



2026:DHC:9407



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: October 16th, 2026***# **CNR No. DLHC010412072022**+ **W.P.(C) 15274/2022 & CM APPL. 47351/2022****SURENDER KUMAR DABAS & ANR. Petitioners****Through: Mr. K.G. Sharma, Adv.****versus****DELHI MEDICAL COUNCIL & ORS. Respondents****Through: Mr. Praveen Khattar, Adv. for
R1****Mr. Amit, Mr. Abhinash
Agarwal, Mrs. Priya S.
Bhalirao & Mr. Shashwat Roy,
Adv. for R2****CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The petitioner is essentially aggrieved by the findings of the Delhi Medical Council ('DMC') dated 05.01.2022 pursuant to which the complaint against the alleged medical negligence of Dr. Pallavi of Maharaja Agrasen Hospital, Sector-01, Dwarka, New Delhi in the treatment administered to Petitioner No.2 was dismissed.

2. Briefly, it is the case of the petitioners that owing to the deficiencies and the medical negligence on the part of the doctors in the treatment administered, Petitioner No. 2 lost her child. It is the case of the petitioners that DMC failed to look into the evidence on record which establishes the negligence on the part of the doctors and



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rather gave a clean chit to the doctors. Aggrieved by the same, the present petition has been filed.

3. Preliminarily, before this Court could be persuaded to look into the merits of this case, it bears relevance to note that the jurisdiction of this Court under Article 226 of the Constitution of India is not an avenue for re-assessment of substantive conclusions of expert bodies in matters such as allegations of medical negligence. Infact, the issues involving allegations of medical negligence are fundamentally matters of evidence which cannot be adjudicated in writ jurisdiction and are best left to be adjudicated in appropriate jurisdiction where proper enquiry in respect thereto can be made. Negligence when alleged against any person is a question of fact, and the same can only be decided by oral and documentary evidence and the Court under writ jurisdiction cannot decide such questions of facts. [Ref. ***Kamla Devi v. Union of India* : 2015 SCC OnLine Del 7109**].

4. In the present case, it is the case of the petitioners that Petitioner No. 2 lost her child because Respondent Nos. 3-7 spent considerable time in taking a right decision. It is alleged that the doctors resorted to experimentation with vacuum pressure delivery despite the fact that the foetal heart sound was decreasing drastically. It is further the case of the petitioners that when the experiments failed, and when normal delivery could not be done, that is when the doctors resorted to caesarean delivery which led to the child being stillborn. The petitioner alleges that the said facts were not considered by the DMC while dismissing the complaint preferred by the petitioners.

5. As is apparent from the contentions of the petitioners, the issue





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raised by the petitioners necessarily involves adjudication of disputed questions of facts including whether the doctors delayed in taking the right decision or whether the doctors could have prevented the death of the child had they resorted to caesarean delivery in the first instance. The said contentions cannot be ascertained or decided while exercising jurisdiction under Article 226 of the Constitution of India. The same can only be decided after evidence is led by the parties before an appropriate forum such as Consumer Forum/Civil Suit/FIR.

6. It is informed that the petitioner has already preferred a complaint before the consumer forum and the same is pending adjudication.

7. In the given circumstances, no ground to exercise jurisdiction under Article 226 of the Constitution of India is made out. The present petition as well as the pending application are accordingly dismissed.

8. The petitioner is at liberty to pursue appropriate remedies in accordance with law.

AMIT MAHAJAN, J

OCTOBER 16, 2026

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