

D/L. 17.
July 13, 2023.
MNS.

WPA No. 28051 of 2022

Sri Iswar Prasad Bhattacharya
Vs.
Union of India and others

Mr. Debasish Chattopadhyay,
Mr. Loknath Paul,
Mr. Tirthankar Basu

... for the petitioner.

Mr. Pramit Kumar Ray,
Mr. Ashutosh Pathak,
Ms. Atmaja Bandyopadhyay

...for the respondents.

The writ petition has been filed on the allegation that the petitioner was mistreated by doctors, who have been impleaded as respondents in the present writ petition.

It is submitted that the petitioner got admitted to the Command Hospital, Kolkata for an ailment with regard to bleeding from his rectum. He was, thereafter, referred to other hospitals.

It is contended that although the ailment on which the petitioner was admitted in the hospital was different, the petitioner was treated for alleged disorder of his heart as well as kidney, which treatment was entirely beside the point.

It is contended that due to such negligence, several complaints have been lodged by the petitioner before the respondent authorities, but to no effect.

The petitioner has also applied under the Right to Information Act, 2005 for obtaining appropriate information, but has also met with a dead end there.

Learned senior counsel appearing for the respondent authorities submits that the writ petitioner has suppressed several replies given to his queries by the respondent authorities. It is further submitted that the allegations made by the petitioner are incorrect on fact as well, since the treatments, which were meted out to the petitioner, were required for the diverse disorders being suffered by the petitioner.

That apart, it is contended that the remedy of the petitioner lies elsewhere, in the event the petitioner has an objection regarding perceived medical negligence.

There is substance in the contentions of the respondent authorities.

Even apart from the fact that the plethora of complaints lodged by the petitioner do not pertain directly to medical negligence, but to the

apparent inaction of the respondent authorities made before the who's who of the Indian Executive, there is nothing on record to show that the petitioner has ever approached with a complaint before the appropriate forum alleging medical negligence, which could have given an opportunity of defence to the accused persons, who are allegedly responsible for the purported medical negligence.

The representations annexed to the writ petition do not constitute formal complaints before the appropriate authorities.

Accordingly, WPA No. 28051 of 2022 is disposed of by granting leave to the petitioner to lodge an appropriate complaint by way of a formal application before the appropriate medical authorities as well as the respondent authorities, on the ground of alleged medical negligence meted out to the petitioner.

If such a complaint is lodged in due process of law, the recipients of such complaints shall deal with the same in accordance with law, following due process of law which shall hear the complaint, in such case, by giving an opportunity of hearing to the petitioner as well as the accused persons and other persons interested in the

matter and, upon conclusion of such hearing, decide the matter in accordance with law.

It is expected that such exercise shall be completed, by the appropriate authorities, positively within six months from making of such application by the petitioner before such competent authorities.

It will be open to the competent authorities to decide the issue, if so raised, independently and in accordance with law.

It is made clear that the merits of the allegations and counter allegations have not been gone into by this court.

Since no affidavits have been invited from any of the respondents, it will be deemed that the respondents have not admitted any of the allegations made in the writ petition.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)