

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-22440-2018 (O&M)
Date of Decision: 20.07.2023

NARWAL MEDICOS & SURGICALS

... Petitioner

VERSUS

DIRECTOR PGIMS (POST GRADUATE INSTITUTE OF
MEDICAL SCIENCES) ROHTAK AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. B.S. Rana, Sr. Advocate with
Mr. Nayandeep Rana and Mr. Rajan Singh
Advocates for the petitioner.

Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Sanjiv Kumar Aggarwal, Advocate
for respondents No.1 to 5.

Mr. K.K. Gupta, Advocate
for respondents No.6 to 35.

VINOD S. BHARDWAJ, J. (ORAL)

The dispute in the present petition relates to the release of operative equipments/instruments and implant material, claimed by the petitioner to be his belonging and ownership, that had been seized and taken into custody by the Chief Security Officers of the PGIMS, Rohtak.

The petitioner, who is a proprietorship and deals in sale and supply of operative and surgical equipments having registration No. 06AHNPK5583G1ZO, has claimed that petitioner also sells equipment and material related to orthopaedic and supplies the same to Government as well as private hospitals and to the patients as per the prescription by the concerned doctor. Whenever a patient approaches the petitioner with such prescription

from a doctor, the patient is informed about the implants, medicines and instruments as well as the approximate cost thereof. The same may be taken by the patient after depositing certain advance qua the total cost thereof. These equipments are high valued and carry no guarantee. Accordingly, the instruments required for the implants are also brought to the concerned department so as to be taken back once the surgery is performed for being re-used after sterilization. The instruments being specific and exclusive for each patient. Apart therefrom, the surgical implants which may be used vary from different sizes and such specific requirement may not be known even to the attending doctor until the surgery has commenced. Hence, ordinarily different sizes of the implants are also taken for use by the concerned doctor. The unused material is thereafter returned to the patient and is taken out of the hospital. The debit of the value of the aforesaid implants/machinery returned is done from the Bill and a final amount, on the basis of consumed material, is charged from the patient.

On 23.07.2018, patients Kamal; Aman and Suresh came to the shop of the petitioner for seeking supply of instruments and other materials for the surgeries relating to hip replacement and ACL tear. The cost of the material was conveyed to the said customers and advance was also got deposited. Supply of the material and equipments was done vide separate Challan Nos.3695, 3694 and 3699, which is also claimed to be reflected from the video footage recorded in the CCTV cameras installed in the premises of the petitioner.

However, after the performance of the surgery, when the unused material was being taken out, the employee of the petitioner was apprehended by the Chief Security Officer of the PGIMS Rohtak and the material in his possession was seized by the Chief Security Officer. Petitioner contends that an

application in this regard was submitted by him to the respondent Authorities to enquire about the same. It is the case of petitioner that he is the sole owner of the said material and that the respondent-PGIMS nowhere claims that the abovesaid equipments/implants belong to them or are part of a State inventory. Furthermore, no third party has raised any claim/ownership with respect to the said material. Notwithstanding that there is no rival claim being raised for return of the same, the seized material has been illegally retained by the respondents and is not being released to the petitioner despite being owner.

Per contra, learned Senior Counsel appearing on behalf of the respondent-PGIMS, Rohtak submits that an Enquiry Officer was appointed to determine the ownership of the abovesaid property and that a report was submitted by him. As per the said report, the petitioner could not lead any evidence to suggest or to establish that the seized material was under his ownership. Hence, in the absence of any sufficient proof being furnished by the petitioner showing his right and entitlement to claim the release of the seized material, the respondent-PGIMS, Rohtak was justified in not releasing the same to the petitioner. He, however, could not dispute the fact that there is no claim of PGIMS, Rohtak that the seized instruments belong to it and no other third party has also filed any claim qua the abovesaid seized instruments claiming rival title for the same.

He, however, fairly submits that the PGIMS, Rohtak is ready to handover the above said seized material to the police, so that the appropriate inquiry/investigation may be conducted by the police and the material may be returned to the owner as may be so determined by the said Inquiry Officer/ Investigating Agency.

Learned counsel for the petitioner has no objection to such suggestion. He, however, submits that a proper inventory of the seized material may be prepared at the time of handing over the same to the police.

Accordingly, the present petition is disposed of with the following directions:

- (i) That the respondent-PGIMS, Rohtak shall constitute a team of doctors which shall prepare the inventory of the stock/seized material to be handed over to the police
- (ii) The SHO of the concerned police station shall, either himself or through an officer duly deputed or authorized for the said purpose, make arrangements for taking possession of the abovesaid seized material in accordance with the inventory so prepared, vide a separate and proper memo of recovery.
- (iii) A proper inquiry/investigation shall be conducted by the concerned SHO to determine the ownership/title over the seized material.
- (iv) The material in question may thereafter be released by the SHO of the concerned Police Station after satisfying himself with respect to the ownership, to the owner and on such terms and conditions as may be fit and proper.
- (v) The exercise of constitution of the Committee and handing over the seized material shall be undertaken by the PGIMS, Rohtak within a period of two weeks from the date of receipt of certified copy of this order. The SHO concerned shall complete the proceedings on his behalf, as stated above, within a period of four weeks thereafter.

Any other misc. application(s) also stand(s) disposed of accordingly with liberty to the parties to seek redressal of their respective grievances in a manner known to law.

JULY 20, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No