



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

109

CWP-23865-2024 (O&M)

Date of decision: 04.11.2024

Sanjay Jain

...Petitioner

VERSUS

State of Haryana and others

...Respondents

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

Present :- Mr. Pankaj Gupta, Advocate for the petitioner.

Mr. Vivek Saini, Addl. A.G., Haryana.

Ms. Raina Godara, Advocate and

Mr. Abhimanyu Balyan, Advocate for respondent No.7.

VINOD S. BHARDWAJ, J. (Oral)

Seeking change in the medical board constituted on the complaint filed by one Vinod Jain against the petitioner and Dr. Sandeep Bijarnia for the medical negligence, the present writ petition has been filed.

Learned counsel appearing on behalf of the petitioner contends that the complainant is father of the deceased patient and had sent a legal notice dated 02.11.2022 through his counsel alleging that his son Kunal Jain had died due to medical negligence and had demanded a compensation of Rs.42 lakhs. It is also submitted that a complaint had also been filed by Vinod Jain to the Haryana State Medical Council against the petitioner as well Dr. Sandeep Bijarnia for taking appropriate action on account of death of his son due to medical negligence. He submits that the respondent-State referred the complaint to the District Medical Board to inquire into the



allegations and one Dr. Jai Kishore was appointed as Chairperson of the District Medical Board. However, there was a serious conflict of interest as Dr. Sandeep Bijarnia, who was co-accused along with the petitioner, is the son-in-law of Dr. Jai Kishore. The said fact was pointed out by the petitioner whereupon vide letter dated 14.07.2024, the Deputy Chief Medical Officer of Civil Hospital, Sonipat was made as the Chairperson. He has thus approached this Court highlighting that the Deputy Chief Medical Officer of Civil Hospital, Sonipat is a subordinate to Dr. Jai Kishore and prayed that the proceedings be referred to an independent District Medical Board so as to ascertain the truth.

Status report by way of an affidavit of Dr. Manish Bansal, Director General, Health Services, Panchkula (Haryana), along with Annexures on behalf of respondents No.1 and 2, has been filed today in the Court and the same is taken on record. Copy thereof has been furnished to the learned counsel for the petitioner and he has perused the same. The relevant extract of the said status report reads thus:-

“4. That in compliance with the direction given by the Hon'ble High Court vide order dated 16.10.2024 Rs. 50,000/- has been deposited with poor patient welfare fund (PGIMER, Chandigarh) on 23-10-2024 (attached herewith as Annexure-R-1) and further in view of claim of the petitioner, it is respectfully submitted that the District Medical Board for Negligence has been changed from Sonipat to Rohtak vide letter bearing No. COMP(1152)-3PM1-2024/4600 dated



18.10.2024 (Annexure R-2). As such, the instant complaint of medical negligence shall be inquired into by the District Medical Board for Negligence, Rohtak under the Chairmanship of Civil Surgeon, Rohtak.”

Referring to the above, learned State counsel contends that the apprehensions expressed by the petitioner stand redressed since the proceedings have been transferred to the District Medical Board, Rohtak.

Learned counsel for the petitioner, however, submits that the proceedings at Rohtak are to be conducted under the Chairmanship of the Chief Medical Officer-cum-Civil Surgeon, Rohtak who is a contemporary colleague of Dr. Jai Kishore himself. He submits that the proceedings for determination of medical negligence be conducted by the Medical Board of the PGIMS, Rohtak or by any other Board that may be ordered to constituted by the Haryana Medical Council.

Learned State counsel, however, submits that there was no such provision under the Notification that empowers the authorities to pass such an order.

Learned counsel appearing on behalf of respondent-7/complainant (Vinod Jain), however, objects to the prayer made by the learned counsel for the petitioner by submitting that dilatory tactics were being adopted by the petitioner to delay finalization of the proceedings of the Medical Board.

This Court put a specific query to the learned State counsel as to whether the PGIMS, Rohtak has any separate Medical Board to inquire

into the allegations of medical negligence against the Doctors of the PGIMS, Rohtak. It is informed that such a Board does exist in PGIMS, Rohtak being an autonomous body.

Learned counsel appearing on behalf of the petitioner as well respondent No.7-complainant however have no objection to the inquiry being conducted by the Medical Board of PGIMS, Rohtak.

Taking into consideration the totality of circumstances and also the allegations levelled by the parties, the present petition is **disposed of** without commenting on the merits with a direction to transfer the inquiry into medical negligence being looked into by the District Medical Board, Rohtak in terms of the letter dated 18.10.2024 to the Medical Board of PGIMS, Rohtak. Let all records pertaining to the inquiry already conducted and the statements recorded be transferred by the District Medical Board, Rohtak to the Medical Board of PGIMS, Rohtak.

The Medical Board of PGIMS, Rohtak is requested to expedite the inquiry into the allegations of medical negligence levelled by respondent No.7-complainant (Vinod Jain) against the accused persons expeditiously and preferably within a period of 03 months of the receipt of a certified copy of this order.

All pending civil misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

04.11.2024
Mangal Singh

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