

ASSIGNED MATTER

07.05.2025
Sl. No.30
akd

W. P. A. 22348 of 2024

[Sahenara Bibi -Vs- The State of West Bengal &Ors.]

Mr. Nigam Ashish Chakraborty
Mr. Anujit Mukherjee
Ms. Ankita Paul
... .. for the petitioner

Mr. DipanjanDatta .. Sr. Govt. Advocate
Mr. SayanDatta
... .. for the State

1. The petitioner, mother of the minor son, has preferred the present writ petition seeking quashing of the impugned medical report dated 01.07.2024 prepared by the Enquiry Committee vide Memo No. Inst./3886/1(2) for constitution of an impartial medical board comprising of expert medical practitioners to conduct an unbiased evaluation of the incident in question to submit a fresh medical report.
2. It is the case of the petitioner that her minor son met with a tragic motor accident on 26.12.2023 and was taken to Milki Prathamik Swasthya Kendra, Malda. Her son's right foot was mechanically stitched in an improper manner keeping various parts of the wound open. Her son was again taken to the hospital on 28.12.2023. The doctors of the said hospital without making any enquiries and/or diagnosis prescribed higher dosage of painkiller and summarily discharged her son. Ultimately, on 29.12.2023, petitioner's son was taken to Heartland hospital at Madhyamgram, Kolkata. Finally, on 30.12.2023, her son's right foot was amputated.
3. Petitioner's allegation is that the said unfortunate incident took place only due to the negligence on the part of respondent

no.4. Hence, she had preferred a writ petition being WPA 11799 of 2024.

4. This Court vide order dated 01.05.2024 directed the CMOH, Malda to constitute a board comprising of medical practitioners to enquire into the allegation of negligence as alleged by the petitioner.

5. In pursuance of the said direction, a medical board was constituted and report was submitted on 28.06.2024. In the said report, it was opined although treatment protocol was done as per guideline at Milki RH, Malda on 26.12.2023, it is impossible to comprehend whether the vascular insufficiency happened primarily on the day of injury or subsequently because of lack of proper injury report.

6. Being dissatisfied by the report, petitioner has preferred the present writ petition.

7. It is further contended by the petitioner that one of the doctors, namely Dr. Trilokesh Hazra, who was a member of the committee, holds only a BDS degree and was also the treating doctor of her son. However, he is not qualified to treat orthopedic or trauma-related injuries, as such conditions fall outside the scope of his medical expertise. Despite lacking the necessary medical qualifications to treat injuries of this nature, he was nonetheless involved in attending to her son.

8. The respondents categorically deny the petitioner's allegations concerning Dr. Trilokesh Hazra's role as the treating physician and the assertion that he possesses only a Bachelor of Dental Surgery (BDS) degree.

9. This Court has heard the arguments advanced by the learned Advocate for the petitioner and has perused the documents placed on record.

10. Perusal of the records reveals that the petitioner had already submitted a detailed representation dated 26.07.2024 before the West Bengal Medical Council, highlighting the alleged misconduct and professional lapses. However, the said representation has remain unattended till date.

11. Learned Advocate for the State-respondents submits that the authorities are ready and willing to consider the petitioner's representation dated 26.07.2024.

12. In view of the submission made by the learned Advocate for the State-respondents, petitioner submits that she shall be satisfied if her representation is decided in a time bound manner.

13. Accordingly, this Court directs the Chief Medical Officer of Health, Malda (respondent no.3) to decide the representation of the petitioner dated 26.07.2024 and pass a speaking order within a period of twelve weeks from the date of communication of this order after affording an opportunity of personal hearing to the petitioner.

14. With the aforesaid directions, the present writ petition is disposed of.

15. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

16. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)