

West Bengal Human Rights Commission  
Bhabani Bhavan, 2<sup>nd</sup> Floor, Alipore, Kolkata - 27.

749/WBHRC/Com/10-11

Present:.

1. Justice Asok Kumar Ganguly .. Chairperson
2. Justice N.C. Sil - Member
3. Shri S.N. Roy .. Member

1. This is to consider an application of one Krishnendu Sarkar submitted before the Commission. It is stated in the petition that the petitioner is a student of Class XII and he went to Dr. R. Ahmed Dental College & Hospital for treatment of his protruded teeth. He was being treated there and after lapse of sometime, he was told by the Doctor that there was difficulty for the treatment of his teeth. Thereafter he went to Dr. Sanjay Kr. at Ramkrhshna Mission Hospital who treated him. After lapse of sometime, the said doctor also told him that there was nothing further to do. Then the petitioner went again to Dr. R. Ahmed Dental College & Hospital. One doctor told him to go to orthodentia department but the doctor of that department told him that it was not possible fort hem to treat him. Thereafter the petitioner got himself examined by Dr. Anuranjan Das privately on 31.05.09. The petitioner was called by Dr. Das in another clinic and the said doctor demanded Rs.25000/-. Thereafter the petitioner went to the head of the department of that Hospital and told that if his treatment was possible privately then why it would not be possible in that hospital. Thereafter the hospital agreed to treat him on his furnishing a bond that no doctor would be responsible for his treatment. In this way there was tug of war between the petitioner and the doctors of the hospital and ultimately he was sent to Dr. R.N. Poddar on 06.11.09. Dr. Poddar took him to another Dr. Kunal Chatterjee on 12.11.09. His treatment was started by Dr. Chatterjee but Dr. Chatterjee tried to avoid him on various pretexts. However, on 06.02.10 he was asked to go to the hospital and accordingly he went there. A study

model was made on his treatment. He was told by the doctor that it would require much time for his treatment in the O.T. but as there was no proper infrastructure in the O.T., the petitioner would be informed at the appropriate time when the OT would be available. Thereafter the petitioner contacted Dr. Chatterjee who told him to come to his clinic. The petitioner met him at his clinic when Dr. Chatterjee demanded a sum of Rs.60000/- for his treatment as OT of the hospital could not be available on demand. Thereafter the petitioner met the Superintendent of Dr. R. Ahmed Dental College & Hospital and enquired about the availability of the OT. The Superintendent told him that it was not known to him when the OT would be available. The petitioner thereafter moved all the authorities including Dr. Prodip Roy, the president of West Bengal Dental Council and Director of Health Services. After all this, the petitioner informed his story to a journalist of the Ananda Bazar Patrika. Even thereafter the petitioner pursued the matter with the hospital authority but ultimately he did not get the treatment for his protruded teeth. In view of that the petitioner had also stated that when the treatment of his protruded teeth was not possible in the hospital why he would not be informed earlier as due to his long persuasion of his treatment, his athletic practice and studies were hampered tremendously. He had also prayed for proper compensation from the Health department.

2. On receipt of the complaint from the petitioner this Commission took cognizance and a report was called from the Director of Health Services. The relevant portion of the report reads as under :

"It appears that such case became impossible one to Dr. R. Ahmed dental College & Hospital, Kolkata authority after exerting great effort without any other intention. Head of the Department of Orthodontia & Oral Surgery confessed this case appeared beyond their technical knowledge after having various form of discussions. However, the Hospital authority felt deep concern if any delay had caused anything to the athletics & education of the patient.

To conclude, it appears that Dr. R. Ahmed dental College & Hospital, Kolkata authority took care for the case to their best of knowledge without any intention for delay.”

However, after going through that report the Commission called the Director of Health Services and Ex-Officio Secretary to depose before this Commission on the report. Accordingly Dr. B.R. Satpathi, Director of Health Services and Ex-Officio Secretary stated in his evidence before this Commission that he had enquired into the matter and came to learn that the patient was only a boy of 16 years of age for which such type of surgery was technically feasible. But the success rate of such surgery is optimum in case of the age of the patient is between 6 and 9 years. Dr. Satpathi further stated in his evidence :

“In my opinion, the patient repeatedly attended at Dr. R. Ahmed Dental College & Hospital, Kolkata on several occasions and it was due to the academic interest of the junior doctors as well exploring the feasibility of treatment and the same is deeply regretted. Necessary action will be taken to avoid such type of recurrence in future. It is however, not possible at his stage to fix up the responsibility on any individual doctor as because it is a teaching institution. The junior doctors tried to enrich their knowledge in the subject of Orthodontics and oral surgery.

I admit that in the process, the patient had to face a lot of harassment due to recurrent visit to the hospital.”

3. It is further in his evidence that one Dr. Anuranjan Das treated the petitioner in his private chamber after the patient attended Dr. R. Ahmed Dental College & Hospital, Kolkata are, according to him was not desirable and for such act of Dr. Das was cautioned in writing to avoid recurrence in future.

4. Thus it is clear from the evidence of Dr. Satpathi, Director of Health Services and Ex-Officio Secretary and the report submitted in connection with this case that the petitioner was used as a Guinea pig for experimental purpose by Dr. R. Ahmed Dental College & Hospital authority for which the patient was harassed for no fault of him. It is

true that at this stage the responsibility of any individual doctor of the institution could not be fixed but in any case the petitioner is entitled to get compensation from the Govt. for the laches of the said hospital authority particularly keeping in view that the young boy being an athletic and a student suffered a lot for the negligence of the hospital authority.

The Commission, therefore, recommends :

1. that a sum of Rs.50000/- be paid to the petitioner Krishnendu Sarkar as compensation
  
5. The Govt. should inform the Commission within a period of two months from the date of receipt of these recommendations as to the action taken or proposed to be taken in this regard.

sd/-  
(S.N. Roy)  
Member

sd/-  
(Justice N.C. Sil)  
Member

sd/-  
(Justice Asok Kumar Ganguly)  
Chairperson

Dated Kolkata, the 25<sup>th</sup> April, 2012

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Comments of the State Government will be uploaded as and when received.

Sd/- (25/04/2012)  
(J.Sundara Sekhar)  
Secretary & CEO