

CWP-12753-2021

Date of decision : August 31, 2021

Sudesh Kumar

.....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Manjit Saini, Advocate for the petitioner.

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LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Prayer in this petition is for directing respondent – authorities to take appropriate action against respondents No. 2 to 4 for causing death of new born child of the petitioner and allegedly putting the life of petitioner's wife in danger by conducting unfair medical practice. It is further prayed that detailed inquiry be directed regarding the treatment afforded to the new born child of the petitioner, who unfortunately passed away on 10.03.2020 due to medical negligence of respondents No. 2 to 4 and to assess negligence on the part of respondents No. 2 to 4. Petitioner also prays for compensation on account of medical negligence and negligent behaviour.

It is averred that petitioner's wife, who was expecting, approached respondent No. 4 who is illegally running a clinic. Petitioner's wife was admitted by respondent No. 4 at her clinic on 10.03.2020. Preparation for delivery was carried out. However, condition of the petitioner's wife deteriorated but respondent No. 4, it is alleged, did not take proper care and even refused to refer petitioner's wife to any other hospital. Ultimately, she did call for a vehicle which took the petitioner and his wife at Dukh Niwaran Hospital, Ajnala, District Amritsar.

Petitioner's wife unfortunately lost the baby. She was discharged from Dukh Niwaran Hospital on 16.03.2020. Complaint was lodged by the petitioner on 19.03.2020 against respondent No. 4 inter alia alleging that she was merely an ANM, thus, not entitled to run the clinic. Senior Medical Officer, Civil Hospital, Ajnala was requested by the police authorities to inquire about the degree held by respondent No. 4 - ANM Arjinder Kaur Sandhu as well as opening of clinic without licence. Board of Doctors was constituted, before whom respondent No. 4 produced certain documents.

Report dated 19.03.2020 was submitted by the Board to Senior Medical Officer stating therein that as per certificate of ANM issued to respondent No. 4, she is entitled to perform normal deliveries. Her original certificate was verified but in case any doubt persisted, police could further verify her certificate from the concerned Council. Investigation was carried out by ASI Major Singh and SI Ramandeep Kaur. Statements of various persons were recorded. Statement of Dr. K.S. Sangha, Dukh Niwaran Hospital, Ajnala was recorded. Same is attached as Annexure P11/A wherein he has stated that the petitioner's wife was in perfect condition when she visited the hospital on 10.03.2020. She came on foot and whatever reports she submitted were of some other hospital. She was ready for delivery but when checked, heart beat of the child was missing. As there was threat to the child, with consent of family members she was operated upon and in his experience there is no fault in the procedure of the delivery and whatever has happened is due to natural conditions. Pursuant to submission of report dated 15.07.2020, report was submitted by SHO, Police Station Ajnala endorsing the said report and the same was approved by SSP on 18.08.2020. Petitioner has filed

present writ petition inter alia seeking action against respondent No. 4 and for grant of compensation.

It is submitted that material facts, which were brought to fore by the petitioner, have been ignored by the authorities. Moreover, respondent No. 4 is not entitled to carry out deliveries at the clinic set up by her. Learned counsel is unable to point out any particular Rule and Regulation in this regard. He, however, submits that information under RTI Act has been sought but the same has not been received till date. It is further submitted that the petitioner and his wife are entitled to compensation on account of medical negligence on the part of respondent No. 4.

I have heard learned counsel for the petitioner at length on two occasions but I do not find any ground whatsoever to interfere at this stage in exercise of writ jurisdiction. Admittedly, there are disputed questions of fact, which cannot be adjudicated upon in these proceedings in writ jurisdiction.

Writ petition is, accordingly, dismissed at this stage.

Needless to say, petitioner is at liberty to avail remedy/remedies as may be available to him in accordance with law. It is clarified that there is no expression of any opinion on the merits of the case.

August 31, 2021

Rts

(Lisa Gill)  
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No