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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA-471-2023

Date of decision : 05.11.2024

Jarnail Singh

...Appellant

Vs.

Union of India and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr.HPS Ishar, Advocate
for the appellant.

Ms. Anita Balyan, Advocate
for respondent Nos.1 to 3-Union of India.

Ms. Arundhati Kulshrestha, AAG, Punjab.

Mr. Sahil Khunger, Advocate
for respondent No.5.

G.S. SANDHAWALIA, J. (Oral)

The present letters patent appeal is directed against the order dated 03.12.2021 passed by learned Single Judge, whereby the petitioner was relegated to the alternative remedy.

2. Learned counsel for the appellant has argued that without calling for the reply, learned Single Judge is not justified while passing the said order and it was wrongly as such firstly decided and was not connected with the another set of cases. A perusal of the order would go to show that the learned



Single Judge while deciding the review application, allowed the application and took up the main case while recalling the earlier order dated 24.03.2021. In such circumstances, in his considered opinion that the illegality which had occurred earlier, was resolved while the learned Single Judge took up the main case.

3. A perusal of the petition would want to show that the inquiry regarding the misappropriation of ECHS Funds was on the basis that there was a surgery conducted upon the appellant, which led to some complications and the appellant was unable to walk without help and is also unable to perform his daily activities and was again operated upon by the doctors at Fortis Hospital on 06.07.2019 and was discharged on 12.07.2019. The allegations are that he was wrongly treated by the doctors at Raja Superspeciality Hospital, Nawanshahar-respondent No.5.

4. In such circumstances, we are of the considered opinion that the disputed question is that the treatment given was correct or not and therefore, in such circumstances learned Single Judge has rightly relegated the petitioner to his alternative remedy. Firstly, finding has to be recorded that the treatment as such was wrong, keeping in view the principles which are there regarding medical negligency and the "*Bolam Principle*". In such circumstances, the relegation of the present appellant to the alternative remedy cannot be said to be suffering from any error or jurisdiction. It is settled principle that the writ Court will not go into disputed questions of fact and therefore, relegated to his remedy.

5. The second aspect of the inquiry would only be there that firstly petitioner can make out the case of negligence and would be a subsequent and



consequential directions to be gone into, if any.

6. Thus, we do not find any ground to interfere with the order.
7. Consequently, the present intra-Court appeal is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

05.11.2024
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No