

Court No. 2

14.08.2023

(JPD 5)

(S. Banerjee)

Calcutta High Court
In the Circuit Bench at Jalpairuri
Appellate Side

W. P. No. 1470 of 2023

**A. H. IVF & Infertility Research Centre (P) Ltd.
Vs.
The State of West Bengal Ors.**

Mr. Deborshi Dhar

Mr. Somraj Paul

... for the petitioner

Mr. Nabakumar Paul

Mr. Sagnik Bhowmick

Mr. Abhishek Sarkar

... for the respondent no. 9

The petitioner is an infertility research centre against which an allegation was made by relatives of a patient. The patient delivered a healthy baby but on the date next to delivery expired due to some health complications. This is the subject-matter of complaint made by the respondent no. 9, to the health authority of the State.

On behalf of the authority the Deputy Chief Medical Officer of Health-I, Darjeeling directed the proprietor of the research centre to stop treatment of patients in the centre until the enquiry is completed. It appears that the enquiry was initiated in December, 2022. Today we are in August, 2023. What is the stage of enquiry, the petitioner does not know.

Nobody appears for the State to apprise this court about the stage of the enquiry.

However, only because an allegation/complaint has been made against the said centre, being the petitioner, the activities of the centre cannot be stopped. The enquiry may continue as also the activities/business of the center. If it is found that they were doing something very illegal, then the enquiry committee, if there is any enquiry at all, will suggest the steps to be taken against the said centre. But as one enquiry committee has been formed on the basis of an allegation/complaint, the activities/business of the centre cannot be stopped.

Therefore, I set aside and quash the letter of the Deputy Chief Medical Officer of Health-I, Darjeeling dated 19.12.2022, being Annexure P-5 (at page 71), and the letter of the Chief Medical Officer of Health, Darjeeling dated 19.04.2023, being Annexure P-10 (at page 82) and I direct the Chief Medical Officer of Health to allow the petitioner to run its activities and business. However, it is made clear that the enquiry committee shall proceed with full independence and will file its report within a period of three months from date. If it is not done by three months, the

enquiry committee (if there is any at all) shall be treated as dissolved and there shall not be any further enquiry against the petitioner. However, thereafter if there is any complaint against the petitioner, the respondent no. 9 shall have the liberty to take steps under the Consumer Protection Act, 1986 against the petitioner.

With this observation and direction, this writ application is disposed of.

(Abhijit Gangopadhyay, J.)