

July 11, 2024
Sl. No.10
Court No.9
s.biswas

WPA 12857 of 2024

Bidhan Bauri
vs.
The State of West Bengal and others

Mr. Suvro Prakash Lahiri
Mr. Munjel Alam
Mr. Rajesh Naskar
Mr. Akash Saha

... for the petitioner

Mr. Anirban Ray, GP
Mr. Biswabrata Basu Mallick
Mr. Saptak Sanyal

... for the State

1. The petitioner is a patient is suffering from terminal illness. The petitioner was undergoing treatment and came in contact with Denvax Clinics and one Dr. Jamal Anono Khan. The said doctor and the clinic are the respondent nos.9 and 10, who are not before this court, despite service. The petitioner alleges that the treatment protocol was completely illegal and unauthorized. The doctor and the clinic misled the petitioner and administered wrong medicines. The condition of the petitioner worsened. The petitioner approached the West Bengal Clinical Establishment Regulatory Commission. The petitioner alleged of being cheated. Almost Rs.7 lakhs had been spent in the treatment.

2. The commission held that as the doctor was not under the West Bengal Medical Council, the Director of Health Services should make an enquiry and take appropriate measures, so that such type of unauthorized centres are debarred from carrying on any business within the State of West Bengal. The Commissioner of Police, Bidhan Nagar Police Commissionerate was also requested to make a thorough investigation.
3. The writ petition has been filed for enforcement of such order of the learned commission, by the state authorities. The state authorities have filed a detailed report. The said report is taken on record. It appears that the Assistant Chief Medical Officer of Health, Bidhan Nagar Sub-division made an enquiry and submitted an enquiry report to the Chief Medical Officer of Health, North 24 Parganas at Barasat dated February 5, 2024 and stated as follows:

“Respected Sir,

This is to state that as per your order memo no.CMOH (N24PGS)/CE/853, dated:25/01/2024, an enquiry at the Denvax Clinic at Bauiati, under Bidhannagar Municipal Corporation on 29/01/2024, at around 4:00 pm was conducted by the undersigned. The following observations were noted:

1. It is situated at the outside market place besides Sriram housing complex.
2. The establishment has a single 14ft x 20ft approx room at the ground floor facing the service road opposite to Haldiram. It has a reception counter with sitting arrangement of the patient/visitor and a small washroom and a kitchen.

3. Two staff claimed to be working there were found:
 - a) Mrs. Padma Debnath (back office staff) and receptionist.
 - b) Mr. Pratap Bondhu (as a delivery personnel).
 4. No licenses were to be found in the position (sic possession) of these staff in the office apart from a professional tax receipt from 2016 to 2017. No trade license or clinical establishment licenses were shown.
 5. The CCTV camera though present were claimed to be dysfunctional from around 2021.
 6. Mrs. Padma Debnath categorically stated that this office was only used as a logistic point. The patients attended for screening at Delhi centre, and if and when they were prescribed for any treatment, the medicines are sent through courier services at this centre and patient come to collect it from this establishment (Kolkata).
 7. Mrs. Padma Debnath further stated that no patient were given any kind of treatment at this centre apart from the medicines which they take back home and arrange to be taken at their own places.
 8. No doctor was found in this clinic at the time of our visit.
 9. All the documents are attached here along with the report.”
4. The police authorities have also made an enquiry.

The Assistant Commissioner of Police, Detective Department, Bidhan Nagar directed the Inspector in Charge, Baguiati Police Station to investigate into the matter. The police also found an office of Denvax in the ground floor, Block-1, Sri Ramnagar Complex, VIP Road near Haldiram, P.S. Baguiati, Kolkata. The office was found closed. From local enquiry, it was learnt that there was an office at that address, but none had seen Dr. Jamal A. Khan. A suo motu complaint was registered against Dr. Jamal A. Khan, Miss

Banita Debnath and Mr. Prosenjit Mondal. Baguiati Police Station Case No.270 dated 10.05.2024 under Sections 420/406 of the IPC was registered. The investigating officer has also sought for information from the Head of the Department, National Medical Council of India, as to whether Denvax Clinics, situated at 18 & 84, Poorvi Marg, Vasant Vihar, New Delhi, was a registered unit under the National Medical Council of India or whether Dr. Jamal A. Khan was a registered doctor. The report of the authority is awaited.

5. It appears that the police authorities have taken appropriate steps during the investigation which is still going on. As of now, the police report shows that the said office is shut. Necessary steps shall be taken as per law with regard to the functioning of the clinic after closure of investigation. The police will also investigate whether the clinic at Kolkata had been established after proper compliances.
6. This order shall not prevent the petitioner from availing all other remedies as per law.
7. The writ petition is accordingly disposed of.
8. All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)

