respondent No.4 and other concerned staff for their negligence in treating the daughter of the petitioner.

It is contended that the daughter of the petitioner, namely,

Suruchi fell ill on 01.09.2017 and was immediately taken to Civil Hospital, Pathankot for treatment as she was found positive for dengue. The SMO told the petitioner to visit either Dr. Atri-respondent No.4 or Dr. Inder Raj. Dr. Atri-respondent No.4 asked for getting the admission file prepared and thereafter, the daughter of the petitioner was got admitted in emergency ward. Initially, the patient got some respite but later on was told to get one more test conducted from M.K. Medical Laboratory. On seeing the report, the patient was discharged satisfactorily. In the morning of 02.09.2017, the petitioner went to the doctor on duty in emergency but the doctor did not advise to bring the patient but told that today is a holiday and Dr. Atri will not come to the hospital. He will examine the patients at his private house at 4.00 pm, therefore, the petitioner took the patient to Dr. Atri and narrated him the condition of the patient. She was then admitted in the Civil Hospital. With great difficulty, the petitioner was able to get a bed for his daughter. After some time, the patient felt a lot of pain in the stomach. The petitioner was advised to get an injection from outside but there was no relief and the nurse told the petitioner that the injection being mild and in case it does not work another dose will be administered to her. The petitioner not satisfied with the treatment, had to shift his daughter to a private hospital (Chauhan Hospital) on 03.09.2017. Thereafter, as per medical opinion, she was admitted in Fortis Escorts Hospital and was given treatment in Medical ICU. Ultimately, on 08.09.2017 the patient was discharged in good

condition.

It is further contended that due to improper treatment given by the respondents, the petitioner was compelled to shift his daughter to private hospitals due to which he had to incur a huge expenditure.

On the other hand, on behalf of respondent Nos. 1 to 3, it is contended that the respondents are public servants and they have to attend to a huge number of patients daily. The petitioner himself had taken away the official record/file of the civil hospital. At the time of occurrence, about 965 OPD of Dengue/fever had been examined by the doctors in Civil Hospital, Pathankot wherein all the patients were treated and cured. The petitioner was so impatient that on 01.09.2007 he went to the office of Dr. Bhupinder Singh and started arguing with the gatekeeper for priority over the other patients. On recommendation of the doctor, Elisa test was done in the hospital and she was admitted in the emergency ward of the Civil Hospital. The patient was given due care and treatment as was required in accordance with her condition.

Heard.

Considering the fact that the petitioner or the attendant were not known either to the treating doctor or the nursing staff, the allegation of *mala fide* are not made out. However, it could be a case of *bonafide* error that out of the entire patients, the daughter of the petitioner was not perceived to be very serious, therefore, the patients who were in serious and precarious condition were accorded priority.

From the chart of the treatment appended with the written statement,

the Court is satisfied that the patient was treated and same treatment was administered by the private hospital where daughter of the petitioner was subsequently treated.

No ground for interference is made out.

Dismissed.

However, necessary action in pursuance to report dated 26.06.2018 (Annexure P-3) be initiated and finalized within eight weeks from the date of receipt of certified copy of the judgment. The action taken report be sent to the Registrar General of this Court within three weeks thereafter.

18.07.2019.

SN

(JITENDRA CHAUHAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No