

NO. MCI-211(2)/2007-Ethics/

MEDICAL COUNCIL OF INDIA  
NEW DELHI

Minutes of the meeting of the Ethics Committee held on 17<sup>th</sup> - 18<sup>th</sup> December, 2007 at 11.00 a.m. in the Council office, Sector- VIII, Pocket- 14, Dwarka, New Delhi - 110077.

**Present:-**

- |    |                       |   |          |
|----|-----------------------|---|----------|
| 1. | Dr. Dhruvajyoti Borah | - | Chairman |
| 2. | Dr. (Mrs.)Uma Pradhan |   |          |
| 3. | Dr. N.B. Singh        |   |          |
| 4. | Dr. V. Kanagaraj      |   |          |
| 5. | Dr. J.N. Soni         |   |          |
| 6. | Dr. Muzaffar Ahmed    |   |          |

Sh. Ashok Kr. Harit - Dy. Secretary

**1. Minutes of the last meeting of the Ethics Committee- Confirmation of.**

The minutes of the last Ethics Committee meeting held on 6<sup>th</sup> & 7<sup>th</sup> December, 2007 were read and confirmed.

**2. Minutes of the last meeting of the Ethics Committee-Action thereon.**

The Ethics Committee noted the action taken by the office on the various items included in the agenda of the Ethics Committee meetings held on 6<sup>th</sup> & 7<sup>th</sup> December, 2007.

**3. 1 Personal appearance of medical teachers who have worked at more than one medical college simultaneously.**

Read: the matter with regard to personal appearance of medical teachers who have worked at more than one medical college simultaneously.

The Ethics Committee noted that the ten new medical teachers who were asked to appear before the Ethics Committee on 17.12.2007 failed to appear. Therefore it was decided to give another chance to all the ten medical teachers to appear before the Ethics Committee on 21.01.2008 at 11.00.a.m.

**3.2.2 Undertaking given by Dr. Deepa Anirudhan for working in more than one medical college simultaneously.**

Read: the matter with regard to undertaking given by Dr. Deepa Anirudhan, a medical teacher for working in more than one medical simultaneously.

Dr. Deepa Anirudhan was called to appear in the Ethics Committee on 17.12.2007. In her place Dr. P.C. Rajeev, her husband has appeared with the plea that she is medically unfit, suffering from an abortion. An application supported with a medical certificate was submitted. The Ethics Committee accepted that. Dr. P.C Rajeev, husband of Dr. Deepa Anirudhan has been informed that:-

1. Dr. Deepa Anirudhan will be called in the next meeting &
2. She will have to provide proof in the form of Income Tax Return of her employment in both Amrita Institute of Medical Sciences and Healthcare, Education & Research Centre, Kochi.

**3.2.4 Undertaking given by Dr. Jadhav Shashank Sudakhar for working in more than one medical college simultaneously.**

Read: the matter with regard to undertaking given by Dr. Jadhav Shashank Sudakhar, a medical teacher for working in more than one medical simultaneously.

Dr. Jadhav Shashank Sudakhar was called before the Ethics Committee and he has appeared on 17.12.2007 at 11.00am in the morning. He has submitted letters explaining the points raised in the MCI notice to him. He has thereafter submitted copies of the letter related to this case and also the copy of the writ petition which he has presented in the Hon'ble High Court Jurisdiction, Bombay (petition no. 6414/2007). In addition to the above documents he has also given oral submission which is as follows:-

**Statement of Dr. Jadhav Shashank Sudhakar.**

*I Dr. Jadhav Shashank Sudhakar passed my MBBS from B.J. Medical College, Pune in the year 1994 and also did my MD (Physiology) from B.J. Medical College, Pune. My Registration No. is 76998 with Maharashtra Medical Council and my date of Birth is 11.04.1972.*

*I was working in Dr. D.Y.Patil Medical College, Pimpri, Pune since 5.1.2006. I was promoted to the post of Associate Prof. on 1<sup>st</sup> June 2006. My appointment was continued as per letter no.DYPP/P/461/06 dated 17/11/06 for the period of 11 months.*

*In the month of January and February 2007, I submitted my resignation to the HOD and administration office. But it was neither acknowledged nor accepted. Thus finally on 28.2.2007, I stopped attending college. Then on 23.3.2007 I sent my resignation letter with the pay order of Rs.36100, drawn to the Bank of Maharashtra no. 545176 dated 23.3.07 to the Dean Dr.D.Y.Patil Medical College by RPAD. This amount was in lieu of the 1 month notice period as per clause 13 of the appointment order. This letter was refused and sent back to me.*

*On 23.3.2007 I had sent the copy of the resignation letter, pay order, appointment order of Dr.D.Y.Patil Medical College along with the covering letter to the Secretary MCI by RPAD which has been acknowledged.*

*On 26.3.2007 I joined Medicity Institute of Medical Sciences, Ghanpur, Andhra Pradesh as Associate Prof. in Physiology Dept.*

*On 28.3.2007 a copy of the resignation letter and pay order was again sent to Dr. D.Y. Patil Medical College, Pimpri, Pune (by my father).*

*On 12.5.2007 I sent a letter to the Secretary MCI regarding my joining at Medicity Institute of Medical Sciences as Associate Prof. as well as asking advice regarding non receipt of the relieving orders and experience certificate from DR. D.Y.Patil Medical College (My previous institute).*

*On 25 & 26 May 2007 I appeared for the MCI inspection held at Medicity Institute of Medical Sciences but my candidature was questioned and rejected as I couldn't provide the relieving order from the previous institute.*

*On 19.6.2007 I again sent the reminder to the DR. D.Y.Patil medical College regarding the same issue by fax.*

On 22.6.2007 I received a letter from the Principal Medicity Institute of Medical Sciences regarding the MCI letter no. MCI-34(41)2007-Med/9769 dated 15.06.2007 which stated that my name had been shown for inspection on 28.03.2007 at Dr. D.Y.Patil Medical College, Pune whereas I have joined this institution on 26.03.2007. He asked me to clarify with a copy to the Secretary, MCI, New Delhi. He has also instructed to initiate any legal measures required for procuring the relieving orders from the Dr. D.Y. Patil medical College, Pimpri, Pune.

I sent my reply to the Principal, Medicity Institute of Medical Sciences as well as Secretary, MCI by e-mail on 23.06.2007.

On 30.06.2007 I again sent a reminder to Dr. D.Y.Patil Pratisthan Medical College, Pimpri, and Pune by RPAD as well as UCP. The RPAD were refused and sent back to me except the one sent to the Trustee and Director, Dr. D.Y.Patil Pratisthan, Pimpri, Pune.

On 20.07.2007 I sent a legal notice through my lawyer J.Shekher and Co. to the Dr. D.Y.Patil Pratisthan and Medical College. They sent their reply on 31.07.2007 through their advocate Sudhakar Kale but the relieving orders were not issued. On 13.08.2007 I appeared for the compliance inspection of Medicity Institute of Medical Sciences where my candidature was again questioned but on showing the acknowledgments received from the Secretary, MCI to MCI inspector Dr. Vyas, he advised me to again write a letter to the Secretary, MCI annex it to the declaration form along with copies of all correspondence done and they referred the matter to the Secretary, MCI.

On 27.08.2007 I filed the petition in the Hon'ble High Court, Bombay for protection of my fundamental rights. The court has given the decision on 10.12.2007 that the relieving orders and experience certificate should be issued within 8 days. In addition I have not received my salary from the month of February 07, even though I was present there. In month of March, I was absent in the institution so the salary has not been paid. My pass book shows that the last pass book salary entry dated 7.2.2007 which pertains to the salary for the month of January. After that no salary has been deposited in my accounts. I am submitting the copies of Income Tax Returns also.

I will submit the letter from Dr. D.Y.Patil Medical College as soon as I will receive it.

I have not filled the declaration form of Dr. D.Y.Patil Medical College, Pimpri, Pune so there is no question of signing it. I have already made this fact clear in the covering letter to the secretary MCI, dated 23.03.2007 which has been acknowledged.

I am sure that the signature done on the declaration form of Dr. D.Y.Patil Medical College, Pimpri, Pune will be proved not to be done by me in any legal verification of the signature as I have not done it.

The remark on the declaration form by the MCI inspector proves that I was absent at Dr. D.Y.Patil Medical College, Pimpri, Pune on the day of inspection.

In reply to the legal notice the advocate Mr. Sudhakar Kale on behalf of Dr. D.Y. Patil Medical College, Pimpri, Pune has categorically stated that I was absent at Dr. D.Y.Patil Medical College, Pimpri, Pune since 27.02.2007.

My salaries for months of Feb 2007 and Mar 2007 have not been deposited in my salary account of Andhra Bank, another proof that I was absent in March 2007.

It is my humble request to the Chairman, Ethics Committee to take note of the above mentioned facts and to kindly revise the previous conclusion that I have worked in two medical colleges simultaneously.

I have worked only in Medicity Institute of Medical Sciences, Ghanpur, since 26.03.2007, i.e. I have not worked in two medical colleges simultaneously."

Sd/-  
(Dr. Jadhav Shashank Sudhakar)

*In view of above, the Ethics Committee considered the relevant records and facts of the case and decided to close the file as no case of working in more than one medical college in some point of time, could be established beyond reasonable doubt.*

### **3.2.5 Undertaking given by Dr. Ajay Kumar Srivastava for working in more than one medical college simultaneously.**

Read: the matter with regard to undertaking given by Dr. Ajay Kumar Srivastava, a medical teacher for working in more than one medical simultaneously.

Dr. Ajay Kumar Srivastava was called before the Ethics Committee on 17.12.2007 and he has appeared and submitted a written statement before the Ethics Committee, which was accepted. In addition to the written statement Dr. Srivastava has also given his oral statement, which is as under:-

#### **STATEMENT OF DR. AJAY KUMAR SRIVASTAVA**

*I, Dr. Ajay Kumar Srivastava, did my MBBS from M.L.N. Medical College, Allahabad in the year 1982. I did my M.D. (Radio Diagnosis) from the same institute in the year 1991. I am registered with the Uttar Pradesh Medical Council, bearing Registration No.27879. My Date of Birth is 06.12.1959.*

*I appeared in the Medical Council of India inspection at Karuna Medical College, Pallakkad on 29.05.2007 while I was working at Sri Manakula Vinayagar Medical College & Hospital, Pondicherry. I am working at Sri Manakula Vinayagar Medical College & Hospital, Pondicherry. I am really sorry what have happened. I request the Hon'ble Members of the Ethics Committee of Medical Council of India to excuse me for this thing will not be undertaken by myself in future.*

*Sd/-*

*(Dr. Ajay Kumar Srivastava)*

The above mentioned medical teacher had submitted Declaration Form to the Inspection team of the Council at the time of conduct of inspection of the medical college/institution claiming employment as a full time medical teacher in the concerned medical college/institution. He had also incorporated a statement in the Declaration Form that all the contents and statements made in the Declaration Form duly signed by him are correct and true to his knowledge.

On the examination of the records of the Council i.e. inspection reports and the Declaration Forms submitted by various medical colleges/ institutions inspected by the Council, it was prima facie found by the Monitoring Cell of the Council that the above mentioned medical teacher has made misstatements and false declarations in the Declaration Forms submitted by him to the effect and to the result that he has been found to be claiming employment as a full time medical teacher in more than one medical college/institution at the same point of time.

The above mentioned medical teacher was, therefore, issued "Show Cause Notices" calling upon him to explain why appropriate action be not taken against him for submitting more than one Declaration Forms signed and submitted by him claiming employment as full time medical teacher at the same point of time in more than one medical college/institution. Along with the respective "Show Cause Notice", all the Declaration Forms, which he had submitted to the inspection team of the Council were also sent to him.

The above mentioned medical teacher, pursuant to the Show Cause Notice issued to him, has submitted his written response giving his clarifications and explanations for the submission of more than one Declaration Form by him.

Upon consideration of the case of **Dr. Ajay Kumar Srivastava**, the Ethics Committee noted that explanation /clarification has not been found to be satisfactory and the misconduct of making mis-declaration/misstatement in Declaration Form having been found to be established.

The Ethics Committee perused the opinion of the Council Advocate Sh. Maninder Singh which reads as follows :-

*“Though the issue of interpretation of certain provisions of the Act and the Regulations made thereunder with regard to grant of direct registration and taking action against doctors for misconduct is pending before the Hon’ble Supreme Court, however, since filing of false declarations by the individual doctors with or without the involvement of college authorities with a view to fraudulently mislead the Council for falsely achieving the fulfillment of the minimum teaching requirement in the medical colleges, is a serious violation/offence having the potential of causing serious threat and prejudice to the general public and larger public interest, I am of the prima facie opinion that besides and in addition to informing the police authorities such illegal acts of omission and commission for necessary action, the Council would be well advised and empowered to initiate appropriate proceedings for removal of the names of such medical teachers from the Indian Medical Register, in accordance with law.*

The Ethics Committee also perused the decision of the General Body of the Council taken at its meeting held on 12.10.2004 on this matter in similar type of cases, the extract of which is as follows :-

*“Over a period of last 1-2 years by considering the inspection reports of various medical colleges seeking permissions /renewals under Section 10A of the Act, it was felt and observed that a large number of doctors are claiming employment as medical teachers in more than one medical college at the same time. It was being observed that the names of the doctors shown as medical teachers in a particular medical college were getting repeated in the inspection reports of certain other medical colleges, in the same proximity of time.*

*Apparently, the medical colleges and the medical teachers were indulging in such activities only to show to the inspection team of the Council that the colleges concerned are fulfilling the minimum requirement for the teaching staff for seeking permissions/renewals under Section 10A of the Act.*

*The Council, therefore, to curb such unscrupulous tendencies, started adopting methods in this regard. Declaration forms were introduced to be signed by the doctors claiming employment as medical teachers in any given medical college and that they also remain present along with their declaration forms, at the time of the conduct of the inspection of that college.*

*Subsequently, a provision for endorsement by the Dean/Principal of the medical college was also introduced in the Declaration Forms to make this requirement more efficient and effective by stating that in the event of any declaration made by a particular medical teacher turns out to be untrue and incorrect, the Dean/Principal of the college putting signatures as endorsement of the truthfulness of the statement made in the declaration would also be held responsible in that event.*

*Needless to state that the Council has always tried to improve in this regard for ensuring that such misdeclaration /misstatements are completely eliminated or minimized to the extent possible with the clear percept on that the Council should take appropriate action*

*against such erring doctors whenever it is found that the particular doctor has furnished more than one declaration forms towards claiming teaching employment in any medical college when such a doctor has already furnished similar declaration for claiming employment as medical teacher in certain other medical colleges at the same point of time.*

*This problem has engaged attention of the Council continuously during the last 1-2 years. The cases have also been considered by the Ethics Committee of the Council. Whenever it has been found that a particular doctor is claiming employment as medical teacher at the same point of time in more than one medical colleges, show cause notices had been issued seeking their replies. They were given due opportunities to present their explanation before the Ethics Committee.*

*This issue was considered by the General Body of the Council with all required seriousness. Undoubtedly, such kind of misconduct is much more serious than the alleged negligence in cases of treating the patients by doctors. Such misdeclarations /misstatements are made to cause deception not only to the Council but also on the Central Govt. for extracting permissions/renewals under Section 10A of the Act.*

*The worst part is that ultimately it is those innocent students who get admissions in such medical colleges where the minimum required medical teachers are shown only in such a dubious manner, causes irreparable prejudice to the fair interests of those students and further also to the patients who may be treated by such half-backed students who would not get their exposure and training with the minimum required number of medical teachers available to them.*

*The General Body was clearly of the view that such a tendency has to be completely eliminated and not only curbed. The situation does not brook any lenience in this regard and deserves to be dealt with a heavy hand. No doctor should ever be allowed to make such false declaration and get away with it. Timely efficient action in this regard is the need of the hour. It should also act as an effective deterrent so that others who are getting tempted to indulge into such activities should feel reluctant to do so."*

The Ethics Committee, after detailed deliberations and perusal of all the relevant documents as well as the oral and written statement of **Dr. Ajay Kumar Srivastava** along with the opinion of Advocate of this Council, Sh. Maninder Singh vide his letter dated 29.12.2003 and the decision of General Body dated 12.10.2004, have come to the unanimous decision that he has violated the Professional Conduct, Etiquette and Ethics Regulations, 2002 so far as the following sections are concerned:-

*Section 1.1.1.*

*A Physician shall uphold the dignity and honour of his profession.*

*Section 1.1.2.*

*The prime object of the medical profession is to render service to humanity; reward or financial gain is a subordinate consideration. Who- so-ever chooses his profession, assumes the obligation to conduct himself in accordance with its ideals. A physician should be an upright man, instructed in the art of healings. He shall keep himself pure in character and be diligent in caring for the sick; he should be modest, sober, patient, prompt in discharging his duty without anxiety; conducting himself with propriety in his profession and in all the actions of his life.*

The Ethics Committee is of the opinion that the Act of Commission in the part of **Dr. Ajay Kumar Srivastava** constitutes PROFESSIONAL MISCONDUCT, which render him liable for disciplinary action.

Under the above mentioned circumstances, the Ethics Committee unanimously recommended that his name may be erased from IMR temporarily for a period of 2

years, as per Section 8.1 of the PROFESSIONAL CONDUCT, ETIQUETTE AND ETHICS REGULATIONS, 2002, which reads as follows :-

*“Section 8.1 - PUNISHMENT AND DISCIPLINARY ACTION*

*“It must be clearly understood that the instances of offences and of Professional misconduct which are given above do not constitute and are not intended to constitute a complete list of the infamous acts which calls for disciplinary action, and that by issuing this notice the Medical Council of India and or State Medical Councils are in no way precluded from considering and dealing with any other form of professional misconduct on the part of a registered practitioner. Circumstances may and do arise from time to time in relation to which there may occur questions of professional misconduct which do not come within any of these categories. Every care should be taken that the code is not violated in letter or spirit. In such instances as in all others, the Medical Council of India and/or State Medical Councils has to consider and decide upon the facts brought before the Medical Council of India and/or State Medical Councils.”*

The Ethics Committee decided that the aforesaid decision may be placed before the Executive Committee and General Body of the Council for their approval and thereafter necessary action may please be taken following the procedure laid down in the Council.

**3.2.6 Undertaking given by Dr. V. Bhaskar Rao for working in more than one medical college simultaneously.**

Read: the matter with regard to undertaking given by Dr. V. Bhaskar Rao, a medical teacher for working in more than one medical simultaneously.

Dr. V. Bhaskar Rao was asked to attend the Ethics Committee meeting and he has attended. He has recorded the following statement before the Ethics Committee, which as under:-

**Statement of Dr. V. Bhaskar Rao**

*I, Dr. V. Bhaskar Rao, did my MBBS from VSS Medical College, Burla, Sambalpur, Orissa in the year 1970. I did my M.D. (Pathology) from Rangaraya Medical College Kakinada in the year 1997. I am registered with the Andhra Pradesh Medical Council, bearing Registration No.5396. My Date of Birth is 01.12.1943.*

*Regarding the case I would like to make the following statement. I Dr. V. Bhaskar Rao joined MNR Medical College, Sangareddy on February, 2007. After resigning from Bhaskar Medical College, Rangareddy, A.P. on 27.01.2007. I have never attended to Bhaskar Medical College, Rangareddy in any of the situation. I did not appear for MCI inspection in Bhaskar Medical College, Rangareddy on 17.04.2007. In addition to the statement the following documents I have submitted:-*

- (i) TDS statement*
- (ii) Bank statement*
- (iii) Resignation form by me at Bhaskar Medical College, Rangareddy on 27.01.2007.*
- (iv) Compliance report of Principal MNR Medical College, Sangareddy to MCI”.*

*Sd/-  
(Dr. V. Bhaskar Rao)*

The Ethics Committee went through all the documents pertaining to the case and observed that the Declaration Form provided by the office of Bhaskar Medical College, Rangareddy, A.P. does not have the signature of the Medical Council of India inspector nor any dates were put by anyone including the candidate himself as well as the Principal. However, from the documents submitted by Dr. V. Bhaskara Rao, it is seen that he has submitted a resignation letter to the Principal, Bhaskar Medical College, Rangareddy on 27.01.2007, which has been dully received by the Principal and he seal

has also been put. The Ethics Committee felt that the whole question was whether Dr. V. Bhaskara Rao appeared in the MCI inspection at Bhaskar Medical College, Rangareddy on 17.4.2007. Dr. V. Bhaskara Rao obviously denied this and has submitted certain documents including an affidavit. As already stated from the document in possession of MCI it cannot be substantiated that Dr. V. Bhaskara Rao attended the MCI dated 17.04.2007 for Bhaskar Medical College. The absence of inspectors signature alongwith the date in the inspection form has already been mentioned. Therefore the Ethics Committee feels that it has no valid ground to proceed further in this case as by the documents in its possession, it cannot be substantiated that he has worked in 2 medical colleges simultaneously. Therefore, the Ethics Committee decided to drop this matter and the file may be treated as closed.

### **3.2.7 Undertaking given by Dr. Samrendra Pratap Singh for working in more than one medical college simultaneously.**

Read: the matter with regard to undertaking given by Dr. Samrendra Pratap Singh, a medical teacher for working in more than one medical simultaneously.

Dr. Samrendra Pratap Singh was called to present before the Ethics Committee today i.e. 17.12.2007. Dr. Samrendra Pratap Singh has sent a letter dated 11.12.2007 which is received in this office on 14.12.2007. The Ethics Committee noted in this case that in the Declaration Form of Dr. Samrendra Pratap Singh of Santosh Medical College & Hospital, Ghaziabad there is over writing in the column in the date of joining present institution. The date of joining has been shown on 15.02.2007. It has been seen that Dr. Samrendra Pratap Singh has worked as Prof. and HOD of Anaesthesia at Dharbanga Medical College up to 30.04.2007 when he retired. A copy of the appointment letter issued by Santosh Medical College to him shows that date of issued as 08.05.2007. Obviously Dr. Samrendra Pratap Singh cannot join before his superannuation from the Govt. Medical College. The Ethics Committee feel that the Declaration Form submitted by Santosh Medical College Ghaziabad where there is over writing in the date of joining cannot be accepted. Therefore, the Ethics Committee unanimously decided that the case of working simultaneously in 2 medical colleges cannot be substantiated against Dr. Samrendra Pratap Singh. Therefore, this matter may be dropped and file may be treated as closed.

The Ethics Committee further noted that Dr. Surender Mohan Sharma & Dr. Bijoy Kumar Prasad did not appear before the Ethics Committee on 17.12.2007 and decided to give them one more chance to appear in its next meeting to be held on 21.01.2008 at 11.00.a.m.

### **4. Personal appearance of Dean/ Principal, SVS Medical College, Mahboob Nagar in the matter of medical teachers who have worked at more than one medical college simultaneously.**

Read: the matter with regard to Personal appearance of Dean/ Principal, SVS Medical College, Mahboob Nagar in the matter of medical teachers who have worked at more than one medical college simultaneously.

The Ethics Committee considered the matter with regard to Personal appearance of Dean/ Principal, SVS Medical College, Mahboob Nagar in the matter of medical teachers who have worked at more than one medical college simultaneously and noted that Dean of SVS Medical College was asked to appear before the Ethics Committee on 17.12.2007 but they did fail to do so. The Ethics Committee decided to call them in its next meeting.



5. **Seeking expert opinion in case No. C-70/04 titled Ritu Saini & ors. Vs. Indraprastha Apollo Hospital. (F.No. 132/2007)**

Read: the matter with regard to seeking expert opinion in case No. C-70/04 titled Ritu Saini & ors. Vs. Indraprastha Apollo Hospital.

The Ethics Committee called Ms. Ritu Saini – the wife of deceased Mr. Pradip Kumar Saini who along with others has lodged a case – No. C-70/04 Vs. Indraprastha Apollo Hospitals and the matter was referred to the Ethics Committee of MCI by Hon'ble State Consumer Redressal Commission, New Delhi.

Mrs. Ritu Saini along with her relatives appeared before the Ethics Committee on 17.12.2007. The Ethics Committee on seeing the distraught condition of Mrs. Ritu Saini also allowed her brother in law and brother of the deceased, Mr. Ashwani Saini to be present before it and give a joint statement. The statement was recorded as under:

**STATEMENT OF MR. ASHWANI SAINI AND MRS. RITU SAINI**

*“We, Ritu Saini (wife of deceased) and Ashwani Saini (younger brother of deceased R/o R-61, Khirki Extension, Malviya Nagar, New Delhi – 110017 wanted to highlight certain points:*

1. *Why MRI not done (Only CT Scan brain non contrast done).*
2. *Why CSF was not thought of?*
3. *Why EEG not done?.*
4. *Doctor must have applied their minds to the possibilities of viral encyplities.*
5. *Was viral Encyplities the cause of toxic hepatitis?*
6. *Why the lavage sample not sent for testing?*
7. *Why no post mortem was suggested, if there was any possibility of poisoning?*
8. *Why not MLC was made when doctor made poisoning as the initial possibility and finally diagnosed it as toxic hepatitis.*
9. *Why injection of lox was given when LFT was deranged and there was possibility of seizures.*
10. *We contacted Dr. Rakesh Gupta on his mobile phone several times between 02 p.m. to 08 p.m. to explain the condition of the patient, but he said he is OK and he will discuss once he come to the hospital. For six long hours he was nowhere around the patient.*
11. *No other doctor discussed the condition of the patient with us. It was only 07 p.m. when we visited the patient, at that time; the patient was complaining of pain in legs & burning in stomach. For that, we requested the duty Doctor and he gave tablet combiflam and digene in our presence.*
12. *At 09:30 p.m. we were called in MICU, when Dr. Gupta reached the patient and he told us that there is only 5 % chance of survival of the patient.*
13. *What measures were taken between 01 p.m. to 09 p.m. and why not any gastroentriologist consulted between this golden period.*
14. *Doctors took step after 09:30 p.m. when patient was deteriorating severely but what they had done before to diagnose the deceased.*
15. *Had prompt remedial measures been taken the chance of the deceased survival would have been possible?*
16. *Why CVP monitoring not done and IV fluids continued without monitoring?*
17. *Why RBS not checked regularly?*
18. *Why PT not crosschecked and monitored when it was deranged?*
19. *Why Non-steroidal anti-inflammatory drugs given when PT was deranged?*
20. *Why Inotrops delayed?*
21. *In view of poisoning ABG not done in the morning?*
22. *In case of nasopharyngeal bleeding why nasal packing delayed?*
23. *Lack in intensive monitoring which was very much required after hemodynamically unstable condition i.e. between 12:30 p.m. to 09:30 p.m. (golden period to save the life of the patient)*

24. Hemoptysis not ruled out then whey bronchoscopy and BAE not done.
25. The day of admission of patient was on Monday, June 16, 2003.

*According to us in this case, there is lack of appreciation of medical facts and medicinal application of mind on the part of Dr. Rakesh Gupta and Apollo Hospital”.*

Sd-  
(Ritu Saini)

The Ethics Committee took note of all the documents and the oral submission of the complaints.

The Ethics Committee noted that it has asked the Medical Director of I.P Apollo Hospital to appear before it today with all the hospital records pertaining to this case. The Ethics Committee noted that the director of I.P Apollo Hospital has failed to appear before it today. In her place one Dr. Deepak Vats, Senior Medical Officer has come and appeared before it. But he has not come with any letter authorizing him to appear before the Ethics Committee on behalf of the Medical Director. He has however brought hospital records with him, which he was directed to submit. The Ethics Committee decided not to record any statement of Dr.Vats who was not officially authorized to appear.

The Ethics Committee was pained to notice the very casual attitude and irresponsible behavior of the Medical Director of I.P Apollo hospital, New Delhi. He has neither bothered to appear personally though he was asked to. Neither has she bothered to give any explanation or regret of he not appearing personally before the Ethics Committee which even common courtesy demands. He has not bothered even to give a covering letter/authorization letter to a very junior subordinate staff whom he has sent with the records. The Ethics Committee unanimously feels that such casual and irresponsible behaviour is totally unbecoming of a doctor in such a high administrative position of a major hospital. It has further noted that he behaviour is violative in the letter and spirits of section 1.1.1 and 5.1 of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002 also. In view of the above, the Ethics Committee unanimously decides to record its displeasure and censure of Dr. Anupam Sibal, Medical Director, I.P. Apollo Hospital, New Delhi for such acts of irresponsibility amounting to misconduct. This may be informed to Dr. Anupam Sibal the Medical Director, I.P. Apollo Hospital,.

The above observation shall be recorded in the IMR against his name subject to the approval of the Executive Committee.

The Ethics Committee examined all the documents, the hospital records available and the statements of the treating doctors Dr. Rakesh Gupta and complainants Mrs. Ritu Saini and Mr. Ashwain Saini. The Hon'ble members of Ethics Committee had discussed in length with both the treating doctor and the complainants. After perusal of all the available documents, the Ethics Committee observed the following facts in management of the case:

The hospital records and also death summary showed that the patient attended the hospital at 09:15 a.m. on 16/06/2003 in a drowsy but conscious state obeying verbal commands and was shifted to MICU. The case was seen by treating doctor Dr. Rakesh Gupta and admitted under him.

The possibilities at first were recorded as:

- i) TIA/Seizure – post ictal confusional state
- ii) Cardiac Cause? Arrhythmia
- iii) Metabolic cause
- iv) Hypoglycemia
- v) Poisoning

Same day another record put the possibilities as:

- GTCS (General Tonic Cloni Seizure) with post ictal state
- Metabolic encephalopathy
- Unknown poisoning

Patient had nasal + oral bleed at 09:00 p.m. on 06/06/2003 with restlessness. The hospital notes stated that he had VT & VF from which he was stated to have been recovered after 4.4 360 J DC shocks (.) Severe Acidosis was recorded.

Considering that the patient was in MICU under central monitoring No records of cardiac events and acidosis as stated in hospital records could be provided by the hospital. The available charts do not show occurrence in such events as stated in records sheets.

The following possible diagnoses were entertained at this point of time.

- Septicemia? Viral
- **Unknown poisoning with hepatic involvement**
- **? Corrosive poisoning**

Later in addition to these, following possibilities were recorded:

- Toxic Hepatitis – Viral
  - Unknown poisoning i.e. DIC
3. The possibility is unknown poisoning/corrosive poisoning was entertained by the treating doctor Dr. Rakesh Gupta and the hospital as is evident by records of various doctors in the bed head of ticket and also it was stated by Dr. Rakesh Gupta before the Ethics Committee: However,
- a) Gastric leavage sample was not collected and preserved though it was done
  - b) Gastric leavage was not repeated and samples sent for testing for poisons
  - c) Urine was also not preserved and sent for testing for poisoning.
  - d) And under these circumstances when the distinct possibility of poisoning was entertained by the hospital and treating doctor:-
    - The case was neither made MLC nor police information was sent..
    - After death no postmortem was advised/ordered and carried out.
4. The death record claims that the patient was managed in lines of unknown drug ingestion but the points enumerated in para 3 above clearly shows that the available records don't bear out this claim.

Further nasogastric intubation with Ryle's tube in situ was not done.

- 5. When the patient complained of headache and bodyache he was given Tab Combiflam orally which is a strange analgesic and possibly unwarranted in these

circumstances. Rather the oral use of which may have led to severe bleeding through nose & mouth (massive haematemesis),

Though due to failed UGI **endoscopy** (due to massive bleeding) and the fact that no autopsy was carried out this cannot be substantiated. Still the use of tab combiflam orally can be labeled as inappropriate drug usage as other equally effective and safer alternatives were available. In the absence of proof of bleeding disorders and normal platelet count the cause of massive haematemesis may be attributable to it.

6. In the absence of EEG record (it was not done) and no MRI brain record the postictal confusional state can not be substantiated. The treating doctor and ICU treating team has failed to establish evidence for or against it.

7. The cause of death 'Toxic hepatitis' as given in the death summary is not born by available facts as,

1. Ultrasound showed only changes of fatty infiltration
2. Non reactive HAV & HEV report rules out known viral hepatitis.
3. The rise of liver enzymes as in the reports-though high were not very much so.

In presence of these reports and the absence of pre mortem liver biopsy (pre mortem & postmortem), autopsy report, the diagnoses of toxic hepatitis as a certainty cannot be accepted as a diagnosis beyond reasonable doubts.

8. The question of DIC cannot be entertained at any stage as no laboratory investigation to prove or disprove it were done at any time.

In view of the reasons recorded in para 3,4,5,6,7 & 8 above, the Ethics Committee is of the unanimous opinion that

- a) there was definite medical negligence in part of the treating doctor Dr. Rakesh Gupta in the management of this case.
- b) There was total failure of communication between the attendants of the patient and the treating doctor Dr. Rakesh Gupta and also of the ICU staff of I.P. Apollo Hospital which is deplorable and should not have happened.
- c) The legal formalities that should have been carried out (MLC) in a case all along suspected to be a case of poisoning were not carried out by treating doctor and hospital administration and management I.P. Apollo Hospital which would have stood in their favour. This act of omission also can be considered as medical negligence.

The diagnosis of toxic hepatitis is not supported by irrefutable evidences.

Further the inappropriate usage is drug, though may unintentional, shows a failure to exercise appropriate medical judgement.

Since this case was referred to Medical Council of India by Hon'ble State consumer redressal Commission, the minutes of this case with opinion as recorded may be submitted to the Hon'ble Commission. Further decision if any, on this case shall be taken by the Ethics Committee in its next meeting.

6. **Manual on medical negligence & consumer protection prepared by Secretary, Consumer Affairs, Govt. of Andhra Pradesh ( F. No. 394/2006)**

Read: the matter with regard to Manual on medical negligence & consumer protection prepared by Secretary, Consumer Affairs, Govt. of Andhra Pradesh.

*"The Ethics Committee considered the manual on medical negligence & consumer protection prepared by Secretary, Consumer Affairs, Govt. of Andhra Pradesh and decided to take few more days for come to a final decision as some of the points needs further clarification before come to conclusion and the Committee requested to the Hon'ble Member of the Ethics Committee Dr. D.J. Borah, to put up before the final recommendation by its meeting. The Ethics Committee further decided to refer the matter to the Legal Section of the Council for obtaining their views because this matter includes some legal points under different Acts. The Legal Section may be requested to submit their reply preferably within 15 days to the Secretary of the Council under intimation to the Ethics Section."*

Dr. D.J. Borah was submitted the final recommendation on 27.10.2006 and it was considered by the Ethics Committee 27.10.2006 and it was reads as under :-

*"The Ethics Committee went through the manual on medical negligence & consumer protection prepared by Secretary, Consumer Affairs, Govt. of Andhra Pradesh. The Ethics Committee is of the opinion that manual is prepared with a good intention of helping patients and consumer of the health services. However, after going through it, the Committee feels that this manual is not really complete in nature, neither it has been prepared in consultation with the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 as amended on 26<sup>th</sup> May, 2004. Further in the long list of deficiency of medical services is given wherein 28 items has been included, some of them are not entirely medically, scientifically correct. For example, the deficiency under the head of the Medical Services, Item No. 5, which states "due to administering an injection negligently if patient lost any part of his/her body, that amounts to deficiency of service". There are many such inaccuracy which may not stand serious scientifically scrutiny.*

*The Ethics Committee feels that the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 as amended on 26<sup>th</sup> May, 2004, exhaustively covered duties and responsibilities of physician in general (1B), 1.3, 1.4, 1.5, 1.6, 1.7, 1.9 and also duty to the physician to their patients in chapter 2, duty of the physician in consultation in chapter 3, duty of the physician to the public to the para medical professional in chapter 5, in chapter 6 it has put a list up unethical acts and in chapter 7 it has laid down the subject of misconduct of the physician. All these adequately cover the entire gamut on medical negligence. Moreover, there is already laid down procedure finding out whether the physician has been negligent towards its patient not only in a Court of Law but also in all the State Medical Councils as well as in Medical Council of India. In such a procedure, there is a thorough inquiry by the Ethics Committee in Medical Council of India and similar such committees in case of the State Medical Councils, wherein reputed doctors of good professional standing enquire regarding the complaint against the doctors. Moreover, there is a provision of calling of expert, where services of such expert to comment whether an act of negligence is committed or not is necessary. It is necessary to say that the question of medical negligence requires in depth inquiry and such should be done in pure medical and scientific basis. The Ethics Committee also observed that the Ethics Committee of Medical Council of India as well at the State Medical Councils have the power of punishment and the disciplinary action in case of such an errant and negligence medical professional. The Ethics Committee is of the opinion that the existing regulations, coupled with the established procedure of finding of negligence is not only adequate but is the actual correct scientific method to be followed. In view of the above, it feels that merely list of some procedure of negligence in a booked designed to help only consumer may create confusion as well as lead to situation, which may be un-intended. In view of the above, the Ethics Committee does not think that it can recommend the manual on medical negligence & consumer protection prepared by Secretary, Consumer Affairs, Govt. of Andhra Pradesh.*

*The Secretary, Medical Council of India, may please look into the matter."*

The matter was placed before the retainer advocate for his opinion and he has given the following opinion which are as under:-

*"The present case file has been referred to me by the legal section for giving the legal opinion on the aforesaid issue after the Ethics Committee decided to obtain the views on legal points under different acts.*

*After perusing the case file alongwith manual on medical negligence and consumer protection prepared by Secretary Consumer Affairs, Govt. of Andhra Pradesh, it has been observed by me that by the virtue of section 33 ( m) and section 20 (A) of IMC Act, the IMC has incorporated ( Professional Conduct, Etiquette and Ethics ) (Amendment) Regulations, 2003 which comprehensively regulates the professional conduct, Etiquette and Ethics for registered medical practitioner. This regulations contains 8 chapter which mentions in details about the required modus operandi for medical practitioners as well as it prescribes the punishment and disciplinary action in the event of any negligence or culpable mistake on the part of any registered medical practitioner.*

*Apart from it, the Consumer Protection Act 1986 also covers all type of negligence in medical services u/s 2(g) which covers deficiency in services and all type of negligence or carelessness in rendering medical services, which is also the present subject matter of the manual prepared by Secretary, Consumer Affairs, Govt. of Andhra Pradesh. The said manual is nothing but an attempt to make the objective judgement regarding cases of medical negligence or deficiency in medical services which is also completely covered by the ( Professional Conduct, Etiquette & Ethics) (Amendment) Regulations, 2003 The prime facie defect of the manual prepared by the Secretary, Consumer Affairs, Govt. of Andhra Pradesh is that there cannot be cut and drive formula for what is the negligence or deficiency in medical services. It depends upon the facts and circumstances of each case and the objective judgment of medical negligence or deficiency in medical service is best given by the different forums or the courts. The courts while deciding the cases of medical negligence or deficiency in medical services considers the different precedent and judgments/orders/settled principle of law already settled/decided by different courts and forums.*

*Therefore, in my opinion, keeping in view comprehensive regulations of MCI on Professional Conduct, Etiquette & Ethics brought in the year 2002 with prior approval of Central Govt. and the efficacious remedy available under the Consumer Protection Act, 1986 there is no requirement of the proposed manual prepared by Secretary, Consumer Affairs, Govt. of Andhra Pradesh and moreover, the said manual will create insurmountable difficulties and contradictions amongst the MCI Regulations and Consumer Protection Act on the one hand and the proposed manual on the other.*

*The said manual prepared by the Secretary, Consumer Affairs, Govt. of Andhra Pradesh will also be hit by Article 251 of the Constitution of India which read as under :-*

*"If provision of law made by the legislature of the State is repugnant to any provisions of law made by Parliament, the State Law shall, to the extent of repugnancy, be inoperative."*

*Therefore, the Consumer Protection Act, 1986 being the law legislated by the Parliament will always have primacy over the said manual prepared by the Secretary, Consumer Affairs, Govt. of Andhra Pradesh if the same takes the shape of Act/law in the future."*

The Ethics Committee considered the matter with regard to Manual on medical negligence & consumer protection prepared by Secretary, Consumer Affairs, Govt. of Andhra Pradesh. The Ethics Committee has taken note of the final recommendation prepared by the Ethics Committee and also the clear opinion of the retainer advocate of the Council on the legality as well as desirability of the Act. The Ethics Committee unanimously endorses the views expressed already and also endorsed the views of

retainer advocate of the Council. This may be informed to the Secretary, Medical Council of India and all the concerned parties may also be intimated.

**7. Complaint against Dr. M. Subhadra Nair, Consultant Obstetrician & Gynecologist and Dr. G.R. Nandkumar, Consultant Pediatrician, Cosmopolitan Hospital (P) Ltd., Murinjapalam, Thiruvananthapuram made by Mrs. Geetha Shibu Thomas, Trivandrum. (F.No.271/2007)**

Read: the matter with regard to complaint against Dr. M. Subhadra Nair, Consultant Obstetrician & Gynecologist and Dr. G.R. Nandkumar, Consultant Pediatrician, Cosmopolitan Hospital (P) Ltd., Murinjapalam, Thiruvananthapuram made by Mrs. Geetha Shibu Thomas, Trivandrum.

The Ethics Committee considered the matter with regard to complaint against Dr. M. Subhadra Nair, Consultant Obstetrician & Gynecologist and Dr. G.R. Nandkumar, Consultant Pediatrician, Cosmopolitan Hospital (P) Ltd., Murinjapalam, Thiruvananthapuram made by Mrs. Geetha Shibu Thomas, Trivandrum and decided to take up this case.

The Ethics Committee further decided that the complainant Mrs. Geetha Shibu Thomas Trivandrum may be requested to send all the documents pertaining to this case which she has submitted before the Hon'ble National Consumer Disputes Redressal Commission New Delhi in her First Appeal No.190 of 1997 to enable the Ethics Committee of the Medical Council of India to proceed this case.

The two doctors in question i.e. Dr. M. Subhadra Nair & Dr. G.R. Nandkumar may also be requested to give their registration particulars as well as parawise comments on the order of the Hon'ble National Consumer Disputes Redressal Commission New Delhi.

**8. Complaint against Dr. Manoj Agarwal, Belle Vue Clinic and Kothari Medical Centre, Kolkata as alleged by Mr. Bishoy Kumar Sarkhel, Alipore, Kolkatta (F.No.372/07)**

Read: the matter with regard to complaint against Dr. Manoj Agarwal, Belle Vue Clinic and Kothari Medical Centre, Kolkata as alleged by Mr. Bishoy Kumar Sarkhel, Alipore, Kolkatta.

The Ethics Committee considered the matter with regard to complaint against Dr. Manoj Agarwal, Belle Vue Clinic and Kothari Medical Centre, Kolkata as alleged by Mr. Bishoy Kumar Sarkhel, Alipore, Kolkatta. The Ethics Committee unanimously decided to write to Dr. Manoj Agarwal requesting him to provide his registration particulars as well as parawise comments on the complaint.

**9. Appeal for closure of B.P.Poddar Hospital & Medical Research, Kolkata as alleged by Mr. Ramakrishna Biswas (F.No. 395/2007).**

Read: the matter with regard to appeal for closure of B.P.Poddar Hospital & Medical Research, Kolkata as alleged by Mr. Ramakrishna Biswas.

The Ethics Committee considered the matter with regard to appeal for closure of B.P.Poddar Hospital & Medical Research, Kolkata as alleged by Mr. Ramakrishna Biswas and observed that the allegation of Sh. Ramakrishna Biswas, West Bengal which was forwarded by the Central Govt. Ministry of Health & F.W., New Delhi, is a complaint against B.P.Poddar Hospital & Medical Research, Kolkata as such it is not a complaint against any treating doctor. The Ethics Committee feel that this matter should be better deal under the relevant Act under the State Govt. and registered management of hospital. Therefore, the Ethics Committee decided to send it to the

Principal Secretary (Health), Govt. of West Bengal for necessary action at their end. All the documents may be sent under intimation to Ministry of Health & F.W., New Delhi.

10. **Complaint against Dr. K.N.Aggarwal as alleged by Ms. Shantha Sinha, Chairperson, National Commission for Protection of Child Rights, Govt, of India regarding misconduct during medical examination of students in Sardar Patel School in Delhi. (F.No.288/2007).**

Read: the matter with regard to complaint against Dr. K.N.Aggarwal as alleged by Ms. Shantha Sinha, Chairperson, National Commission for Protection of Child Rights, Govt, of India regarding misconduct during medical examination of students in Sardar Patel School in Delhi.

The Ethics Committee considered matter with regard to complaint against Dr. K.N.Aggarwal as alleged by Ms. Shantha Sinha, Chairperson, National Commission for Protection of Child Rights, Govt. of India regarding misconduct during medical examination of students in Sardar Patel School in Delhi and decided this case should be taken for final hearing in its next meeting. The Ethics Committee further noted that Dr. Manish Srivastav who was called on 18.12.2007 should be called on the first day of its next meeting.

11. **Complaint against Medical Mishaps-Representation/Private Hospitals as alleged by Mr. P. Raju (F.No. 52/2007).**

Read: the matter with regard to complaint against Medical Mishaps-Representation/Private Hospitals as alleged by Mr. P. Raju.

The Ethics Committee considered the matter with regard to complaint against Medical Mishaps-Representation/Private Hospitals as alleged by Mr. P. Raju and noted that Dr. Rashmi Rao has been requested to appear before the Ethics Committee on 17.12.2007 but she has failed to do so. The Ethics Committee decided that Dr. Rashmi Rao should be given a last and final chance to appear before the Ethics Committee in its next meeting at 1.00 p.m. failing which the Ethics Committee will be constrained to take ex-parte decision in this case.

12. **Appeal against the activities and order dated 26.10.2007 passed by Rajasthan Medical Council made by Sh. Ajeet Singh Singhvi, IAS (Retd.) (F.No. 277/2007).**

Read: the matter with regard to appeal against the activities and order dated 26.10.2007 passed by Rajasthan Medical Council made by Sh. Ajeet Singh Singhvi, IAS (Retd.).

The Ethics Committee considered the matter with regard to appeal against the activities and order dated 26.10.2007 passed by Rajasthan Medical Council made by Sh. Ajeet Singh Singhvi, IAS (Retd.) and decided to take up the appeal of Sh. Ajeet Singh Singhvi, IAS (Retd.) and may be requested to Sh. Ajeet Singh Singhvi, IAS (Retd.) to appear before the Ethics Committee in its next meeting.

13. **Appeal against order dated 15.06.2007 passed by Delhi Medical Council on the complaint made by Mr. Ram Kumar Gupta, Advocate. (F.No. 246/2007)**

Read : the matter with regard to appeal against order dated 15.06.2007 passed by Delhi Medical Council on the complaint made by Mr. Ram Kumar Gupta, Advocate.

The Ethics Committee went into the matter of appeal against the order dated 15.06.2007 passed by Delhi Medical Council on the complaint made by Mr. Ram Kumar Gupta, Advocate.



The Ethics Committee has thoroughly examined the different aspects of this case and also of the documents that are available. The Medical Director of Sir Ganga Ram Hospital, Dr. Nalini Kaul was called and her oral as well as written submission has been obtained. The doctor against whom the complaint was lodge namely, Dr. S.S. Saha has also been called and his statement was obtained along with his written submission.

The Ethics Committee also called Dr. Rajesh Khullar and his oral as well as written statement was recorded. Further para-wise comments were obtained on the complaint of Mr. Ram Kumar Gupta from Dr. S.S. Saha which are part of the record. The complainant Mr. Ram Kumar Gupta was also requested to appear before the Ethics Committee number of times placed on 10.08.07 at 03:00 p.m. and again on 11.09.2007 at 11:00 a.m.

Mr. Ram Kumar Gupta appeared on 11.09.07 before the Ethics Committee. He has submitted a written statement along with arguments and annexures to the Chairman Ethics Committee. He has refused to give any oral submission on that date.

After examining all the aspects and the documents pertaining to the case the Ethics Committee is of the unanimous opinion that the Delhi Medical Council has dealt with the case in a very judicious and proper manner and has arrived at a reasoned decision. The Ethics Committee, therefore, decided to endorse the decision taken by Delhi Medical Council on June 15, 2007. The appeals of both Mr. Ram Kumar Gupta, the original complainant as well as Dr. Nalini Kaul, Medical Director , Sir Ganga Ram Hospital and Dr. S.S. Saha treating doctors are hereby dismissed.

The penalties awarded by the Delhi Medical Council shall stands and the facts shall be registered in the IMR against the doctors to whom penalties have been awarded.

This may be communicated to all the concerned and the file may be treated as closed.

14. **Clarification as quaries raised by Mr. S.K. Ganguly. (F.No. 517/2006)**

Read : the matter with regard to clarification as queries raised by Mr. S.K. Ganguly.

The Ethics Committee discussed in detail the case of complaint by Mr. S.K. Ganguly against Dr. T.K.Lehiri. After going through all the documents available in this case it has also called Mr. S .K. Ganguly and the complainant and record their statements. Further, these documents have also been submitted by Mr. S. K. Ganguly which was acknowledged by the Ethics Committee.

The Ethics Committee considered the matter with regard to clarification of queries raised by Mr. S.K. Ganguly. Mr. S.K. Ganguly who has made a complaint to the Medical Council of India against Dr. T.K. Lahiri was asked to appear before the Ethics Committee on 15.10.2007 and he has appeared. Mr. S.K. Ganguly apprised the members of the Ethics Committee regarding the facts of the case. He has given a written submission before the Ethics Committee which is as follows:-  
"15.10.2007

**Statement of Mr. S.K. Ganguly**

*I, Mr. S.K. Ganguly s/o Late Smt. Usha Rani Ganguly residence of B1/32, Sheesh Mahal Colony, Kamachha, Varanasi- 221010 (U.P.) would like to make the following statement before the Ethics Committee for record and submitting 21 pages containing blood reports correspondences for issue of death certificate and 4 photocopy of death certificate (phase wise).*

*I have made already written submission alongwith all the documents pertaining to this case. My oral submission would be in addition to what have been already submitted.*

*After a heavy dinner my mother complaint a moderate pain below left rib on 10.12.2000 being Sunday we took her a nearby hospital i.e. R.K. Mission Hospital where after all investigations, she was diagnosed left sided Diaphragmatic Hernia.*

*They advised to give her food in installments (not to load the stomached) to avoid any pain in future. They also advised to take the opinion of Dr. T.K. Lahiri attached to local medical college. By taking food in installments she never complaint any abdominal pain and was doing her routine works very actively. But the second advice of the doctor to show her Dr. T.K. Lahiri proved fetal and its costed her life. Dr. T.K. Lahiri a Cardiothoracic Surgeon of Medical College, Varanasi, who was not allowed any surgery for approx. 20 years because of his extreme behaviour, examined my mother pm 18.01.2001 and advised through his junior for a small operation of 6 to 8 inches below left rib to separate the attached portion of stomach and intestine from the Diaphragm & put a proline mesh for her better life of another 10 to 12 years. We agreed for it but once she is taken inside the OT her 32 inches abdominal area is opened and a major surgery of abdomen is conducted.*

*Sir, we feel it was a simple case of care and cure, which was unnecessarily conducted into a major abdominal surgery (without taking any abdominal specialist) with just two junior doctors were basically for academic purpose of his junior doctors.*

*Post operatively she was loaded with lethal doses of antibiotic (Gentamicin 120 mg per day + cefuroxime 2250 mg per day + pain killer injection KETANOV 90 MG PER DAY FOR 12 DAYS). This resulted A.R.F. due to drug accumulations.*

*On 6<sup>th</sup> day when first time her blood test was done the serum creatinine and blood urea was found critically high. Dr. Lahiri never bothered to control these rapidly rising blood urea and Sr.Cr. He also ignored written instructions of Nephro doctor advices for USG of her full abdomen and Hemodialysis. It seems that during operation some major incidents happened for which he was afraid of sending her to Nephro Department for actual line of treatment of reversible A.R.F.*

*As a result of it my mother developed Uremia. At the later stage (two days before her death, Dr. Lahiri asked the Nurse to open her Oxygen Mask and remove all I.V. fluids and handover the death certificate booked to him, when my mother was unconscious and struggling for survival. On our complaint to the Deputy Medical Superintendent Dr. (Capt.) V.K. Hardutt, she could be shifted to I.C.U. The incharge of the ICU said that if Nephro Department takes her admission under them and then refer the case to ICU we can operate the machine and save your mother life. But Dr. Lahiri kept all the doors closed for it. The comments of ICU incharge on 7<sup>th</sup> & 8<sup>th</sup> March, 2001 regarding my mother's admissions to ICU and regarding non-availability of H.D. machines are the vital proofs. On 8<sup>th</sup> of March at 7.15 p.m. Dr. T.K. Lahiri intered into the ICU and vigorously pressed mother's abdomens up and down (to destroy the evidences for post mortem) and at 7.40 p.m. she expired. All post operative X-ray plats which can reveals the facts are still in custody of Dr. T.K. Lahiri.*

*We were harassed for 9 months by Dr. T.K. Lahiri to issue her Death Certificate as we refused to give him in writing on stamp paper not to take any action against him.*

*Sir, I feel by going through the entire reports (treatment as well as investigations). The whole matter will be cleared that he has willfully killed her to hide his mistakes. I am fully assured that your esteemed faculty will definitely consider this serious case after my personal visit with my younger brother to your Delhi office on 15.10.2007. I am sure JUSTICE will be done in this case.*

*Thanking you,  
Sd/-  
(Mr.S.K. Ganguly)"*

The Ethics Committee also called Dr. Tapan Kumar Lahiri in its meeting on 06/12/2007 and obtains his statement which is as follows:-

**Statement of Dr. T.K.Lahiri**

- “1. This is my written statement regarding the complaints made by Mr. S.K.Ganguly on 15.10.2007.
2. Paragraph No. 3 has nothing to do with complaints with which the said patient Mrs. Usha Rani Ganguli has been admitted.
3. As I was the Head of the Department in 2001, I had been asked to evaluate the patient. This patient was an old lady of 74 years who was suffering large left sided diaphragmatic hernia along with chronic respiratory distress. The investigations performed outside revealed a large diaphragmatic hernia which was confirmed by CT SCAN study of the thoraco abdominal region. The all original records of patient are with Mr. S.K. Ganguly. We advised repair for the same with high risk we discussed the difficulties of operation in this poor risk patient.
4. The patient was subsequently referred to Department of Anaesthesiology for pre operative assessment. They examined the risk of operation and induction of anaesthesia for which informed written consent was taken and signed by Mr. S.K. Ganguly.
5. The patient was operated on 17<sup>th</sup> February 2001. The patient was operated by left posterolateral thoracotomy along with midline abdominal incision because of large diaphragmatic hernia.
6. the patient was followed intensively in the post operative ward and treated with I.V. Fluid, RT aspiration, antibiotics (Cefuroxime. Gentamycin. Metronidazole) and analgesics in this case Ketorlec in safe doses). Nursing records can be verified. On 22<sup>nd</sup> February the patient developed renal failure on the 5<sup>th</sup> postoperative day and Inj. Gentamycin was withdrawn promptly other medicines are safe medicine which can be used in cases of renal failure.
7. Regular Nephrology service along with others consultation performed in this dialysis from our center.
8. The wording of the last paragraph is under estimation and distortion of the true fact because a knowledgeable doctor can not ask for removal of oxygen mask and IV. Fluid line in a serious patient.
9. Medical certification including death certificates was issued by the Superintendent of SS Hospital, I.M.S., B.H.U. Only provisional death certificates are issued for disposal of admitted patient.
10. Please note that patient expired on 8<sup>th</sup> March, 2001 inspite of our whole hearted approach to save her because of sepsis along with renal failure and terminal pulmonary oedema.
11. All the medical records are submitted to you for your kind perusal (Date 08.10.2007 ref. No. C.Tho. Surg/07-06/180).
12. Mr.S.K.Ganguly has raised the question of efficiency. Please note I am F.R.C.S. (C) General surgery in 1969 and M.Ch. in Thoracic Surgery in 1972 from All India Institute of Medical Sciences, New Delhi. I was the Lecture, Reader and Professor including Head of the Department in this department. As per MCI rule no body can even apply for Cardiothoracic Surgery until MS (General Surgery)/FRCS in General Surgery.
13. All the original certificates have been verified by West Bengal Medical Council of India.”

After thorough discussion of the case and examination of the various documents the Ethics Committee is of the view that there was certain amount of carelessness and casual approach in handling this case by Prof. T.K. Lahiri. Moreover communication from his side with the patient and her attendants was seriously lacking. On review of the treatment given by Dr. Lahiri, it has been observed that the lack of such communication has led to such complaints as of using inappropriate drugs in inappropriate situations and in inappropriate doses. In view of the above, the Ethics Committee unanimously decided to issue a warning to Dr. T.K.Lahiri to be more careful and caring to patient in future and to maintain higher standards of Professional medical Treatment which includes proper doctor patient's communication and relationship.

This may be placed before the Executive Committee/General Body for approval.

15. Appeal against Order of Delhi Medical Council dated 30.12.2006 made by Mr. M.K. Kamood. (F.No. 29/2007)

Read : the matter with regard to appeal against Order of Delhi Medical Council dated 30.12.2006 made by Mr. M.K. Kamood.

The final decision of this case will be taken in its next meeting.

(ASHOK KUMAR HARIT)  
DEPUTY SECRETARY

New Delhi,  
dated the 18<sup>th</sup> December, 2007.

**A P P R O V E D**

**(DR. DHRUBAJYOTI BORAH)**  
**C H A I R M A N**