15.06.2026
Sl. No.30(DL)
Ct. No.6
srm

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 632 of 2026
Neotia Getwel Multispecialty Hospital
Versus
The State of West Bengal & Ors.

Mr. Subhrendu Halder,
Mr. Abhirup Halder,
Mr. Debanjan Das,
Ms. Sukanya Bhaumik
...for the Petitioner.

Mr. Kunaljit Bhattacharjee, AGP
Ms. Esha Acharya
...for the State.

Mr. Deborshi Dhar,
Ms. Taniya Bhowmik
...for the Respondent No.4.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.

2. By the present writ petition, the petitioner seeks for setting aside and/or cancellation of the impugned order dated 13th October, 2025 passed by respondent no.3-Secretary, West Bengal Clinical Establishment Regulatory Commission in Case Reference: WBCERC/DAR-SMP/101/2025-26.

3. The petitioner Neotia Getwel Multispecialty Hospital, is a multi special well-equipped hospital, a unit of Ambuja Neotia Healthcare Venture Limited situated at Matigara, Siliguri, District-Darjeeling *(hereinafter*

referred to the 'clinical establishment'). On 12th May, 2025 at 7.07 pm, the mother of the respondent No.4, namely, Khuku Lahiri was admitted in the said clinical establishment in a state of *asystole* (cardiac arrest) which was promptly recognized and she was given Cardiopulmonary Resuscitation (CPR) at emergency before being intubated and put on mechanical ventilator support by doctors in emergency department. After initial stabilization she was shifted to ICU Bed at 11.30 pm. On 13th May, 2025, after stopping all sedatives, though the mother of the respondent No.4 was awake but was very restless and thus she was given mild sedation as per requirement. She was improving but required mechanical ventilation. CT Scan of chest showed bilateral lower lobe pneumonia and Echocardiography showed poor cardiac function (LVEF 20%). The TLC (Total Leukocyte Count) of the patient was raised and her medical condition was managed as per standard ICU protocol with antibiotic and other supportive treatment. The condition of the patient was properly explained to the respondent No.4 in detail by doctor and other clinical staff. The

respondent No.4 thereafter asked for removal of ventilator support of his mother immediately. The respondent no.4 was explained that withdrawing ventilator support is a gradual process and is usually done when all clinical parameters are suitable. However, the respondent No.4 showed dissatisfaction with the hospital authority. On 14th May, 2025, the mother of the respondent No.4 was taken out of invasive ventilator support and put-on non-invasive ventilator (NIV) support via face mask. On 15th May, 2025, the mother of respondent No.4 underwent CAG (Coronary Angiography). The patient being the mother of the respondent No.4 remained NIV dependent with required blood pressure support, antibiotic was escalated on 15th May, 2025 to Meropenem in view of rising WBC (White Blood Cells) count. The patient's relative being the respondent No.4 requested for LAMA (Leave against Medical Advice or Left against Medical Advice) on 16th May, 2025, for shifting the patient to a higher facility set up centre. The patient was discharged by the petitioner on 16th May, 2025 against medical advice from the treating doctor. There is no iota of

negligence and flaw on the part of the petitioner in treating the patient. On 26th September, 2025, the respondent No.4 lodged a complaint before the respondent No.2 being the West Bengal Clinical Establishment Regulatory Commission against the hospital being the clinical establishment, registered as Case Reference: WBCERC/DAR-SMP/101/2025-26, with the contention of harassment and delay in discharging the patient from the said hospital. On 13th October, 2025, respondent No.3, Secretary, West Bengal Clinical Establishment Regulatory Commission upon hearing the parties imposed a penalty of Rs.20,000/- on the ground of unusual delay caused by the clinical establishment (*in short CE*) in discharging the patient. Being aggrieved and dissatisfied with the impugned order, the petitioner has filed the present writ petition.

4. Mr. Subhrendu Halder, learned Advocate appearing for the petitioner submits that the patient was brought to the hospital in a state of *asystole* (cardiac arrest) which was promptly recognized and the hospital authorities have taken all necessary measures to make the patient stable.

Incidentally, respondent no.4 applied for LAMA for removing the patient to higher centre. Since the condition of the patient was critical, the doctors advised that such transportation may be of high risk to the patient. However, the respondent no.4 without taking note of the advice of the doctors insisted for discharge. There is no such negligence on the part of the hospital in discharging the patient in time. The discharge of the patient took time due to the critical condition of the patient. Such aspect has not been dealt with by the Commission. Accordingly, the impugned order of the Commission imposing penalty on the clinical establishment is liable to be set aside.

5. On the contrary, Mr. Deborshi Dhar, learned Advocate representing private respondent No.4 submits that no effective steps were taken by the hospital authorities for early discharge of the patient. He seeks for dismissal of the writ petition in *limine*.

6. Mr. Kunaljit Bhattacharjee, learned Additional Government Pleader submits that the Commission has rightly held that there was unusual delay caused by the hospital authority in discharging the patient.

7. Despite service none appears on behalf of respondent nos. 2 & 3-West Bengal Clinical Regulatory Commission.

8. Upon hearing learned Advocates for the respective parties, the only issue which falls for consideration is whether the finding of the Secretary, West Bengal Clinical Establishment Regulatory Commission, respondent No.3 of unusual delay caused by the CE in discharging the patient is sustainable or not.

9. Admittedly, the discharge of the patient was sought for on 16th May, 2025 at 2.00 pm and patient was discharged at 8.00 pm after six hours. Before Commission the CE filed its reply on 26th September, 2025, to the complaint lodged by the respondent No.4, which has been annexed to the writ petition being Annexure P-3. Upon going through the said reply dated 26th September, 2025 filed before the Commission, it manifest that there is no such explanation given regarding delay in discharging after six hours since 2.00 pm of 16th May, 2025 till the discharge of the patient at 8.00 pm on the said date. There are also no documents in support to suffice such delay in discharge of the patient. Therefore, the finding of the

Commission regarding unusual delay in discharging of the patient cannot be said to be infirm and thus the order impugned dated 13th October, 2025 of respondent no.3 does not call for interference.

10. Accordingly, the writ petition falls short of merit.

11. The writ petition being **WPA 632 of 2026** stands dismissed.

12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

13. Interim order, if any, stands vacated.

14. All connected applications, if any, stand disposed of.

15. There shall be no order as to costs.

16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

17. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)