DMC/DC/F.14/Comp.2340/2/2022/ 23rd May, 2022

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a **complaint of Smt. Seema Bhambri, r/o C-2/53, Ashok Vihar, Phase-II, Delhi-110052, alleging medical negligence on the part of doctors of Max Super Specialty Hospital, Shalimar Bagh, Delhi, in the treatment administered to the complainant at Max Super Specialty Hospital**.

The Order of the Disciplinary Committee dated 15th March, 2022 is reproduced herein-below :-

The Disciplinary Committee of the Delhi Medical Council examined a **complaint of Smt. Seema Bhambri, r/o C-2853, Ashok Vihar, Phase-II, Delhi-110052 (referred hereinafter as the complainant), alleging medical negligence on the part of doctors of Max Super Specialty Hospital, Shalimar Bagh, Delhi, in the treatment administered to the complainant at Max Super Specialty Hospital (referred hereinafter as the said Hospital)**.

The Disciplinary Committee perused the complaint, written statement of Max Super Speciality Hospital enclosing therewith written statement of Dr. Rudra Prasad Acharya, Asso. Director, Surgical Oncology, Max Super Speciality Hospital, copy of medical records of Max Super Speciality Hospital and other documents on record.

The following were heard in person :-

1. Dr. Rudra Prasad Acharya Director, Surgical Oncology, **Max**

 **Super Specialty Hospital**

1. **Dr. Archana Medical Superintendent, Max Super**

 **Specialty Hospital**

The Disciplinary Committee noted that the complainant **Smt. Seema Bhambri** failed to appear before the Disciplinary Committee, inspite of notice.

In the interest of justice, the Disciplinary Committee decided to proceed with the matter in order to determine it on merits.

It is noted that as per the complaint, it is alleged that in January, 2017, the complaint had knee pain and swelling on her left knee, she went to Max Hospital, Shalimar Bagh and consulted orthopaedic doctor Dr. Palash Gupta, who referred some lab tests and x-ray. After examination, he gave some medicines. After taking the medicine, she felt little comfortable. Again in August, 2017, she developed the same pain and swelling on her knees. She again consulted Dr. Palash Gupta at Max Shalimar Bagh, Delhi. Dr. Palash Gupta advised for various tests and referred to Dr. Saket an endoconologist in the same hospital. She was further advised for the clinical tests like C.T. scan, blood and ultrasound. She was diagnosed with hyperpara thyrodisium. She was told to undergo the surgery during counselling by Dr. Rudra Acharya, Surgeon and she was told that they will remove one gland from her neck and parathyroid will become normal at the operation table itself. She was operated on 25th August, 2017 and was discharged from the hospital in a day. After coming home, Dr. Rudra told her to get PTH level checked; it was found at the same level as it was before the surgery. She went to Dr. Rudra again and got her ultrasound done and told him that he has removed another gland instead the gland having hyperpara thyrodisium. She consulted another doctor an enchologist Dr. Wangnoo at Apollo Hospital, Delhi; she was again advised for the same test and after examining the reports, he(Dr. Wangnoo) referred her for the surgery to B.L.K. Hospital with Dr. Vivek Aggarwal a specialist for endocrine surgery. She again underwent the surgery on 08th November, 2017, which was done successfully. Her submission to the Delhi Medical Council is to investigate into the matter and take action against Dr. Rudra Acharya who has removed one healthy gland from her body and she has faced the trauma of the second surgery in span of one month. Dr. Rudra has never checked the PTH level in her blood after performing the surgery in OT, as she was told in counselling session.

Dr. Rudra Prasad Acharya, Asso. Director, Surgical Oncology, Max Super Speciality Hospital in his written statement averred that the complainant Smt. Seema, 56 years female, had presented to him after treatment from ortho. surgery and endocrinologist for her pain in bone and joints. They had diagnosed hyper parathyroidism and had referred her to him for the surgery. He examined the complainant and reviewed her reports. The reports indicated an adenoma in one of the parathyroid glands on the right side. It was stated to be lower gland. Besides other investigations, parathyroid scan was done on 15th September, 2017. This showed “An area of increased Tc-99 m SESTAMIBI concentration is shown below the lower pole of the right lobe thyroid. The pattern is s/o hyper functioning parathyroid tissue. No other area of abdominal Tc-99 m SESTAMIBI localization seen in the camera field of view”. He explained the details to the complainant and accompanying attendants. He confirmed the diagnosis of hyper parathyroidism and attributed this to a possible adenoma. He confirmed that surgery was the best treatment for it. However, he also explained the limitations of the surgery as well as the potential risks of surgery. He had specifically informed them about the variations and variabilities in the size, shape, colour and location of the parathyroid glands and the related difficulties in locating and / or identifying these glands. Whether it contains' an adenoma or not can also be very difficult to determine. In view of these limitations and difficulties, he had explained that they would do a frozen section examination of the tissue during surgery before removal, so that they were sure of having removed the parathyroid gland. He had told the complainant and her attendants that the postoperative PTH levels will be done to see how much it has come down. After such detailed discussion and after answering their further queries, the complainant made an informed choice and signed the informed consent form. The surgery was performed as per standard guidelines on 23rd September, 2017. There was a 1 cm, enlarged, firm right inferior parathyroid gland, USG neck was done on the operation table, position of the adenoma localized and relation with thyroid and carotid noted. The Surgery was done as per the standard guidelines. They identified what appeared to be the right lower gland, as had been localized and removed. It was confirmed to be parathyroid gland on frozen section. The procedure was concluded smoothly. Unfortunately, the removed gland on HIP examination, though confirmed to be the parathyroid gland, failed to show an adenoma. Also the PTH levels did not show any decrease (ie> 200). The USG neck done at Max Hospital and at Saral Diagnostic Centre(as suggested by him) showed no gland at the operated site at the inferior pole. Due to the persistent high levels of PTH, another Sestimibi scan was done and it showed the presence of an adenoma. He discussed these reports with the complainant and her attendants and advised further investigations and re-operation, after further locating its site. The complainant chose to get it done elsewhere. He respects her freedom of choice. He is happy that her problem has been resolved. Medical practice has limitations in diagnosis, investigations, treatment and in outcomes. No doctor can ever hope to always achieve 100 % accuracy in diagnosis, macroscopic differentiation of tissues, medical or surgical treatment and in result of the treatment. Similarly, result and outcome of the treatment, by itself cannot be attributed to negligence or deficiency of service. Parathyroid glands generally consist of small ill defined tissue, two on each side behind the lobes of thyroid, with lot of variations & variabilities. They are not only difficult to identify but also known to vary in size; shape, appearance, consistency and location. Of all the endocrine glands, parathyroids are probably the most inconsistent in their features. Parathyroid glands are known to be very misleading on imaging studies. The USG and CT scan may fail to pick up a gland or may miss an adenoma in a gland or there may be bonafide errors in recognition of the tissue or its location. During the surgery, with so many important vessels and nerves lying in close proximity, there can be some difficulties in locating and / or identifying the different parathyroid glands. Sometimes, what appears to be the lower gland may actually be the upper one and vice versa. Sometimes there may be only one gland on each side. As a matter of fact, parathyroid glands are notorious for their variations & variabilities. Even in high volume centres, which perform more than 50 cases of parathyroidectomy per year, there is a failure rate of 18 % (ref... ). At the hospital where he works (Max Hospital, Shalimar Bagh), the average volume of such cases is 10 per year. Failed parathyroid surgery is very common to the extent of 15 to 20 % in centres which perform less than 50 cases a year. Even in the high volume centres, the failure rate is 8 to 10 %. The literature shows that the failure occurs because the surgeon could not find the parathyroid gland in 88 % cases or the surgeon removed one abnormal parathyroid gland and the complainant still had one or more abnormal parathyroid gland, as occurs in 12 % cases. These reasons are responsible for the persistent primary hyper parathyroidism. All the relevant details were explained to the complainant, no guarantees were given and nothing was concealed from her. After the surgery, the operative findings, procedure performed and the frozen section findings were duly explained to the complainant and her family members. The PTH was done post-operatively, as per standard protocol. When no decrease in the level was found, this was not ignored nor was it concealed from the complainant. The complainant was offered further investigation and re-operation. She (the complainant) was given the option of having it done at our centre or elsewhere if desired, and she chose to go elsewhere and they had respected her (the complainant) decision. It is good that the problem has got resolved. In view of the above, it is prayed that the complaint be dismissed, as a bonafide error of judgment in the surgical treatment of hyper parathyroidism, does not amount to negligence. Unlike mathematics, medical science has lot of limitations. Similarly, the medical practitioners are but human beings and a bona fide error of judgment in identification and location of parathyroid cannot be attributed to medical negligence by any standards.

Max Super Speciality Hospital in its written statement averred that the complainant Smt. Seerna Bhambri, aged 56 years, had visited the hospital with the complaint of body pain and attended by Dr. Palash Gupta, Director-Department of Orthopaedics and Joint Replacement. On investigation, it was observed that PTH and calcium level of the complainant were very high. Keeping in view of the same, the complainant was suggested for parathyroidism and Dr. Palash Gupta had referred the complainant to consult an endocrinologist and oncologist for further management. After such referral from Dr. Palash Gupta, the complainant had consulted Dr. Saket Kant, Consultant, Department of Diabetes and Endocrinology and the complainant was further referred to Dr. Rudra Prasad Acharya, Senior Surgical Oncologist (treating doctor). Dr. Rudra Prasad Acharya had reviewed all the reports of the tests including the parathyroid scan (PTH scan) and the reports indicated adenoma in one of the parathyroid glands on the right side. The PTH scan was done on 15th September, 2017and the report of the PTH scan clearly showed, "An area of increased Tc-99m SESTAMIBI concentration is seen below the lower pole of the right lobe a/thyroid*.* The pattern is s/o hyper functioning parathyroid tissue. No other area of abnormal Tc-99m SESTAMIBI localization seen in the camera field of view". Dr. Rudra Prasad Acharya counselled the complainant and her attendants about the diagnosis of hyper parathyroidism and attributed this to a possible adenoma, the treatment process, also about the limitations of the surgery and the possible risk associated with the surgery. An informed consent was obtained from the attendant of the complainant being her daughter. Dr. Rudra Prasad Acharya also counselled and advised the complainant and the attendants that the complainant can be treated only by parathyroidectomy. The complainant and her attendants were specifically explained about the variations and variability in the size, shape, colour and location of the parathyroid glands and the related difficulties in locating and / or identifying these glands, which is a known complication in such cases and surgeries. It was also explained by Dr. Rudra Prasad Acharya that it is very difficult to identify the exact parathyroid gland and also it is very difficult to determine whether the said parathyroid gland has adenoma or not. During the family meeting, it was also explained that a frozen section examination of the tissue will be done during surgery before removal, so that the parathyroid gland will be identified and removed. It is stated that after the detailed discussion and answering all the queries of the complainant, the Consent Form was executed by the complainant’s attendant. The surgery was performed as per standard guidelines on 23rd September, 2017 *(*as against the date mentioned by the complainant in the complaint being 25th August, 2017*).* There was a 1 cm. enlarged, firm right inferior parathyroid gland. The USG neck was done on the operation table, position of the adenoma localized and relation with thyroid and carotid noted. The parathyroid gland was identified what appeared to be the right lower gland as had been localized and the same was confirmed to be parathyroid gland on frozen section, which was conducted before the removal of the same. It is only after the confirmation from the frozen section examination, the parathyroid gland was removed and the surgery was concluded. As advised by Dr. Rudra Prasad Acharya, post-surgery tests were conducted and shown to Dr. Rudra Prasad Acharya, however, no significant decrease in PTH and calcium level were observed. Keeping in view of the same, Dr. Rudra Prasad Acharya further suggested another surgery to remove the parathyroid gland with adenoma; however, the complainant chose to get it done from elsewhere. At the outset, they wish to state that the allegations of the complainant, as mentioned in the complaint, are unfounded and misconceived. It is submitted that the surgery/procedure being right side focused parathyrodectomy under GA (General Anaesthesia) was performed as per the established medical protocols and process universally adopted and accepted. It is submitted that an informed consent was given by the attendant of the complainant, after a detailed counselling and briefing about the diagnosis of hyper parathyroidism and a possible adenoma. The complainant and the attendants were specifically explained by Dr. Rudra Prasad Acharya about the limitations of the surgery as well as the potential risk of the surgery. Further, the complainant and her attendants were specifically explained about the variations and variability in the size, shape, colour and location of the parathyroid glands and the related difficulties in locating and / or identifying these glands, which is a known complication in such cases and surgeries. It was also explained by Dr. Rudra Prasad Acharya that it is very difficult to identify the exact parathyroid gland and also it is very difficult to determine whether the said parathyroid gland has adenoma or not. During the family meeting, it was also explained that a frozen section examination of the tissue will be done during surgery, before removal, so that the parathyroid gland will be identified and removed. It is submitted that the allegation with regard to removal of a healthy gland is absolutely ill-founded, as it is very much evident from the reports, which includes the frozen section report and the histopathology report, that the gland was indeed an abnormal parathyroid gland.

In view of the above, the Disciplinary Committee makes the following observations :-

1. The complainant Smt. Seema Bhamrbi, 56 years female, with a diagnosis of Right Inferior Parathyroid Adenoma, underwent the surgical procedure of Right Inferior Parathyroidectomy, under G.A., under consent on 23rd September, 2017 at Max Hospital. The surgery was performed by Dr. Rudra Prasad Acharya. Post-operative period was uneventful and the complainant was discharged on 24th September, 2017. The complainant was subsequently diagnosed with recurrent primary hyperparathyroidism and underwent neck exploration with focused parathyroidectomy for right lower parathyroid tumor on 08th November, 2017 at BLK Hospital and 3 x 2 cm adenoma was removed in the lower right parathyroid inside carotid sheath. She was discharged on 09th November, 2017.
2. It is pertinent to note that as per the parathyroid scan dated 15th September, 2017-an area increased Tc-99m SESTAMIBI concentration was seen below the lower pole of the right lobe of thyroid. The pattern was suggestive of hyper-functioning parathyroid tissue. No other area of abdominal Tc-99 m SESTAMIBI localization was seen in the camera field of view. Further, the histo-biopsy parathyroid (SB-3189/17) frozen section-121/7 reported parathyroid tissue identified (measuring 1.2 x 0.3 x 0.2 cam) and no evidence of malignancy. The Discharge Summary of Max Hospital (O.T. notes) mentioned that adenoma mobilized and dissected of the carotid and thyroid carefully and excised.
3. The challenges of identifying or locating of parathyroid gland is very well documented in medical literature; however, the same should have been documented in the records of the patient, particularly in the Consent Form; so that the patient was aware of the complexities associated with the surgery.

In light of the observations made hereinabove, it is the decision of the Disciplinary Committee that no medical negligence can be attributed on the part of the **part of doctors of Max Super Specialty Hospital, Shalimar Bagh, Delhi, in the treatment administered to the complainant at Max Super Specialty Hospital.**

Complaint stands disposed.

 Sd/: Sd/: Sd/:

(Dr. Maneesh Singhal) (Dr. G.S. Grewal) (Dr. Subodh Kumar)

Chairman, Delhi Medical Association Expert Member,

Disciplinary Committee Member, Disciplinary Committee

 Disciplinary Committee

The Order of the Disciplinary Committee dated 15th March, 2022 was confirmed by the Delhi Medical Council in its meeting held on 29th April, 2022.

 By the Order & in the name of Delhi Medical Council

 (Dr. Girish Tyagi)

 Secretary

Copy to :-

1. **Smt. Seema Bhambri, r/o C-2/53, Ashok Vihar, Phase-II, Delhi-110052.**
2. Dr. Rudra Prasad Acharya, OMAXE Grand, Uttar Pradesh-201304.
3. Medical Superintendent, Max Super Speciality Hospital, FC-50, C & D Block, Shalimar Bagh, Delhi-110088.

 (Dr. Girish Tyagi)

 Secretary