



2025:DHC:7714



\$~J

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment Pronounced on: 04.09.2025**

+ **W.P.(C) 2375/2025**

VIKASH

.....Petitioner

Through: Mr. Vikrant Dabas, Mr. Karan Bir
Singh and Mr. Jaideep Malik, Advs.

versus

DELHI MEDICAL COUNCIL & ORS.

.....Respondents

Through: Mr. Praveen Khattar and Mr. Pritam
Kumar, Advs. for R-1.

Mr. T. Singhdev, Mr. Abhijit
Chakravarty, Mr. Tanishq Srivastava,
Mr. Anum Hussain, Ms. Yamini
Singh, Mr. Sourabh Kumar and Ms.
Ramanpreet Kaur, Advs. for R-2.

Ms. Rachita Garg and Ms. Preeti,
Advs. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The petitioner has filed the present petition challenging the impugned order dated 22.08.2024 issued by the Delhi Medical Council (respondent no. 1) through its Disciplinary Committee. The impugned order dismissed his complaint concerning the alleged medical negligence by doctors at Brahm Shakti Hospital, Budh Vihar, Delhi, which led to the death of his wife Mrs. Himanshi.

2. The background of the matter is that on 26.09.2023, the petitioner's wife was admitted to Brahm Shakti Hospital for the delivery of their child. The attending doctors assured the petitioner that the delivery would proceed



2025:DHC:7714



normally and administered Synto 1U lateb to induce labor. At 7:37 PM, the wife delivered a baby girl. However, the delivery occurred via face-to-pubis presentation, a rare and complicated condition. The petitioner contends that proceeding with a normal delivery in such circumstances was a grave medical mistake, as face presentation is typically managed through a caesarean section to minimize the risk of maternal injuries.

3. Thereafter, post-delivery, severe complications arose. By 8:20 PM, the petitioner's wife suffered bleeding from the left side of the cervix. The doctors then instructed the petitioner to arrange for blood units. A laparotomy was eventually performed but there was no improvement. By 11:30 PM, she was placed on a ventilator in the ICU, but her condition continued to deteriorate. It is submitted that despite CPR having been attempted until 4:30 AM, she was declared dead.

4. The petitioner asserts that the hospital's medical negligence was evident from the fact that the standard medical protocol for such cases is a caesarean section, but the doctors proceeded with a normal delivery which resulted in haemorrhagic shock and the untimely demise of the petitioner's wife. Furthermore, the petitioner and his family were not informed about the risks associated with a face presentation delivery.

5. It is submitted that the impugned order has been passed without affording the petitioner a fair and reasonable opportunity to present his case. It is submitted that the petitioner addressed a letter to respondent no. 1 requesting permission to participate in the ongoing proceedings concerning his complaint. In response, respondent no. 1, *vide* communication dated 16.05.2024, asked the petitioner to appear in person before the Committee on 29.05.2024 at 3:30 PM. The said letter dated 16.05.2024 is reproduced as



2025:DHC:7714



under –

“DMC/DC/F.14/Comp.3951/2/2024/322027

16th May, 2024

*Shri Vikash, r/o-92
Near Dispensary, Rani Khera Village,
New Delhi-110081*

Whereas, a complaint of Shri Vikash, r/o-92, Near Dispensary, Rani Khera Village, New Delhi-110081 forwarded by the Delhi Commission for Women alleging medical negligence on the part of doctors of Brahm Shakti Hospital, in the treatment administered to complainant's wife Smt Himanshi, resulting in her death on 29.09.2023, resulting in his death on 09.06.2015, is being examined by Delhi Medical Council.

The case is coming up for hearing before the Disciplinary Committee of the Delhi Medical Council on 29th May, 2024 (Wednesday) at 03:30 p.m. in Ground Floor, B-Wing, Block-1, DMRC IT Park, Shastrri Park, New Delhi-110053.

You are requested to present yourself, on the date and time appointed for hearing may bring any further evidence, which you wish to submit in support of your complaint.

Take notice that in default of your failing to present yourself, it shall be presumed that you have nothing to say in this matter and the same shall be determined in your absence.”

6. It is submitted that the petitioner appeared on the said date, however, he was not given an opportunity to orally present his case. It is further submitted that the impugned order solely relies on the statements of the doctors. It is submitted that the petitioner had furnished relevant documents and medical literature on 29.05.2024 in support of his allegations of negligence. However, these submissions were disregarded in the final order.

7. The petitioner relies on ***Cooper v. Wandsworth, (1863) England and Wales*** emphasizing that no adverse order should be passed without granting an affected party a fair hearing.

8. In order to establish the case of medical negligence the petitioner has



also referred to *Kusum Sharma & Ors. v. Batra Hospital & Medical Research Centre and Ors.*, 2010 (3) SCC 480 and *Bolam v. Friern Hospital Management Committee* [1957] 1 WLR 582.

9. In view of the foregoing circumstances, the petitioner has approached this Court by way of the present petition.

10. Having considered the submissions advanced, this Court is, however, not persuaded to grant the reliefs sought.

11. The principal contention of the petitioner is that he was denied an effective opportunity of hearing prior to the passing of the impugned order. It is further urged that the medical literature and supporting documents submitted by him were not duly appreciated by the respondent while rendering its decision.

12. This Court is not inclined to accept the aforesaid submissions. The Letter dated 16.05.2024 clearly demonstrates that the petitioner was duly informed about the date, time, and venue of the hearing. Furthermore, the following observations in the impugned order indicate that the submissions of the petitioner were also taken into consideration –

“The following were heard in person:

- | | |
|-------------------------|--|
| 1) Shri Vikas | Complainant |
| 2) Dr. Ramnik Grover | Surgeon, Brahm Shakti Hospital |
| 3) Dr. Sadhna Gautam | Consultant Obst. & Gynae., Brahm Shakti Hospital |
| 4) Dr. Nikhil Bhatnagar | Anaesthetist, Brahm Shakti Hospital |
| 5) Dr. Arpan Kumar | R.M.O., Brahm Shakti Hospital |
| 6) Shri Gulbir Singh | MRD, Brahm Shakti Hospital |
| 7) Dr. Aakash Dua | Medical Superintendent, Brahm Shakti Hospital |

It is noted that the police in its representation has averred that on 27th



September, 2023, an information vide GD No. 33A was received at Police Station Vijay Vihar in which the complainant Shri Vikash stated that he admitted his wife Smt. Himanshi in Brahm Shakti Hospital, Budh Vihar, Delhi on 26th September, 2023 10:00 a.m. for delivery where she delivered a girl child and then, she died due to negligence of the doctor during the treatment. The call was entrusted to ASI Kishanbir for further course of action. Accordingly, the ASI Kishanbir reached at the spot i.e. Brahm Shakti Hospital. He met (the complainant) and recorded his statement wherein he stated that he (the complainant) visited the above said hospital on 26th September, 2023 around 10:00 a.m. alongwith the patient with the complaint of labor pain and the doctor advised the complainant to admit his wife; he admitted his wife at 02:05 p.m. in the hospital. At 07:37 p.m., she gave birth to a female child and delivery was normal. But after delivery, he (the complainant) was not allowed to meet his wife by the hospital staff and the doctor and he was informed by the doctor that his wife was suffering with complain of excessive bleeding. When he asked to shift her in any other hospital for better treatment, the treating doctor Dr. Sadhna Gautam (Gynaecologist) misled him and told that the condition of the patient was gradually improving but that was not correct and she died at 04.30 a.m., as Informed by the hospital staff. He further alleged that the information about the death of the patient was concealed and the same was revealed by the doctor at about 04.30 a.m. in the morning and she had died due to negligence and improper treatment. It is requested to conduct an enquiry in the above matter.

The statement of the other relatives of the patient was also recorded, who supported the version of the complainant. After that, the patient was taken in custody and then preserved In mortuary of Dr. BSA Hospital, Sector-6, Rohini vide Token No. 854 dated 27th September, 2023. In view of the above facts and gravity of the allegations, the autopsy of the patient Smt. Himanshi was conducted through Medical Board/ Panel of the Doctors at Maulana Azad Medical College and Lok Nayak Hospital, New Delhi vide Post Mortem No.710/2023 dated 29.09.2023. During the post-mortem report, the doctors preserved the tissues for histopathology which will be sent for examination and seeking experts' opinion. The cause of death given by the doctor is that "Death in this case occurred as a result of hemorrhagic shock in an operated case of bilateral Internal Iliac artery ligation, done for postpartum hemorrhage following vaginal delivery. Tissue samples were preserved for histo-pathological examination. Further, opinion will be given after receipt of the above mentioned report. Further, the Medical Board opined that "Delhi Medical Council is the appropriate authority for adjudication in cases of medical negligence; hence this case may be referred to the Delhi Medical Council for further Investigation and necessary action in this regard. Shri Vikash gave a complaint in which he stated that he admitted his wife Smt. Himanshi In Brahm Shakti Hospital on



26.09.2023 at 10:00 a.m. for delivery where she delivered a girl child and then she died due to negligence of Dr. Sadhna Gautam (Gynaecologist) during treatment. It is requested to conduct an enquiry in this matter.

The complainant Shri Vikash alleged that his wife Smt. Himanshi (the patient) who was pregnant was admitted In Brahm Shakti Hospital on 26th September, 2023 for delivery. She delivered a female baby at 07.37 p.m. through normal delivery. However, subsequent to delivery, the doctors did not allow him to meet his wife. At 08.30 p.m., the doctors informed that his wife was suffering from excessive bleeding and that he needed to arrange for nine unites of blood. Even after the blood had been arranged, till 10.45 p.m., he was not allowed to meet his wife. After, his relative called the police at 10.52 p.m., then, only he was allowed to meet his wife. He found that his wife's condition was very serious, The doctors were requested to refer the patient to other hospitals, but the doctors did not accede to his request and admitted her in the ICU. On 27th September, 2023 at 04.30 a.m., he was informed that his wife had expired and no reason was given for the death of the patient. It is, therefore, requested that strict legal action be taken against the doctors of Brahm Shakti Hospital for their medical negligence.”

13. In light of the aforesaid, this Court is of the view that the petitioner was granted an adequate opportunity to be heard, and the principles of natural justice were not violated in the conduct of the proceedings.

14. As regards the findings rendered in the impugned order, reference is apposite to the following portion thereof –

“In view of the above, the Disciplinary Committee makes the following observations:-

- 1) *Smt. Himanshi, a 23-year-old female, was admitted to Brahm Shakti Hospital on 26.09.2023 at 01:50 p.m. for delivery. She was diagnosed as G2P1L1 with 36 weeks pregnancy with leaking P.V. Her delivery was conducted by Dr. Sadhana Gautam, resulting in the birth of a female baby weighing 2.4 kg at 07:37 p.m. on 26.09.2023 through Normal Vaginal Delivery.*

Following delivery, the patient experienced heavy bleeding due to lateral tear of cervix. Despite administration of Tranexa Injection and suturing of the cervical tear, the bleeding persisted. Vaginal packing was performed, and arrangements were made for two units of packed red blood cells (PRBC).

Despite all measures the patient continued to bleed. The patient



was subjected to laparotomy and internal iliac artery ligation under general anesthesia, with proper consent. The surgery was performed by Dr. Sadhana Gautam and Dr. Ramneek Grover, and anesthesia administered by Dr. Nikhil Bhatnagar.

Despite surgical intervention and transfusion of PRBC and Fresh Frozen Plasma (FFP), the patient's condition continued to deteriorate, leading to her demise at 04:30 a.m. on 27.09.2023. The post-mortem report no. 710/2023 from Maulana Azad Medical College cited the cause of death as hemorrhagic shock in an operated case of bilateral internal iliac artery ligation, performed for postpartum haemorrhage following vaginal delivery.

- 2) *It is observed that subsequent to normal vaginal delivery, the patient had PPH. Any patient can have PPH after delivery which is a known complication. In this patient first conservative management was done as per the protocol and subsequently surgical intervention was also done. In a case of severe PPH despite all the measures the mortality is high because of rapid blood loss.*
- 3) *Despite appropriate management, the severity and rapid progression of the condition led to a fatal outcome, which unfortunately can occur in such critical situations despite best efforts. This case highlights the challenges and risks associated with postpartum hemorrhage, especially in cases where initial treatments do not suffice. It also underscores the importance of timely recognition, appropriate intervention, and the unpredictable nature of medical emergencies despite diligent medical care.*

In light of the observations made hereinabove it is the decision of the Disciplinary Committee that no medical negligence can be attributed on the part of doctors of Brahm Shakti Hospital in the treatment of the patient Smt. Himanshi.

15. A perusal of the impugned order passed by the Delhi Medical Council through its Disciplinary Committee reveals that the authority has provided its reasoning while issuing the said order. The Committee while taking into consideration the post mortem report of the wife of the petitioner has observed that postpartum haemorrhage (PPH) occurred following a normal delivery. The committee observed that despite appropriate treatment, the severity and rapid progression of the condition led to a fatal outcome. Based



on these observations, the Disciplinary Committee concluded that no medical negligence could be attributed to the doctors at Brahm Shakti Hospital in treating the wife of the petitioner.

16. The impugned order has provided its reasoning in the order on the basis of the evidence adduced before it. A factual finding has been rendered viz. that the petitioner's wife died due to the postpartum haemorrhage.

17. Considering the scope of the present proceedings under Article 226 of the Constitution of India, this Court finds no reason to interfere with the order passed by respondent no. 1.

18. It is well-settled that a writ court primarily examines whether a decision suffers from an apparent error, one that is self-evident rather than requiring extensive examination of minute and technical factual aspects. The Court does not sit in appeal and cannot assess the sufficiency of reasoning or re-evaluate evidence presented before the adjudicating/statutory authorities.

19. In *Anoop Kumar Mishra v. Airport Authority of India and Another*, 2024 SCC OnLine Del 2162, a division Bench of this Court, while relying upon the judgments of the Supreme Court has determined the scope of a writ Court by observing as under –

“20. The issue pertaining to the scope and jurisdiction of a High Court under Article 226 of the Constitution of India while undertaking judicial review of the disciplinary matters is concerned, is no more res integra with the Supreme Court laying down clear and cogent parameters for such exercise in its landmark judgments in the case of B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749, (03 Judges Bench) and Union of India v. P. Gunasekaran, (2015) 2 SCC 610. It would be apposite to refer to the relevant paragraphs of both the judgments before advertting to the facts of the present case. The same are extracted hereunder:

B.C. Chaturvedi v. Union of India



“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappraise the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

*13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappraise the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v. H.C. Goel* [(1964) 4 SCR 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.”*

Union of India v. P. Gunasekaran

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappraising even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary



authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappraisal of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappraise the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence;*
- (v) interfere, if there be some legal evidence on which findings can be based.*



2025:DHC:7714



(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.”

21. It is clear from the ratio laid down by the Supreme Court in the aforementioned judgments that the High Courts are highly circumscribed in their exercise of powers of judicial review in disciplinary matters. Infact, there is a clear preclusion from even considering the observations or factual errors in the Inquiry Report etc. The only remainder scope is in respect of such cases where there is gross violation of the prescribed Rules, Regulations or statutory procedure coupled with violation of the principles of natural justice or an imposition of a punishment grossly disproportionate to the charges leveled. Other than these, the Writ Court cannot sit as in Appeal against the orders of the Disciplinary Authority and the Appellate Authority which are prescribed Statutory Authorities under the Rules and Regulations.”

20. In the present case, this Court finds no procedural infraction or any apparent error in the impugned order. It is not within the scope of these proceedings to delve into intricate factual/evidentiary and technical/medical aspects so as to arrive at a different conclusion. Hence this Court finds no justification, in these proceedings, to interfere with the impugned order passed by the Delhi Medical Council through its Disciplinary Committee.

21. Accordingly, the present petition is disposed of, with liberty to the petitioner to avail appropriate civil or criminal remedies, as may be available under law.

SACHIN DATTA, J

SEPTEMBER 04, 2025/sv