

File No.3910/12

The complaint in this case is about medical negligence. Applicant Anand Murti Rai of Om Shail Baran Apartment, Sheikhpura Bagicha Patna was operated by Dr. A.K. Sinha of Keshav Hospital Patna for fracture and dislocation of right ankle in August 2010. The complaint is that wound did not heal even after passage of a year's time and in fact infection developed in his spine accompanied by back pain, fever, muscle weakness in legs, difficulty in walking etc. He has been operated three times in all but he is not fully cured. As of now he is getting treatment in LNJ Hospital, Patna by Dr. H.N. Diwakar.

Report was called from Principal Secretary, Health Department and Sr.S.P. Patna. The latter brought on record the report of SDPO Danapur dated 2.2.2013 giving clean chit to the doctor. He however, suggested that the matter may be referred to medical board.

The Health Department later brought on record the report of the medical board dated 27.5.2013 as enclosure to the report of Civil Surgeon Patna. The medical board in its two sentence report held that treatment by Dr. A.K. Sinha was correct and tuberculous spondylodiscitis after one year of surgery cannot be said to be result of negligence.

When the matter was taken up for hearing on 6.8.2013 the applicant took the plea that although the report of the medical board is signed by four members including Civil Surgeon Patna as its Chairman, the fact is that only one member of the Board, Dr. B.P. Binayak, examined the applicant. In other words, other three members including the Chairman did not examine the applicant and they merely signed the opinion/report of Dr. B.P. Binayak. In the circumstances, the Commission directed Civil Surgeon to disclose the names of the other two members who apparently examined the applicant on 27.5.2013 and signed the report.

When the hearing was taken up on 16.8.2013, Civil Surgeon Patna Dr. Lakhindra Prasad informed the Commission that the medical board normally comprises of more than one doctor but the practice is that the patient is examined by the doctor concerned alone – depending on the nature of the medical problem – and his opinion/report is signed by other members.

The revelation – if it may be said so – is shocking. It is beyond comprehension that responsible doctors append their signatures – signifying their concurrence or approval of the findings – even though they have not personally examined the patient. It need hardly be pointed out that report of 'medical board' is generally understood to be outcome of the combined or joint examination by the doctors comprising the medical board. As a matter of fact, the whole idea in referring any matter or person to a medical board is to have a more authentic and reliable report or opinion. Report of medial board signed by a set of doctors – even though the person was examined by only

one of them – is misleading and an act of fraud. The Commission advised the Civil Surgeon to discontinue the practice of the report being signed by all members of a medial board where the patient is examined by only one (or two) member(s).

Being thus totally dissatisfied with the manner in which the applicant was examined – also in view of the fact that the report under reference is too cryptic and general to be acted upon – the Commission observed that the Civil Surgeon do constitute another medical board comprising of senior doctors from General Surgery and Medicines streams, besides orthopaedic surgery, which should examine the applicant and give fresh report. Without intending to mean any disrespect to Dr. B.P. Binayak, he appears to be a junior level doctor posted in Primary Health Centre, Maner. Dr. Lakhindra Prasad submitted that if the Commission so directs, the Professor & HOD of Orthopaedics Department of the PMCH can be nominated as one of the members of the board amongst others, and a fresh report can be submitted to this Commission. In response to the query he stated that he is competent to constitute such a medical board.

The Commission accordingly directs Civil Surgeon Patna to constitute a medical board comprising of Professor & HOD Orthopaedics Department PMCH and one doctor each from the General Surgery and Medicines Departments of PMCH for examining the applicant. Needless to say that the applicant will be given due intimation of the date and venue of such examination. This should be done by 27.9.2013. After obtaining report as above, the Civil Surgeon Patna should submit report by 4.10.2013 – forwarding copy thereof to the Director-in-Chief, Health Services.

Office will put up this file for further orders on 7.10.2013.

Copy of this order be sent to Civil Surgeon-Chief Medical Officer, Patna along with notice.

Copy may also be sent to Director-in-Chief, Health Services and the applicant.

Date: 27.08.2013

Justice S.N. Jha
Chairperson