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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 18th October, 2024***

+ CM(M) 3639/2024 & CM APPL. 61166/2024
GANGA MEDICAL CENTRE AND HOSPITALS PVT. LTD. &
ORS.Petitioners
Through: Mr. Gautam Khazanchi with Ms.
Suruchi Jaiswal, Advocates.

versus
ARPIT TANDON & ORS.Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Respondent No.1 had filed a complaint under Section 34 read with Section 35 of Consumer Protection Act, 2019, alleging medical negligence against the hospital and concerned doctors.
2. There was delay of 219 days in filing said complaint.
3. Such delay was opposed by the opposite party. However, the learned District Commission condoned the delay on 31.05.2024.
4. When appeal was filed before the learned Delhi State Consumer Disputes Redressal Commission, such appeal was also dismissed on 27.05.2024.
5. Resultantly, a Revision Petition was filed by the opposite party before the learned NCDRC.
6. Such Revision Petition was taken up by learned NCDRC for the first time on 19.07.2024 and was adjourned for 05.08.2024 as the learned counsel had sought time to take some instructions in the matter.



7. On 05.08.2024, when the above said revision petition was taken up by the learned NCDRC again, it directed issuance of notice of the Revision Petition to the complainant. However, while issuing notice, learned NCDRC also ordered the petitioners herein to pay a sum of Rs. 25,000/- to complainant towards incidental expenses.

8. According to learned counsel for petitioners, since the notice was issued, for all practical purposes, it has to be assumed that the learned NCDRC had found substance in the Revision Petition and, therefore, a Review petition was filed praying therein to waive off the cost of Rs. 25,000/- imposed towards incidental expenses.

9. Such application was dismissed on 10.09.2024, holding that order dated 05.08.2024 was self-contained and self-speaking and did not require any correction or amendment.

10. This is how the petitioner is before us by filing the present petition under Article 227 of Constitution of India.

11. None appears on behalf of respondent No. 1- Mr. Arpit Tandon (complainant) despite service of advance notice.

12. The sole grievance is confined to the imposition of cost towards incidental expenses.

13. It is submitted that though the hospital in question is situated in Coimbatore, as far as complainant is concerned, he is very much in Delhi and, therefore, it also does not click to reason that the incidental expenses would be towards defraying his travelling expenses.

14. It is stated that had learned NCDRC not found any merit or substance in the Revision Petition, it could have even dismissed the same in *limine* and could have also imposed cost. But, while issuing notice, the revisionists could



not have been burdened with cost of Rs. 25,000/-, at least, without divulging the reason.

15. Undoubtedly, the commission has ample power to impose cost under Rule 11 of the Consumer Protection (Consumer Commission Procedure) Regulations, 2020 but such cost is imposed when adjournment is prayed and the cost is, generally, payable to defray the expenses of the other party.

16. Rule 11 reads as under:-

“11. Adjournment.-(1) Every proceeding before a Consumer Commission shall be conducted as expeditiously as possible and as per the requirements of the Act.

(2) The Consumer Commission shall record the reasons for any adjournment made by it.

(3) Request for adjournment shall be entertained only in exceptional circumstances and for reasons to be recorded in writing:

Provided that in case of a prayer for adjournment under any other circumstances, the Consumer Commission may, unless sufficient cause is shown, impose such cost, as it deems necessary, for granting such adjournment

(4) The cost imposed may be given to the other party or parties to defray his or their expenses or be deposited in the Consumer Legal Aid Account to be maintained by the respective Consumer Commission, as the Consumer Commission may order.

(5) All orders adjourning the matter shall be signed by the concerned President and members of the Consumer Commission and not by the Court Master or Bench Clerk.”

17. It is apprised that because of the aforesaid imposition of the cost which is pre-condition for issuance of notice, the petitioners have not been able to take steps to serve other side.

18. Quite evidently, the above said order does not contain any reason for burdening the petitioners with cost of Rs. 25,000/-.



19. There is no challenge to the competency of learned Commission in imposing any cost. However, it has to co-exist with some reason.

20. As noted already, it was not a case where the Revision Petition was being dismissed with cost. On the contrary, there is an order of issuance of notice, which obviously suggests that the learned Commission had found some substance in the revision petition which otherwise was, merely, limited to the aspect whether the delay in filing the complaint could have been condoned or not.

21. In view of the above, the present petition is disposed of by directing that the notice may be issued to the other side by learned NCDRC without insisting for any payment towards incidental expenses.

22. However, at any subsequent point of time, if learned Commission forms an opinion that some cost is to be imposed for delaying the matter or for seeking unnecessary adjournment, it may order so, *albeit*, while supplying reason.

23. The petition stands disposed of in the above said terms.

(MANOJ JAIN)
JUDGE

OCTOBER 18, 2024/*sw*