

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 15792 of 2024

**Gopinath Aragya Niketan (Nursing Home) & Anr.
-versus-
The West Bengal Clinical Establishment Regulatory
Commission & Ors.**

**Mr. Anjan Bhattacharya.
...For the Petitioners.**

**Mr. Atarup Banerjee.
Mr. Rajdeep Pramanik.
...For the WBCERC.**

**Mr. Suddhadev Adak.
Ms. Richa Pramanik.
... For the private respondent.**

1. The order passed by the West Bengal Clinical Establishment Regulatory Commission is impugned herein. The petitioner/the clinical establishment submits that the impugned order was passed by the Commission upon affording virtual hearing.

2. It has been submitted that the documents relied upon by the complainant in support of the submission that the foreign body was left inside the body of the patient at the time of surgery in the hospital was not provided. According to the petitioner there is no document to prove existence of foreign body inside the body of the patient and that the same was because of the negligence of the clinical establishment.

3. On a perusal of the order passed by the Commission it appears that the O.T. sister was examined. The Commission has taken note that the

sister was unable to satisfy as to whether there had been proper recounting of the O.T. materials at the time of closure of the surgery.

4. The complainant has annexed medical documents to suggest that a further surgery was required to be conducted to remove the foreign body from inside the body of the patient. In the process the patient had to spend a huge sum of money. On account of compensation the Commission directed payment of Rs. 5,00,000/- (rupees five lakh only) to the patient.

5. There are several factual issues which were considered by the Commission for assessment of compensation.

6. It does not appear that there has been any violation of principles of natural justice in so far as providing hearing on the virtual mode to the witnesses. All opportunity was given to the Clinical Establishment but the Establishment failed to prove its innocence.

7. The Court does not find any error in the impugned order passed by the Commission.

8. The writ petition, accordingly, fails and is hereby dismissed.

9. Reply by the petitioner to the opposition filed by the private respondent be retained with the records.

10. Certified copy of this order, if applied for, shall be made available to the parties.

(Amrita Sinha, J.)