



2026:DHC:2308



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7112/2024**

Date of decision: **11.03.2026****IN THE MATTER OF:**

ADITYA KUMAR THROUGH HIS NEXT FRIEND AND
NATURAL FATHER MR. VINOD KUMAR

.....Petitioner

(Through: Mr. Ashok Agarwal, Mr. Kumar Utkarsh, Mr. Manoj
Kumar, Ms. Ashna Khan, Advocates.)

versus

GOVERNMENT OF NCT OF DELHI & ORS.

.....Respondents

(Through: Mr. Dhruv Rohatgi, Panel Counsel (Civil), GNCTD, Mr.
Dhruv Kumar, Advocate for R-GNCTD.)

CORAM:**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The instant petition is for the following reliefs:-

*"i. appropriate writ, order or direction thereby directing the respondent
Government of NCT of Delhi to reimburse petitioner medical expenses of
Rs 12000/- alongwith Rs 1 lakh compensation amount;*

*ii. pass any such other order or direction as this Hon'ble Court may
deem fit in the interest of justice; and*

iii. allow the present writ petition with cost, in favour of the petitioner."

2. The facts of the case would indicate that on 01.04.2024, the petitioner
namely, Aditya Kumar fell while playing in the Nigam Pratibha Vidyalaya

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and fractured his left arm. He was rushed to the emergency ward of the respondent no.2-hospital i.e., Dr. Hedgewar Aarogya Sansthan, by the Principal of his school. In the petitioner's 'emergency card', it is recorded that cotton was not available at the hospital and directed him to go to another hospital.

3. Thereafter, the petitioner visited respondent no.3-hospital i.e., Chacha Nehru Bal Chikitsalaya, where the petitioner was told that no doctor was available as they had already left for the day. It is pointed out that both the hospitals are Government hospitals and, further, that the nature of the injury which the petitioner suffered, was not of a serious nature. It is contended that the injury could have been treated at a primary health centre.

4. It is submitted that as a result, the petitioner had to avail treatment at a private hospital resulting in his having to incur financial burden to the tune of Rs. 14,000/- (Rupees Fourteen Thousand only).

5. Reliance is placed on behalf of the petitioner on the decision of the Supreme Court in the case of ***Paschim Banga Khet Mazdoor Samity and others vs. State of W.B. and Another***,¹ to submit that the State is liable to pay compensation for failure to provide treatment. Paragraph nos. 8 and 9 of the said decision are extracted as under:-

“8. The Committee has suggested remedial measures to rule out recurrence of such incidents in future and to ensure immediate medical attention and treatment to patients in real need. We will advert to it later. We will first examine whether the failure to provide medical treatment to Hakim Seikh by the Government hospitals in Calcutta has resulted in violation of his rights and, if so, to what relief he is entitled.

9. The Constitution envisages the establishment of a welfare state at the federal level as well as at the state level. In a welfare state the primary duty of the Government is to secure the welfare of the people. Providing

¹ (1996) 4 SCC 37



adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The Government discharges this obligation by running hospitals and health centres which provide medical care to the person seeking to avail those facilities. Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance. The Government hospitals run by the State and the medical officers employed therein are duty bound to extend medical assistance for preserving human life. Failure on the part of a Government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21. In the present case there was breach of the said right of Hakim Seikh guaranteed under Article 21 when he was denied treatment at the various Government hospitals which were approached even though his condition was very serious at that time and he was in need of immediate medical attention. Since the said denial of the right of Hakim Seikh guaranteed under Article 21 was by officers of the State in hospitals run by the State the State cannot avoid its responsibility for such denial of the constitutional right of Hakim Seikh. In respect of deprivation of the constitutional rights guaranteed under Part III of the Constitution the position is well settled that adequate compensation can be awarded by the court for such violation by way of redress in proceedings under Articles 32 and 226 of the Constitution. [See : Rudal Sah v. State of Bihar, 1983 (3) SCR 508 Nilabati Behara v. State of Orissa, 1993 (2) SCC 746; Consumer Education and Research Centre v. Union of India, 1995 (3) SCC 42]. Hakim Seikh should, therefore, be suitably compensated for the breach of his right guaranteed under Article 21 of the Constitution. Having regard to the facts and circumstances of the case, we fix the amount of such compensation at Rs. 25,000/-. A sum of Rs. 15,000/- was directed to be paid to Hakim Seikh as interim compensation under the orders of this Court dated April 22, 1994. The balance amount should be paid by respondent No. 1 to Hakim Seikh within one month.”

6. The respondents in their counter affidavit admit that the petitioner visited both the hospitals, however, for one reason or the other, the medical treatment was denied. Therefore, failure on their part to render medical services to the petitioner remains undisputed.
7. Having regard to the principles laid down by the Supreme Court in the case of ***Paschim Banga Khet Mazdoor Samity and others*** (supra), the Court



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deems it appropriate to direct reimbursement of the medical expenses incurred by the petitioner towards his treatment at a private hospital..

8. Accordingly, respondent no.1 is directed to make the payment of Rs.12,000/- (Rupees Twelve Thousand only) within a period of two months from today.

9. The petitioner shall be at liberty to file a civil suit for compensation.

10. It is apposite to note that the relief granted in the instant case is in view of the undisputed facts herein. However, where there exists dispute as to the foundational facts with respect to any claim for refund of expenses incurred or compensation for refusal of treatment, the appropriate recourse will be to institute a civil suit for the same.

11. The instant petition stands disposed of with the aforesaid observations and liberty.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MARCH 11, 2026
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