

**BIHAR HUMAN RIGHTS COMMISSION**  
**9, Bailey Road, Patna – 15**

File No **BHRC/COMP.** 957/11

Case of **SANJAY KUMAR SINGH**

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Complaint of the applicant is that he consulted Dr. Lalit Mohan Sharma in his clinic-cum-private hospital at Bihta for pain in the scrotum on 27.12.2010. After examination of his testicles Dr. Sharma advised him to undergo surgery for hydrocele. In fact, he suggested that it would be convenient to do surgery that day itself since there was no rush of patients that day. After fees were deposited surgery was performed and the operation was over at about 3 P.M. After applicant regained sense he was given some medicines and permitted to go home. He was advised to come for dressing after four days. Complaint of the applicant is that his testis were removed by the doctor without his consent and knowledge during surgery. As he continued to have pain he went to Sanjeevani Hospital, Kankerbnagh Patna which confirmed removal of testis. The applicant alleges that he had to undergo a long drawn treatment incurring huge expenses. More importantly, as a result of removal of testis he is deprived of right to procreate and have children.

The applicant filed police complaint at Bihta P.S. on 22.2.2011 which was registered as Bihta P.S. Case No.47/11 under sections 269, 270 IPC. Police submitted final report 'mistake of fact' on 28.09.2011. Case of the applicant is that the police, firstly, registered the case under bailable sections playing down the gravity of the complaint and, finally, in collusion with Dr. Lalit Mohan Sharma submitted final report. The Commission does not want to go into the role of the police and/or the merit of the case. It transpired at the time of hearing that on the protest petition of the applicant the Magistrate took cognizance and the matter is pending in court. The Commission does not intervene in sub judice matters.

What remains to be considered is the conduct of Dr. Lalit Mohan Sharma. Removal of testicles by him not being in dispute – if he is found to be lacking in bona fide, his acts of omissions and commissions would amount to violation of human rights of the applicant.

Notice was issued to Dr. Lalit Mohan Sharma in terms of section 16 of the Protection of Human Rights Act and he filed a detailed show cause. As per his version, on 27.12.2010 the applicant came to his clinic complaining of enlargement of his testicles and severe pain. After examination he suggested that the applicant may get his hydrocele operated for removal of excess fluid and muscles. On his suggestion "some pathological test" was done and operation was

performed after obtaining written consent of his attendant. After the operation he was asked to remain in the clinic for two days and to lie straight for about first twelve hours but when he went to see the patients in the evening he did not find the applicant on his bed; he was informed by other patients and the staff that he had left the hospital at about 4-5 P.M. on his friend's motorcycle. As regards the nature of the operation it has been stated that the applicant's hydrocele was opened and excess muscles were removed for bringing it to its natural shape which is called 'scrotoplasty'. On 29.12.2010 the applicant came to his clinic. His testicle was bleeding from the drain in the scrotum. On that day also he came on a motorcycle. He removed the drain and dressed up the wound and gave Batadine; he also gave injection of Botropos and advised him to continue the medicines. The applicant came again on 31.12.2010 as there was severe bleeding from the scrotum. Considering his condition and the BP level he was advised immediate operation. After removal of the stitches it was found that his right testicle was ruptured and there was bleeding from the testicular vein and the area had become blackish. The left testicle was also badly infected. The applicant was administered Rangar, three vials of Dexona and also Phenargan and Fortwin injections. Surgery was performed with the consent of the applicant's attendant and the damaged testicles were removed to save his life. He remained in the hospital for two days and was discharged on 2.1.2011. It is submitted that the primary duty of a doctor is to save the life of the patient than to save any organ. The testicles were removed to save the applicant's life considering his critical condition.

Applicant has filed response to the show cause of Dr. Lalit Mohan Sharma. He has challenged the doctor's version about pathological tests and submitted that the details of the pathological tests have not been mentioned. He has reiterated that he went home on tempo along with family members and friends on the advice of the doctor. He has also challenged the doctor's version about administering medicines and injections like Dexona, Phenargan and Fortwin pointing out that there is no mention of the same in the prescription. He has denied to have given consent for the removal of the testicles. In fact, it is his specific case that he was not even told about the same; when the bandage was removed during the second visit and he did not find the testicles in their place, he was told that the same had been "pushed inside and it would revert later to their original position automatically".

Applicant has, in fact, questioned the credentials of Dr. Lalit Mohan Sharma describing him as nothing more than quack (Jhola Chhap). It has been stated that his entire medical practice is based on fraud which is evident from the

fact that he is described as an "MBBS, MD(S)" in the prescriptions and elsewhere. According to the applicant, the description "MD(S)" is misleading as if he is a qualified surgeon. Had he been an MS he would have described his qualification as such and not as "S" within brackets. Further, the prescription does not mention the registration number of the State Council.

At the time of hearing which took place in the presence of Dr. Lalit Mohan Sharma who appeared with his Advocate, the Commission wanted to know as to what "MD(S)" means, and whether he has an MS degree. He took the plea that medical students are taught surgery at the MBBS level and they are qualified for doing surgery. He however, could not explain the significance of "S" within brackets suffixing "MD" as a degree. The Commission is inclined to think that the description of degree is dubious and misleading and is prima facie so described to create impression to the gullible uneducated patients of the countryside that he has degree in surgery and he is a surgeon.

The Commission also wanted to see the record such as bed head ticket and other papers of the clinic and hospital with respect to the applicant. He could not produce any paper. He in fact stated that bed head tickets etc. are not maintained in the hospital. He also could not say anything about the pathological tests of the applicant said to have been carried out on 27.12.2010. He could not also give any idea of the pre or post-operation facilities provided to indoor patients in the hospital.

It is the admitted position that the applicant was operated upon for hydrocele on the same day – indeed within hours – on 27.12.2010 when he visited Dr. Lalit Mohan Sharma's so called clinic-cum-hospital for check-up for pain in the scrotum. In fact, the applicant was advised to undergo surgery on the same day because "there was no rush of patients on that day" and it was therefore convenient for the doctor to perform the operation. Clearly, Dr. Sharma was in hurry and did not want to let go the patient (applicant) elsewhere.

It may not be out of place to mention that in the show-cause before this Commission Dr. Sharma admitted the fact that the applicant was operated upon in his hospital but in the application for bail which he had filed in the court of ACJM Danapur in connection with Bihta P.S. Case No. 47/11, he took the stand that the applicant was never admitted in his hospital and that he came for only dressing. He also stated in the bail application that the applicant was getting treatment at two places. Attention of the doctor was drawn to the said contradictions but he could not give any explanation.

Adverting to the main complaint about removal of the testicles, the Commission would like to quote the relevant portion of the prescription of Sanjeevani Hospital dated 18.1.2011 which reads as follows:-

“The patient operated somewhere else for B/L hydrocele and somehow both the testis were removed by the operating doctor. Patient has not any papers of the operative procedures. Patient was convinced by the operating doctor that one testis has been removed and other has been implanted in the inguinal region but when the concerned investigations were done here in Patna, both the testes were removed not to be found anywhere”.

To the same effect is the ultrasound report of Chaudhary Digital Imaging & Research Centre, Rajendra Nagar, Patna dated 19.1.2010 that testis could not be seen in bilateral inguinal region.

It is thus established, in fact, the admitted position that the testis of the applicant was removed by Dr. Lalit Mohan Sharma in his clinic-cum-hospital at Bihta. According to him, this was done to save the applicant's life and with his consent; according to the applicant on the other hand, far from taking his consent he was kept in dark and remained ignorant until he consulted the doctor in Sanjeevani hospital. Another area of dispute is that while according to Dr. Sharma the applicant himself was to blame for his condition because he acted negligently, leaving the hospital on 27.12.2010 itself without permission and travelling on motorcycle; according to the applicant, he went home on the advice of the doctor and when complications developed he was not told about the nature of complications which apparently had arisen on account of wrong and inept surgery.

It may be difficult for the Commission to record any specific finding on these aspects in dispute. For example it cannot be conclusively held as to whether applicant left the hospital on his own disregarding the doctor's advice as claimed by the doctor or that he went home on the advice of the doctor as claimed by the applicant. But it is important that there is no evidence of the availability of basic facilities and infrastructure necessary to cater to the needs of the indoor patients without which it is unsafe for the patient to stay in the hospital. This somewhat lends support to the applicant's version. Be that as it may, it is apparent that Dr. Sharma was in hurry to go about the surgery. Pain in scrotum – for which the applicant had approached him – ex facie should hardly warrant immediate surgery, within hours of consultation. Generally, a prudent

doctor first gets necessary tests carried out and thereafter advises medicines/ drugs. Surgery is the last resort. The haste with which Dr. Lalit Mohan Sharma went about to perform the surgery was most unprofessional and unethical.

In the facts and circumstances, for the deprivation of his right to procreate and have children amounting to violation of his human rights and the mental trauma etc. caused to him, the applicant is held entitled to compensation of rupees one lakh from Dr. Lalit Mohan Sharma which the latter should pay within one month.

The Commission is inclined to think that the way Dr. Lalit Mohan Sharma has described his qualifications – to wit, “MD(S)” is suggestive of his dubious practice. The description is clearly misleading suggesting as if he specialises in medicine and surgery both. A doctor with MD qualification is generally regarded as a physician and not surgeon. The Commission should not be understood to mean that an MBBS doctor cannot perform surgery but performing surgery is one thing and claiming to be a specialist in surgery is another thing. As a matter of fact, the applicant has questioned the MD degree of Dr. Lalit Mohan Sharma. Be that as it may, the Commission is of the view that the credentials of Dr. Lalit Mohan Sharma as a doctor and his so called clinic and hospital in which he carries on medical profession at Bihta needs to be probed.

In the facts and circumstances, the Commission would direct Principal Secretary, Department of Health to cause enquiry at the appropriate level into the affairs of the so called clinic and hospital of Dr. Lalit Mohan Sharma at Bihta and take appropriate action as may be warranted. One can take notice of the mushroom growth of so called clinics, nursing homes and hospitals in lanes and by-lanes and exploitation of patients by unscrupulous doctors. Action taken report should be submitted within two months.

The Commission would also direct the Medical Council of India, New Delhi to cause enquiry about the qualifications and professional activities of Dr. Lalit Mohan Sharma and take appropriate action as may be warranted. The enquiry should also look into the bona fide of Dr. Lalit Mohan Sharma describing his degree as MD(S) which could be a ploy. Action taken report should be submitted to the Commission on 31.08.2012.

Put up in the first week of September 2012.

Copy of this order may be sent to (i) Principal Secretary, Department of Health, Government of Bihar (ii) Medical Council of India, New Delhi (iii) Dr. Lalit Mohan Sharma and (iv) applicant.

Date: 13.06.2012

Justice S.N. Jha  
Chairperson