IN THE HIGH COURT AT CALCUTTA

(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 26195 of 2024

Apollo Multispecialty Hospitals Limited & Anr.

Vs.

State of West Bengal & Ors.

Mr. Sarvapriya Mukherjee
Mr. Deepan Kumar Sarkar
Mr. Biswajit Kumar
Mr. Raja Baliyal
Mr. Rajarshi Ganguly
Ms. Mahima Cholera
Mr. Aayush Lakhotia

....For the petitioners.

Mr. Kishore Dutta, Ld. AG
Mr. Himadri Sikhar Chakraborty
Ms. Susnita Saha

.... For the State.

Mr. Atarup Banerjee
Mr. Rajdeep Pramanik
Ms. Simika Roy

....For the respondent no.3.

Ms. Kavita Saraff
Mr. Shibanjan Paul

....For the respondent no.8.

Hearing Concluded On : 06.05.2026

Judgment On : 08.05.2026

Krishna Rao, J.:

1. The Apollo Multispecialty Hospitals Limited, Kolkata, filed the present writ petition praying for a direction upon the respondent nos.1 and 2 to frame and notify appropriate guidelines to address the issue of the patients overstaying in private hospital despite discharge without having anyone to take them home so that such persons can be shifted to such State-run facility and to extend the said benefit to the patient, namely, Ms. Poonam Gupta, the added respondent in the present case, presently admitted at the petitioners' hospital.

2. The respondent no.8, namely, Jaiprakash Gupta brought his wife, namely, Ms. Poonam Gupta to the emergency department of the petitioners' hospital on 15th September, 2021, with a history of fall from two-wheeler as she was travelling as a pillion rider. Considering the emergency situation, the patient was admitted immediately in the hospital with severe traumatic head injury and thereafter underwent emergency craniotomy.

3. The private respondent refused to pay any bill amount for the treatment of his wife other than Rs. 15,000/- which he has paid at the

time of admission. The private respondent refused to take his wife from hospital. On 9th February, 2022, the petitioners' hospital made a complaint to the concern police station and also informed that huge amount of unpaid dues are pending against the patient who got treatment in the petitioners' hospital.

4. The petitioners' hospital made a complaint to the West Bengal Clinical Establishment Regulatory Commission (WBCERC) on 10th May, 2024. The Commission has issued notice to the private respondent to appear before the Commission on 24th May, 2024 but the private respondent did not appear before the Commission, accordingly, the Commission has disposed of the complaint filed by the petitioners' hospital by directing the petitioners to approach before the Court of law.

5. The total bill for the treatment of the patient as indoor patient from 15th September, 2021, till 30th September, 2024, is Rs.1,09,03,348/- out of which the private respondent has paid only an amount of Rs. 15,000/- at the time of admission and Insurance Company approved an amount of Rs. 5,70,000/-, the remaining amount and further charges of treatment till date is due and payable.

6. The petitioners' hospital submits that the patient has recovered from her injury and is not required any treatment as indoor patient. Learned Counsel for the petitioners' hospital submits that the private respondent is neither taking care of his wife nor is paying the charges of the hospital for the treatment provided to the patient.

7. The private respondent appeared before this Court and submits that he is not financially sound to pay the charges to the hospital and is also not in a position to take care of his wife. He further submits that the hospital has not provided proper treatment due to which the conditions of the patient become worsen.

8. This Court by an order dated 10th March, 2026, directed the Medical Superintendent of Calcutta Medical College to appoint a senior specialist or senior doctor from the Calcutta Medical College to visit at the petitioners' hospital and to examine the patient to ascertain the condition of the patient whether she can be released from the hospital, if she is released, further regular treatment is required or not, if regular treatment is required, the Calcutta Medical College be able to provide such treatment to the patient.

9. In compliance with the order, the Medical Superintendent of Calcutta Medical College has constituted a Committee comprising of experts from various disciplines to ascertain the condition of the patient at the petitioners' hospital consisting of the following members:

SL. No.	***Name***	***Designation***	***Position***
1.	*Prof. Arunansu Talukdar*	*Head, Department of Geriatric Medicine, MCHK*	*Chairperson*
2.	*Prof. Sandip Pal*	*Head, Department of Neurology, MCHK*	*Member*
3.	*Prof. Soumya Sarathi Mondal*	*Professor, Department of General Medicine, MCHK*	*Member*

4.	*Dr. Prasenjit Mukhopadhyay*	*Associate professor, Department of General Surgery, MCHK*	*Member*
5.	*Dr. Monami Roy*	*Assistant Professor, Department of gynae and obs, MCHK*	*Member*
6.	*Mr. Kazi Gowsas Salam*	*Assistant Super (non-medical), MCHK*	*Member*

10. The Committee after examination of the patient, has submitted report which reads as follows:

"The present condition of the patient are as follows,

1. *Patient is conscious and responding by gesture*

2. *Her Glasgow coma scale score is* $E4V_TM6$

3. *Patient is hemodynamically stable.*

4. *She has spastic hemiparesis involving left half of the body, with secondary contracture.*

5. *Patient is on tracheostomy tube for tracheal stenosis.*

6. *Her last visit to ICU was around two years back.*

7. *There is no bed sore present,*

8. *She is off anti-convulsant for last two years without any recurrence of convulsion.*

9. *She can feed herself.*

10. *She is presently wheelchair bound.*

> ***11.*** *Patient is not on external oxygen supplementation, Ryles tube feeding or any IV medication.*
>
> ***Conclusion & Recommendation:***
>
> - *Thus, we had come to the opinion that patient can be discharged for homestay.*
> - *She needs physical rehabilitation which can be done at home.*
> - *Her tracheostomy tube care consisting of periodic cleaning and suction (SOS) can be done at home by a trained paramedical staff.*
> - *Change of tracheostomy tube which might be required at a gap of around 6 moths interval; this can be done by critical care specialist or ENT Surgeon as and when required at any hospital or nursing home having that facility."*

11. The copy of the report submitted by the Committee was supplied to the respondent no.8 to take exception, if any, but the respondent no.8 has not filed any exception to the said report.

12. Learned Counsel appearing for the State respondent submits that if the patient requires any treatment, the same can be provided to the patient at any Government Hospital at Kolkata having such facilities on priority basis. The State has submitted the report, which reads as follows:

> *"**1.** The State Urban Development Agency functions under the auspices of the Department of Urban Development and Municipal Affairs for implementation and monitoring of development schemes in municipal bodies of the State.*
>
> ***2.*** *Shelters for Urban Homeless (SUHs), commonly termed as 'Shelters' are constructed under the*

Deendayal Antyodaya Yojana-National Urban Livelihoods Mission (DAY-NULM) programme and run by different Urban Local Bodies for accommodating persons having no shelter over their heads. All the 70 functional Suhs are being used for this purpose only (List of SUHs enclosed at Annex-A).

3. *No shelter in West Bengal is meant for purposes other than the above.*

4. *A shelter having approximately a capacity of 50 (fifty) beds in manned by three Caregivers and one Shelter Manager. None of the shelter staff is having the experience and expertise of handling ailing or recovering patients. In case of medical needs and emergencies of inmates, services of Urban Primary Health Centre run by Urban Local Bodies (ULBs) themselves and nearby government hospitals are utilized."*

13. The report submitted by the Committee reveals that the patient does not require any treatment as indoor patient and the same can be provided at home by a trained paramedical staff and change of tracheostomy tube which might may require at a gap of around six months interval, the same can be done at critical care specialist or ENT Surgeon at any hospital.

14. Taking into consideration of the report submitted by the Committee, State and the submissions made by the Learned Counsel for the respective parties and the respondent no.8, the writ petition is disposed of with the following directions:

(i) *The respondent no.8 is directed to take his wife (patient) to his residence after discharge from the petitioners' hospital within a week from date and to take proper care of his wife (patient).*

(ii) *If the patient requires any treatment, the respondent no.8 shall immediately take her to Medical College Hospital or any of the government run hospital which is convenient to the patient.*

(iii) *If the patient is taken to any government run hospital for the treatment or review, the hospital authorities shall provide all medical facilities to the patient immediately.*

(iv) *If in future the government run hospital finds that the patient is required treatment as indoor patient, the hospital authorities shall admit the patient and provide all necessary treatment.*

(v) *Before discharge of patient from the petitioners' hospital, the state authorities shall provide wheel chair to the patient free of cost.*

(vi) *The respondent no.8 is not in a position to pay the hospital bill for the treatment of the patient, the petitioners' hospital shall not claim any bill amount from the patient or from the respondent no.8 but is at liberty to claim through Insurance Company if law permits.*

15. This order is passed in peculiar circumstances; the same cannot be treated as precedent in future in any other case.

16. **WPA No. 26195 of 2024** is **disposed of**.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)