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2025 INSC 1487

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
(Arising out of SLP(C)No.8365/2024)

KOUSIK PAL **…APPELLANT**

VERSUS

B.M. BIRLA HEART RESEARCH CENTRE & ORS. **…RESPONDENTS**

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

PREAMBLE AND BACKGROUND

2. At the heart of this dispute between the appellant, who is aggrieved by the loss of his mother, and the respondent-hospital, is a question of jurisdiction. The apparent tussle is between the

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Commission established by the West Bengal Clinical Establishments (Registration, Regulation and Transparency) Act, 2017[1] and the State Medical Council. As per the Commission[2] and the learned Single Judge[3], the Commission had the authority to adjudicate the instant appellant's complaint, alleging deficiency in service and negligence in detection/diagnosis and treatment by one Dr. Shuvo Dutta, an employee of respondent-hospital. However, *vide* the impugned judgment dated 15th December 2023, the learned Division Bench in MAT 1595 of 2019 overruled the said findings, holding that the Commission did not have the jurisdiction to adjudicate issues of negligence and alleged deficiency in practice. Since both these aspects are inextricably intertwined, they are required to be taken up and looked into by a specialized body. This Court is now called upon to, in this appeal under Article 136 of the Constitution of India, examine the correctness of the view taken by the Division Bench of the High Court at Calcutta.

3. The facts, which gave rise to the present appeal, are that the appellant's mother, namely Ms. Arati Pal was admitted at respondent-hospital for treatment, when having been there for five days her situation did not improve, she was referred to the

[1] Hereinafter, referred to as WBCE Act, 2017
[2] By judgment dated 2nd February 2018 in Complaint ID: HGY/2017/000069 titled Mr. Koushik Pal v. B.M. Birla Heart Research Centre & Ors.
[3] By judgment dated 24th September 2019 in C.O.No.2050 (W) of 2018, being Dr. Ashok Kumar Giri alias Ashok Giri v. Mr. Koushik Pal & Anr.

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Calcutta Medical Research Institute on 07th May, 2017. Pursuant to such recommendation of transfer being made by her primary consultant Dr. Shuvo Dutta, which was apparently around 9:15 pm, the discharge summary was prepared by Dr. Tanmoy Chakraborty, who described her as being in 'stable condition'. She was shifted to the said hospital on 8th May 2017 in the early hours of the morning around 1:45 a.m. Shortly thereafter, approximately 16 hours later, she passed away. On 12th May 2017, the appellant filed a complaint against the respondent-hospital stating as follows :

> "Negligence in detection and causing delay in shifting the patient from the hospital. Not applying proper medication to the patient improper diagnosis and negligency and misguiding the patient party."

Notice was issued that the Commission would hear the matter. Over some time, various documents were submitted including correspondence with and from the West Bengal Medical Council.

THE ORDER OF THE COMMISSION

4. By judgment and order dated 2nd February 2018, the Commission arrived at the following conclusions and findings :

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***First*,** that the lapse on part of Dr. Chakraborty, in describing the condition of the deceased as 'stable', which he, in his affidavit to the Commission, described as an error and "not a mere clerical mistake".

***Second*,** in view of the first proviso to sub-section 3 of Section 38 of the WBCE Act, 2017, they did not give any finding regarding this act of Dr. Chakraborty and whether it amounts to medical negligence.

***Third*,** Dr. Ashok Giri who was the Head of the Non-Invasive Department at the respondent-Hospital, and Ms. Chaitali Kundu, ECG Technician, were unqualified to hold the positions and carry out the acts that they did. *Qua* Dr. Giri it was held that since the Post-Graduate Diploma in Clinical Cardiology undertaken by him from the Indira Gandhi National Open University is not recognized by the Medical Council of India[4] or the West Bengal State Medical Council[5], he was not entitled to practice in the specialty concerned, and so, his report deciding the course of treatment was *' not only detrimental to patient care but also completely unauthorized and illegal.'* Regarding Ms. Kundu, it was held that the course pursued by her

[4] Hereinafter, referred to as 'MCI'
[5] Hereinafter, referred to as 'WBMC'

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i.e., 'Electro Cardiography Technique Course' and the concerned institution from where she pursued the same, 'Society for School of Medical Technology, Kolkata' both are not recognized by the State Medical Council. Additionally, a circular on the head of the Sasthya Bhavan, showed her to be a 'female attendant' and not an Echo Cardiography Technician. Hence, this too was held to be a deficiency in patient care service and unethical trade practice.

In conclusion it was observed:

> "**…**In a case of a patient suffering from Acute Coronary Syndrome, the most important procedures Echocardiogram and Echoscreening, was done by an unqualified doctor and a person claiming to be an Echocardiography Technician. Therefore, we are of the opinion that this is a fit case for awarding compensation. Each one the members having medical background quite actively participated in the deliberation and played a very crucial role in the decision making process.
> 19. Now, considering the nature of lapses in the part of the Clinical Establishment, the degree of deficiency in service and irrational and unethical trade practice coupled with mental shock, pain, suffering and harassment already suffered by the complainant and other family members of the service recipient, we are of the opinion that it would be fully justified if a sum of Rs.20lakh (rupees twenty lakh) is awarded as compensation to the complainant, the son of the service recipient, Mr. Kousik Pal.
> The amount of compensation must be paid through the demand draft to the complainant by the Clinical Establishment***, B.M.Birla,*** within 15 days from this day.
> 20. Before parting with, we remind the Clinical Establishment that according to the condition of license, the patient care service, the diagnosis, test, procedures

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> both non-invasive and invasive, treatment both medical and surgical, to be done only by qualified doctors, nurses and para medical staffs and their qualifications must always be recognised by appropriate authority and in terms of Section 38(x) of the West Bengal Clinical Establishment (Registration, Regulation, and Transparency) Act, 2017 and to ensure the same…"

PROCEDINGS BEFORE THE HIGH COURT

5. Aggrieved, the respondent-Hospital approached the High Court under Article 226 of the Constitution of India. The writ petition was dismissed for the reasons below :

The learned Single Judge noted that while considering a complaint before it, the Commission is required to consider whether the clinical establishment has employed persons properly trained and qualified to do the concerned jobs and tasks. In doing so, the examination of educational qualifications would be entirely within its powers and Section 38(1)(iii) would not be a bar thereto. As such, returning a finding on the qualifications of Dr. Ashok Kumar Giri, was perfectly within the jurisdiction and so, no infirmity could be found with the order of the Commission on that count. Since he was not appropriately qualified, holding independent charge of Non-Invasive Department, which conducted vital procedures, such as the ECG in question would constitute a deficiency in patient care service and unethical trade practice. Regarding Ms. Chaitali Kundu

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it was held that the respondent-hospital has failed to establish that the findings are perverse.

Apart from Dr. Giri and Ms. Kundu, the Commission took note of the conduct of one Dr. Tanmoy Chakraborty in so far as the issuance of a discharge certificate, which recorded the condition of the deceased mother of the appellant contrary to the true position. However, the Commission restricted itself to the deficiency in service and did not return any finding on medical negligence since that is strictly in the purview of the WBMC. The order of the Commission was not outside the jurisdiction accorded to it.

6. A revision application was preferred by Dr. Ashok Giri against the order of the Commission, separate from the challenge to the findings made therein by the respondent-hospital. The learned Single Judge held that no case for interference under Article 227 of the Constitution of India could be made out. The reasoning therefore can be encapsulated thus :

> The aspect considered was with regard to the examination of the Commission of the medical professionals attending to the mother of the appellant herein (respondent before the learned Single Judge). It was observed that Section 38 of the WBCE Act, 2017 mandates that the Commission upon a complaint being

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filed before it, evaluates and adjudicates upon the conduct of the medically trained persons involved. In doing so, the Medical Commission may be required to look into their educational qualifications. The Commission took note of the fact that Dr. Giri's postgraduate medical qualification is not recognized by the WBMC, but did not award him any penalty. It only took note of the conduct of the respondent-hospital. Given the end result that he was not qualified to examine the Echo Cardiogram, it cannot be said that Section 38(iii) of the WBCE Act 2017 was violated.

7. However, in writ appeal, the Division Bench, set aside the judgment of the Commission as also the learned Single Judge. The conclusions can be summarized, *inter alia*, as follows :

a. There cannot be said to be any connection between the ECG report made by Dr. Ashok Giri, assisted by Ms. Kundu and the untimely death of the mother of the appellant. The material on record regarding her condition is partial and incomplete to facilitate such a finding. It cannot be said, therefore, that the respondent-hospital was responsible for the death of the appellant's mother.

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b. Regarding the qualifications of Dr. Giri and Ms. Kundu, it was observed that if a physician falsely claims to be a specialist, he is guilty of misconduct as laid down in Chapter 7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. If disciplinary action is required to be taken, the same can only be done by the WBMC. In other words, the Commission had no authority to pronounce that Dr. Giri and Ms. Kundu were not qualified to undertake the actions that they did. If the same is permitted, it would amount to the Commission entering into the arena of a specialized body.

c. The MCI in its letter dated 31st August 2017 did not say what the minimum qualification required is, to perform an ECG. The second letter dated 25th June 2019 states that a medical graduate or para medic with training can perform an ECG. It was also stated therein that a person with a specialist qualification such as MD or DM, is *better placed* to clinically interpret the data produced through an ECG. Regarding Ms. Kundu, therefore, it cannot be said that she conducted the ECG unauthorizedly.

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d. Having examined the course that is taught at certain Universities in the State as also AIIMS Delhi, it was concluded that it cannot be said that Dr. Giri does not have the requisite qualification to interpret an ECG until the same is held otherwise by the WBMC or the National Medical Commission. This, the Division Bench states in reference to 'reasonable standard' to determine medical negligence which states that in cases of professional negligence, the benchmark is the lowest standard of skill and competence expected to be possessed by a professional.

e. The Commission failed to give ample opportunity to Dr. Giri to refute the allegation cast upon him.

f. Regarding the ability of the Commission to examine the issue of patient care it was observed that medical negligence and the former are "so inextricably mingled up" that they cannot be separated and since the issue of negligence can only be taken up by a specialized body, the Commission could not have adjudicated this issue.

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QUESTION BEFORE THIS COURT

8. The appellant aggrieved by this judgment and order of the Division Bench has carried the matter in appeal before us. We have heard the learned counsel for the parties at length and perused the written submissions filed.

9. The question that arises for consideration is - whether the Commission established under the WBCE Act, 2017, could have given the findings it did, *qua* the qualifications of one of the doctors of the respondent-hospital; deficiency in patient service and, accordingly, award compensation.

THE WBCE ACT, 2017

10. In order to appreciate the scope of the power granted to the Commission, it is essential here to take notice of certain provisions of the WBCE Act, 2017. The Act comprises of 6 Chapters and hosts a total of 62 Sections. The headings of the Chapters are :- Chapter I- Preliminary; Chapter II- Registration and Standards; Chapter III- Procedure for Registration and Licensing; Chapter IV- Contravention and Penalty; Chapter V- Adjudicating Authority and West Bengal Clinical Establishment Regulatory Commission; and Chapter VI- Miscellaneous.

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The Preamble of the Act is as follows:

> "An Act to provide for the registration, regulation and transparency of clinical establishments of the State and for matters connected therewith or incidental there to.
> WHEREAS it is expedient, in the public interest, to provide for registration, regulation and transparency in the functioning and activities of clinical establishments licensed under this Act, to preserve minimum standards of facilities and service to be provided by them to the service recipients"
>
> (emphasis supplied)

The relevant parts of the definition clause of the Act are as below :

> "2. In this Act, unless there is any repugnant in the subject or the context,—
> (c)"clinical establishment" means the whole or part of institution, facility with or without bed or beds, building or premises of any Hospital, Maternity Home, Nursing Home, Dispensary, Clinic, Polyclinic, Immunization or Vaccination Centre, Sanatorium, Physical Therapy Establishment, Clinical Laboratory, Fertility Regulation Clinic, Wellness Clinic or an establishment analogous to any of them by whatever name called, used or intended to be used for the health care related services established and administered or maintained by any person or body of persons, whether incorporated or not; and shall include--
> …
> (v) "service provider" means a medical doctor, nurse, midwife, other paramedical professional, social worker or other appropriately trained and qualified person with specific skills relevant to particular health care services including management of clinical establishment, and any reference to service provider shall mean the same unless specifically stated otherwise;
> …
> (w) "service recipient" means person who seeks, accesses or receives any health care, as outpatient or

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> inpatient, from any clinical establishment, or service provider, including for profit and not for profit;
> …
> (z) "trade practice" in relation to a clinical establishment means any practice relating to the provision of services by a clinical establishment, and includes— (i) anything done by the clinical establishment which controls or affects the price charged for services rendered by the clinical establishment, or the method of providing services by the clinical establishment;"
>
> (emphasis supplied)

Section 29 which is part of Chapter IV and deals with minor and major deficiencies, is extracted below for reference :

> "29. (1) Whoever contravenes any provision of this Act or any rule made thereunder resulting in such minor deficiencies, that do not pose any imminent danger to the health and safety of any patient or public and can be rectified within a reasonable time, shall be liable to a penalty which may extend to fifty thousand rupees.
> (2) Whoever contravenes any provision of this Act or any rule made thereunder resulting in such major deficiencies, that pose an imminent danger to the health and safety of any member of the public or patient and which cannot be rectified within a reasonable time, shall be liable to a penalty which may extend to ten lakh rupees.
> Explanation.—For the purpose of this section "minor deficiencies and major deficiencies" shall have such meaning as may be prescribed."
>
> (emphasis supplied)

Section 33, also a part of Chapter IV deals with Compensation in case of injury or death of the service recipients, runs thus :

> "33. (1) Without prejudice to the other provisions of this Chapter, if any clinical establishment whether by itself or by any other person on it's behalf, while providing

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> services causes injury to the service recipient or his death, due to negligence or any deficiency in providing service, it shall be lawful for the Commission, on substantiation of charges, to direct it to pay compensation to the victim or the legal representative of the victim, a sum—
> (a) which may extend to three lakh rupees in case of simple injury;
> (b) which may extend to five lakh rupees in case of grievous injury; and
> (c) which shall not be less than ten lakh rupees in case of death:
> Provided that the compensation shall be paid at the earliest and in no case later than six months from the date of occurrence of the incident: Provided further that in case of death, an interim relief shall be paid to the next of the kin within thirty days of the incident.
> (2) Where any person is held guilty of a contravention leading to grievous injury or death, the Commission may cause the name and place of residence of the person held guilty, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Commission may direct and the expenses of such publication shall constitute the cost and the same shall be recoverable in the same manner as fine.
> (3) The Commission may also order for cancellation of license, closure of the clinical establishment, forfeiture of establishment and property in case of grievous injury or death of the service recipient."
>
> (emphasis supplied)

Section 36 provides for the establishment of the Commission, it reads :

> "36. (1) The State Government shall constitute a West Bengal Clinical Establishment Regulatory Commission to exercise the powers and perform the functions conferred on the commission under this Act for the purpose of regulation and supervision of the functioning and activities of the clinical establishments licensed

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under this Act for ensuring accountability and transparency in dealing with patients by clinical establishments in providing patient care services, to advise the Government on measures be adopted for enhancing and augmenting the performance of clinical establishments in the State…"

Section 38, which describes the powers of the Commission is extracted hereinunder :

"38. (1) The Commission shall—
(i) monitor the functioning of clinical establishments;
(ii) regulate and supervise functions of clinical establishments as prescribed;
(iii) examine and consider complaints, filed manually or electronically through an online system in matters related to patient care service, deviations from declared fees and charges, refusal of supply of copy of medical records and allied matters, alleged irrational and unethical trade practice alleged before the Commission by aggrieved patient parties against clinical establishments and after issue of notice and hearing both parties, adjudicate, compensate and pass such other orders, as deemed appropriate:
Provided that any complaint of medical negligence against medical professionals will be dealt with by respective State Medical Councils:
Provided further that the Commission for the purpose of adjudicating disputes and appeal under this Act, shall have a quorum of the Chairperson and not less than two other members;
(iv) make regulations with regard to fixing of rates or charges for indoor patient department and outdoor patient department treatment including diagnostics and also to ensure compliance with fixed rates and charges by clinical establishments;
(v) enforce transparency in dealing with patients by the clinical establishments;
(vi) tender advice and make suggestions regarding measures to be adopted under this Act, for improving patient care services and redressal of grievances;

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(vii) undertake planned or surprise inspections to examine and ascertain strict compliance by clinical establishments with provisions of this Act;
(viii) hear appeals arising from orders and decisions passed by the Adjudicating Authority in the Districts;
(ix) have the powers to award such compensation as deemed appropriate not exceeding fifty lakh rupees, including interim compensation;
(x) ensure that only properly trained medical and para-medical personnel like doctors, nurses, technicians, pharmacists are employed by the clinical establishment."

(emphasis supplied)

Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002

"**CHAPTER 7**

7. MISCONDUCT : The following acts of commission or omission on the part of a physician shall constitute professional misconduct rendering him/her liable for disciplinary action
…
7.20 A Physician shall not claim to be specialist unless he has a special qualification in that branch

CHAPTER 8

8. PUNISHMENT AND DISCIPLINARY ACTION

…8.2 It is made clear that any complaint with regard to professional misconduct can be brought before the appropriate Medical Council for Disciplinary action. Upon receipt of any complaint of professional misconduct, the appropriate Medical Council would hold an enquiry and give opportunity to the registered medical practitioner to be heard in person or by pleader. If the medical practitioner is found to be guilty of committing professional misconduct, the appropriate Medical Council may award such punishment as deemed necessary or may direct the removal altogether or for a

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> specified period, from the register of the name of the delinquent registered practitioner. Deletion from the Register shall be widely publicized in local press as well as in the publications of different Medical Associations/ Societies/Bodies.
> 8.3 In case the punishment of removal from the register is for a limited period, the appropriate Council may also direct that the name so removed shall be restored in the register after the expiry of the period for which the name was ordered to be removed.
> 8.4 Decision on complaint against delinquent physician shall be taken within a time limit of 6 months.
> 8.5 During the pendency of the complaint the appropriate Council may restrain the physician from performing the procedure or practice which is under scrutiny.
> 8.6 Professional incompetence shall be judged by peer group as per guidelines prescribed by MCI."
>
> (emphasis supplied)

CONSIDERATION & ANALYSIS

11. The crux of the dispute arises from the High Court's finding that ***(a)*** the Commission could not have returned a finding on the qualification or lack thereof on part of Dr. Ashok Giri and Ms. Chaitali Kundu; ***(b)*** that 'patient care' and 'medical negligence' are so inextricably linked that the Commission could not have returned a finding on this issue.

12. A cumulative reading of the provisions extracted supra would tell us otherwise. Our reasons for these conclusions are in the following paragraphs.

12.1 The Preamble of the WBCE Act, 2017 states that it is an Act enacted in public interest, providing for regulation and transparency and also to preserve minimum standards

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of facilities and services. Regulation means to control something. Transparency implies that the practice and procedure adopted by an institution should not be opaque so as to leave the party on the other side of the transaction guessing or questioning. Minimum standards of facilities and services imply that a benchmark is required to be set by the Commission which would then be required to be followed by all clinical establishments covered thereby. In the instant case, the words described above would indicate that the Commission in its jurisdiction would have the power to ensure that the personnel employed by clinical establishments are in accordance with the requirements laid down, thereby, complying with the benchmark.

12.2 The definition of 'service provider' given in the Act applies to both a medical doctor (Dr. Ashok Giri and Dr. Tanmoy Chakraborty) and other paramedical professionals (Ms. Chaitali Kundu). The definition states that a service provider is either of these two categories or other appropriately trained and qualified person with special skills relevant to particular healthcare services. As a consequence, both the above categories would also need to be appropriately trained and qualified. This expression would include within itself the requisite specific skills. In order to gain these specialized skills, especially in the

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medical field, one is required to undertake accredited study thereof. Regarding Dr. Giri the positive finding of the Commission is that he did not possess the requisite qualification, this finding is demonstrated by the record in terms of letter dated 25th June 2019 addressed by the Board of Governors, MCI, which is extracted as follows :

> "It may be respectfully submitted to the Hon'ble High Court that the procedure of Eco-Cardiogram required conduct of test and clinical interpretation of the data In so far as conduct of Test is concerned it can be done by a Medical Graduate or a paramedic (with training). It may be respectfully submitted that the minimum qualification required for the clinical interpretation of echo cardiogram is MD (Medicine). Knowledge of Cardiology is imparted in MD (Medicine) course. Furthermore, a person with MD (General Medicine), MD (Paediatrics) and ID (Respiratory Medicine) are entitled to pursue DM (Cardiology). therefore, those with super specialist qualification DM (Cardiology) are better placed to clinically interpret the data of echo cardiogram.
> In view of the above, it may be respectfully submitted that the petitioner was not entitled to perform and interpret the data of Echo cardiogram."

The finding of the High Court is based on an incomplete reading of the letter, for it clearly states that the minimum qualification required for clinical interpretation of ECG is MD (Medicine). Dr. Giri has not acquired the minimum qualification. The High Court's own observation is that in order to adjudge medical negligence, the standard to be applied is the lowest standard of skill and competence

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that a professional is expected to possess. As reproduced supra, the letter of the MCI uses the word minimum qualification. So, both persons would not meet the definition of service provider. Section 38(1)(x) provides that it is the function of the Commission to ensure that persons hired are duly qualified. Therefore, the Commission giving a finding on qualification of these two persons, is in accordance with the law.

12.3 Section 29 defines major deficiency as that which poses an imminent danger to the health and safety of either any member of the public or a patient, which cannot be rectified within a reasonable time. If such a deficiency is found, the persons/hospital/clinical establishment shall be liable to pay a penalty up to Rs.10 lakhs. Danger unquestionably has been caused to the mother of the appellant. The deficiency could not have been cured within a reasonable time, as Dr. Ashok Giri was the concerned doctor and Ms. Kundu was the technician involved. Doctors and technicians are not transient persons and can only be hired after due examination of their qualifications and experience.

12.4 Section 33 provides that if any clinical establishment in the course of providing services causes injury or death, then, after due process they shall be liable to pay

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compensation. In case of death, as the one at hand, the same cannot be less than Rs.10 lakhs. The section provides further powers including severe penalties such as cancellation of license, and closure of the establishment. The intent of the legislature is clear. The interest of the patient has to be zealously safeguarded.

12.5 Section 36, which provides for the establishment of the Commission, uses the word supervision, the phrase ensuring accountability and transparency by the establishment in providing patient care services. Supervision would, in our view, necessarily include ensuring that all personnel within a clinical establishment are entitled by way of their education and certification to be employed there. Transparency necessarily implies that the concerned doctor should inform the family/attendants of the patient about the true picture of the condition of the patient. This was not done. Making a simple statement that the mother of the appellant had erroneously been described as 'stable' cannot and should not absolve the concerned doctor of responsibility. It is quite possible that if the doctor preparing the discharge paper had indicated to the appellant the precarious condition of his mother at the time when discharge was being carried out, he could have taken an

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alternate decision and possibly she would have lived to fight for her life for another day.

12.6 Section 38 categorically provides that medical negligence complaints would be dealt with by the State Medical Councils. The Division Bench held that the Commission was not entitled to give any finding in this regard. The Commission in its judgment expressly states that they are not entering into the question of negligence. We find that the Commission indeed had not. What it had done was consider a complaint of deficiency in patient care service and in order to ascertain whether there was a deficiency or not looked into the credentials of persons providing the service. The same is expressly permitted by this Section.

13. Two additional points to be noted are that there is a categorical statement on behalf of the Indian Medical Council that Dr. Ashok Giri's diploma in clinical Cardiology from the Indira Gandhi National Open University is not recognized as per its rules; and Section 36(2) of WBCE Act, 2017 under sub-Section (c) provides that as members, the State Government is to appoint as many as eleven persons from varied fields including persons from the medical fields of diagnostics, public health and also from academia, social services, law, etc. The composition of the Commission also includes persons from the medical field.

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The findings returned by it cannot be said to be without consideration of the medical aspect involved. This adds credence to the overall conclusion.

14. Therefore, in our considered view, the Commission was well within its jurisdiction in giving the findings that were challenged in the writ appeal before the High Court. The High Court gave too wide a berth to the State Medical Council leaving almost no room for the Commission to function. The power to grant compensation as is given under this Act, is separate and distinct from the power of the State Medical Council to examine the presence or absence of medical negligence on the part of a professional, and it nowhere interferes with the power of the State Medical Council to adjudicate the complaints of medical negligence. If the findings of the Division Bench are accepted that deficiency in patient care service and medical negligence, in certain cases, are so enmeshed in one another that they cannot be separated, in quite a few cases the functionality of the Commission would be rendered impossible defeating the legislative intent behind this Act.

15. As a result, the Appeal is allowed. The findings of the Commission given by its judgment dated 2nd February 2018, as confirmed by the learned Single Judge by judgment dated 24th September 2019 are restored. The judgment of the Division Bench dated 15th December 2023 is set aside. The compensation

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awarded by the Commission is directed to be paid within 8 weeks from the date of this judgment along with 6% interest from the award of the Commission.

No costs. Pending applications, if any, shall stand disposed of.

.....J.
(SANJAY KAROL)

.....J.
(MANOJ MISRA)

New Delhi.
December 19, 2025;