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

+ **W.P.(C) 2451/2018**

DR. R. BALAKRISHNAN

..... Petitioner

Through Mr Apoorv Kurup, Mr Avanish Rathai,
Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through Mrs Bharathi Raju, CGSC for R1.

Mr Dev P. Bhardwaj, CGSC for R1 with Mr Jatinder
Teotia, Advocate for R1.

Mr Anupam Srivastava, ASC for GNCTD with
Mr Dhairya Gupta, Advocate for R2.

Mr T. Singhdev, Mr Tarun Verma, Ms Puja
Sarkar, Advocate for R3/MCI.

Mr Debasish Moitra, Advocates for R4 and R5.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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25.03.2019

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

“a. Issue a writ, order or direction to the Respondent No. 2 (Govt. of N.C.T. of Delhi) to conduct a timely and thorough investigation into the medical treatment provided to, including the surgery conducted on, the Petitioner's wife, Dr. Mangalam Swaminathan, between October 3 and October 7, 2017 which led to her death, pursuant to the letter no. C.13019/21/2107- MH-II, dated 21.12.2017, issued by the Respondent No. 1;

b. Issue a writ, order or direction to the Respondents to

provide the Petitioner complete documents and records pertaining to the medical treatment provided to, including the surgery conducted on, the Petitioner's (deceased) wife. Dr. Mangalam Swaminathan, between October 3 and October 7, 2017 including the following:

(i) Video recording of the surgeries conducted on Dr. Mangalam on 04.10.2017 and 06.10.2017;

(ii) Details/ documents/ reports regarding the post-operation care by the doctors/ medical staff on 06.10.2017;

(iii) Details/ documents/ reports regarding the medicines administered on Dr. Mangalam post-operation on 06.10.2017; and

(iv) Details/ documents/ reports relating to the dialysis conducted on Dr. Mangalam on 05.10.2017 and 06.10.2017.”

2. The petitioner's wife, Dr. Mangalam Swaminathan, who was aged 52 years at the material time, was admitted to Max Smart Super Speciality Hospital (respondent no.5) on 03.10.2017 between 3.00 a.m. to 4.00 a.m. It is the petitioner's case that she was subsequently operated upon on 4.10.2017 and 06.10.2017, and expired in the said hospital on 07.10.2017.

3. The petitioner alleges that there has been gross negligence in the treatment provided to his wife. He states that his wife had approached the hospital complaining of an upset stomach and she was otherwise perfectly healthy at the material time. It is stated that she walked into Max Hospital on her own, however, within a period of few days, thereafter, had expired.

4. The petitioner also complains that he had not been provided the medical records of his wife. In the aforesaid context the petitioner prays that investigation be undertaken by the concerned authorities into the medical treatment provided to his wife, and further that the relevant medical records,

including video recording of surgery be also provided to him.

5. Insofar, as the prayer for investigation is concerned, it is pointed out that an investigation committee consisting of three members was constituted by the Government of NCT of Delhi, and the said Committee had enquired into the treatment provided to the petitioner's deceased wife. The said Committee had not found any negligence on the part of the hospital and the concerned doctors. The petitioner had challenged the report of the aforesaid Committee before this Court by way of a writ petition, W.P. (C) No. 10502/2018, which was disposed of by an order dated 03.10.2018, clarifying that the said report did not have a statutory flavour and did not preclude the petitioner in any manner from taking recourse to any other remedy available in law.

6. In view of the above, the petitioner's request that an investigation be carried out does not survive.

7. Insofar, as the petitioner's request for being provided with relevant documents and records pertaining to the treatment afforded to his deceased wife is concerned, the attention of this Court is drawn to receipt dated 24.03.2018 and 27.03.2018, which indicate that the counsel appointed by the petitioner had accepted a total of 136 (CPRS electronic notes) and a physical record containing 181 pages, in relation to the treatment accorded to the petitioner's deceased wife. The said receipts also indicate that certain records were not provided to the petitioner on 24.03.2018; the deficiency in this regard was specifically noted by the recipient and the same were subsequently received by him on 27.03.2018.

8. The learned counsel appearing for the petitioner states that although the records were received, however, the video recording of the surgery

conducted on 04.10.2017 and 06.10.2017 had not been provided.

9. In view of the above, the respondent no.4 & 5 are directed to provide a copy of the said video recording, if otherwise available with them, within a period of two weeks, from today. If the said records are not available with the respondents, the same would also be communicated to the petitioner.

10. In view of the above, the relief sought for by the petitioner stands addressed and no further orders are required to be passed in this petition.

11. It is also relevant to note that respondent no.5 has filed a detailed counter affidavit indicating the exact treatment afforded to the petitioner's wife. In the event the petitioner is of the view that the treatment was not apposite or there is negligence on the part of the treating doctors, it is always open for the petitioner to file an appropriate complaint with the Delhi Medical Council or institute any other action as advised.

12. The petition is disposed of with the aforesaid observations.

VIBHU BAKHRU, J

MARCH 25, 2019

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