

Item No.21
23.09.2024
Court. No. 9
GB

W.P.A. 15416 of 2024

Suraksha Diagnostic Centre
Vs.
West Bengal Clinical Establishment Regulatory
Commission & Anr.

*Mr. Rabindranath Mahato,
Mr. Aritra Shankar Ray*

...for the Petitioner.

*Mr. Atarup Banerjee,
Mr. Rajdeep Pramanik*

...for the Respondent Nos.1 & 2.

1. Affidavit-of-service filed in Court today, is taken on record.
2. Despite service, none appears on behalf of the complainant.
3. The writ petition cannot be entertained on the pleadings. The petitioner disputes the correctness of the order dated December 21, 2023 passed by the learned West Bengal Clinical Establishment Regulatory Commission in which the learned Commission recorded that Mr. Pritam Sarkar, representing the Clinical Establishment, consented to offer Rs.80,000/- to ameliorate the grievance of the complainant and he also prayed for payment by instalments. Thus, the complainant was directed to share his bank details so that the money could be paid in four equal monthly instalments by bank transfer.
4. Mr. Mahato, learned advocate for the petitioner submits that on January 8, 2024, an email was sent to

the Commission, inter alia, stating that no such consent was given.

5. While disposing of the main matter, the learned Commission took serious note of certain facts. The concerned doctor who signed the USG report, described himself as MBBS, MD (Cal) Consultant Radiologist with Registration No.55582 (WBMC). In the course of hearing, it appeared that the post graduate degree was obtained from Katihar in Pathology, and not in Radiology from Kolkata. Thus, it appears to this Court that the matter was heard by the learned Commission and the order was passed recording the consent/concession after granting opportunity of hearing to all.
6. However, the dispute which has been raised by the petitioner before this Court is whether the consent was rightly recorded or not.
7. On March 22, 2024, the grievance of the complainant was once again taken up by the Commission and the Commission directed the Clinical Establishment to pay the compensation as per the order of December 21, 2023 and in default, the complainant was directed to approach the appropriate forum for execution of the order of compensation.
8. It is a well-settled principle of law that if any judicial or quasi judicial authority records a submission of a party, and the party has an objection, the proper course of

action should be to approach the forum which passed the order. This Court, sitting in judicial review, cannot decide whether the petitioner had actually made such submission or not or what had actually transpired during the hearing before the learned Commission.

9. Under such circumstances, the petitioner's remedy is before the learned Commission and not before this Court.
10. Accordingly, the writ petition is dismissed. The interim order is vacated. The petitioner may approach the learned Commission in accordance with law.
11. However, there will be no order as to costs.
12. Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)