DMC/DC/F.14/Comp.2970/2/2022/ 04th October, 2022

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a complaint of Shri Rajpal s/o Shri Bishamber Dyal, r/o Gram and Post Bihali, Tehsil Ateli, Mahendragarh, Haryana 132029, forwarded by Medical Council of India, alleging medical negligence on the part of the doctors of AIIMS, Delhi, in the treatment of complainant’s daughter Ms. Ritika, resulting in her death on 26.10.2018.

The Order of the Disciplinary Committee dated 04th August, 2022 is reproduced herein-below:-

The Disciplinary Committee of the Delhi Medical Council examined a complaint of Shri Rajpal s/o Shri Bishamber Dyal, r/o Gram and Post Bihali, Tehsil Ateli, Mahendragarh, Haryana 132029 (referred hereinafter as the complainant), forwarded by Medical Council of India, alleging medical negligence on the part of the doctors of AIIMS, Delhi, in the treatment of complainant’s daughter Ms. Ritika (referred hereinafter as the patient), resulting in her death on 26.10.2018.

The Disciplinary perused the complaint, written statement of Medical Superintendent, All India Institute of Medical Sciences enclosing therewith joint written statement of Dr. Vishesh Jain, Associate Professor, Dr. Sandeep Agarwala, Professor and Dr. M. Bajpai, Professor and Head, Department of Paediatric Surgery, All India Institute of Medical Sciences; written statement of Dr. Vishesh Jain; joint written statement of Dr. Saumya Jagannath, Assistant Professor and Dr. Anoop Saraya, Professor, Heads of Department of Gastroenerology, All India Institute of Medical Sciences, copy of medical records of All India Institute Medical Sciences and other documents on record.

The following were heard in person:-

1) Shri Rajpal Complainant

2) Dr. Vishesh Jain Additional Professor, Department of Paediatric Surgery AIIMS, Delhi

3) Dr. Sandeep Agarwala Professor, Department of Paediatric Surgery

AIIMS, Delhi

4) Dr. Saumya Jagannath Assistant Professor (Contractual), Department of Gastroenterology AIIMS, Delhi

5) Dr. Shalimar Additional Professor, Department of Gastroenterology AIIMS, Delhi

The Disciplinary Committee noted that Dr. Anoop Saraya and the Director, All India Institute of Medical Sciences, New Delhi failed to appear before the Disciplinary Committee, inspite of notice.

The complainant Shri Rajpal alleged that his 11 years old daughter Ms. Ritika had swallowed a seed of fruit, for which, he consulted a local hospital, RML Hospital, L.N. Hospital and finally took her to AIIMS late night on 31.08.2018. His child was admitted in AIIMS on 01.09.2018. A gastrostomy was constructed to feed the child. Thereafter, he was asked to make arrangement for blood for the surgery for removal of the seed. However, the surgery was not done and on 7.09.2018, the patient was discharged and asked to follow-up on 14.09.2018 and then on 18.09.2018 and thereafter on 28.09.2018. On 28.09.2018, the gastrostomy tube was replaced subsequent to which, there was bleeding from the gastrostomy site and her condition started deteriorating. The child was taken to S.M.S. Hospital, Jaipur but no treatment was given there. The patient was again taken to AIIMS on 12.10.2018, where the doctor’s said that a machine which was required to remove the seed was not available and demand has been raised for the same and the same will be available on 15.10.2018. The patient reported to AIIMS on 17.10.2018 but the machine was still not available. Thereafter, the complainant was asked to contact telephonically regarding the availability of the machine. The patient’s condition started deteriorating on 25.10.2018 but no doctor picked up his call. On 26.10.2018, on enquiring telephonically from AIIMS, it was informed that because of the gastrostomy, there was some problem in the liver, which would settle down. Unfortunately, the child died on 26.10.2018. The child died because no proper treatment was given by the doctors of AIIMS. It is, thus, requested that strict action be taken against the guilty doctors of AIIMS.

Dr. Vishesh Jain, Additional Professor, Department of Paediatric, Surgery AIIMS, Delhi in his written statement averred that the patient Ms. Ritika had presented to the pediatric casualty AIIMS New Delhi on 31.08.2018. The patient had history of dysphagia and a history of ingestion of a food seed approximately 20 days back. An endoscopy had been done on 29.08.2018 elsewhere suggestive of a foreign body esophagus. However, the foreign body was not removed, and the child was referred elsewhere. When Ms. Ritika presented to AIIMS casualty on 31.08.2018, she was advised admission by the Senior Resident Paediatric Surgery on call (in consultation with paediatric surgery consultant on call Dr. Sandeep Agarwala/Dr. Vishesh Jain). However, in view of no beds available, admission was regretted. It is noted that as per the system prevalent in the Institute, the allotment of emergency beds to the patients falling under the purview of the Department of Paediatric Surgery is controlled by the Paediatric Chief Medical Officer on Duty or the Duty officer. On 01.09.2018, Ms. Ritika was taken to other government hospital but was not admitted. The patient came back to AIIMS casualty again on 01.09.2018. There was no vacant bed available with the Paediatric Chief Medical Officer on duty or the duty officer. However, the faculty Paediatric Surgery on call (Prof. Sandeep Agarwala/Dr. Vishesh Jain) could manage one vacant bed in AB5 ward for the treatment of this patient. The patient was admitted at 7.30 p.m. on the same day. The child was posted for surgery promptly. After stabilization and work up, the patient was taken up for surgery at 9.20 p.m. the same day. He came for the removal of foreign body and was assisted by the Dr. Teg Rabab Senior Resident, Paediatric Surgery during the procedure. Despite multiple attempts, the foreign body could not be removed. The possibilities of impacted foreign body or an oesophageal tumour were considered. Dr. Sandeep Agarwala was contacted over mobile for opinion. Based upon his advice, it was decided to create a gastrostomy as a temporary and urgent procedure. A gastrostomy was constructed in consultation and with the consent of the parents. All future management plan of the patient were made as per the direction of Dr. Sandeep Agarwala during ward rounds. The next morning a Contrast Enhanced Computed Tomogram(CECT) of chest was performed for better delineation of the local anatomy. Upon discussion with the radiologist, the diagnosis of impacted foreign body was considered. The possibility of repeat esophagoscopy and attempt to remove foreign body was considered; in case of failure, thoracotomy and esophagotomy would be required to remove the foreign body. However, the following observations were made upon the patient.

1. The child (the patient) was able to swallow her saliva and other liquids (milk and water) and there was no drooling of saliva from the mouth suggesting that the foreign body was not causing complete obstruction of the oesophagus.
2. Gastrostomy was in place as an alternative route for feeding the child.
3. The recent esophagoscopy had been unsuccessful. It is known that post procedure the oesophagus is likely to develop reactive edema thereby making a repeat intervention more difficult. The risk of complications is higher in such a scenario.

Hence, the consultant in charge of the patient, Prof. Sandeep Agarwala decided to defer the procedure and allow some time for oedema to settle. The patient was discharged on 07.09.2018 in consult with the parents. She was accepting oral fluids and was asked to follow up in pediatric surgery OPD on Friday under Prof. Sandeep Agarwala and pediatric neurology OPD. The further follow up in the outpatient department is difficult to comment due to non-availability of such outpatient records with the hospital. The patient took appointment in outpatient department of the pediatric surgery department on 14.09.2018, 15.09.2018 and 28.09.2018. After these dates, there was no appointment in Department of Pediatric Surgery. The gastrostomy tube of the patient was replaced on 28.09.2018. The child had bleeding from the gastrostomy site and contacted a doctor on phone. They do not know to which doctor the parents spoke to. They reported to SMS Hospital, Jaipur on 29.09.2018 but were not admitted. The patient was send back from SMS Jaipur, make them believe that the child was stable enough as to not to warrant immediate admission and could have followed up at AIIMS, New Delhi. Although, they were advised to seek treatment at AIIMS on 29.09.2018 by the doctors at Jaipur, the parents visited AIIMS after 12 days on 12.10.2018, in Gastroenterology Department. They have not reported any adverse event during this timeframe. The complaint filed by the parents does not mention of any symptoms/suffering by the patient during these 12 days. The AIIMS paediatric casualty is open 24 hours, and any patient can present there for urgent problems. The OPD of the admitting consultant is once a week to which the patient did not report to. The patient did not have any follow up visits in pediatric surgery OPD after that. On visit to OPD on 12.10.2018 Department of Gastroenterology, the parents were told the need of a machine. The number of the doctor was provided by the same department which had asked for machine. The parents also mention that some machine was needed for further investigation of the child. He (Dr. Vishesh Jain) likes to state that he did not ask for any machine, which was not already available at AIIMS, that would have assisted in the management of the patient. The number of the doctor which the parents of Ms. Ritika have mentioned and spoken to, does not belong to him. He likes to mention his care and interaction with Ms. Ritika and her parents conform to the ethics and professionalism expected of his profession.

Dr. Sandeep Agarwala, Professor, Department of Paediatric Surgery, AIIMS, Delhi reiterated the stand taken by Dr. Vishesh Jain.

On enquiry by the Disciplinary Committee that as to why in this case after the attempt to remove the foreign body through esophagoscopy on 01st September, 2018 was not successful, no urgency was shown by the doctors to remove the foreign body subsequently; Dr. Sandeep Agarwala stated that since the attempt to remove the foreign body through esophagoscopy had not yielded the desired result, gastrostomy was constructed (an alternate conduit for feeding the child till the foreign body was removed), thus, there was no exigency to remove the foreign body.

Dr. Saumya Jagannath, Assistant Professor and Dr. Anoop Saraya, Professor, Heads of Department of Gastroenerology, All India Institute of Medical Sciences in their joint written statement averred that the patient Ms. Ritika a 11 years old patient was initially evaluated and managed in the Department of Pediatric Surgery AIIMS, Delhi for a foreign body (large seed of a fruit) stuck in her esophagus (food pipe) leading to inability to swallow food. She underwent an endoscopy in an attempt to remove the foreign body which did not succeed. Therefore, she was treated with gastrostomy (a tube was placed in the stomach) in the pediatric surgery department to bypass the obstruction and feed her. She was subsequently discharged on enteral feeding through the gastrostomy and planned for further management on an outpatient basis. She was referred to the Department of Gastroenterology AIIMS for endoscopic removal of the foreign body. She was first seen in the gastroenterology OPD after two months on 12.10.2018 and planned for endoscopic removal as per patient request on procedure they thought to use a laser during endoscopy to break the foreign body. Laser is a costly machine, and they use it very in-frequently, may be 2-3 times a year, to break bile ducts stones. In view of infrequent use of the machine and high cost associated with the machine, it was not cost effective to purchase the machine and they usually take it from pediatric surgery department. However, due to technical reasons, the machine was not available to them on 15.10.2018 and 18.10.2018. The patient had to travel to AIIMS twice, which caused inconvenience to the patient and her family. However, non-performance of the planned endoscopic procedure to relieve esophageal obstruction with a gastrostomy tube insitu for feeding cannot be the cause of her unfortunate demise after about 10 days. The obstruction was persistent for more than two months and she was on enteral feeding through gastrostomy.

Dr. Shalimar Additional Professor Gastroenterology Department AIIMS stated that in this patient the Department of Gastroenterology had advised for laser surgery. The laser surgery equipment is available in the Paediatric Surgery Department; the same is requisitioned form paediatric surgery for doing endoscopy procedures.

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

1. The patient Ms. Ritika, 11 years old female, with diagnosis of ? Esophageal Motility disorder/? leiomyoma Foreign body Esophagus Torticollis (Rt) + ? Myopathy/ Neuropathy, was admitted in All India Institute of Medical Sciences on 01st September, 2018. The patient had past-history of preterm vaginal delivery (? 30 weeks), did not cries after birth, admitted in NICU in Kalavathi Hospital for three months; the baby was in ICU with supportive care. Then, was discharged and the baby was on oral katori feeds. Was gaining weight also. But developmental delay were present where speech was not developed fully and the baby started sitting without support by three years. Then, from five years of age noticed to have progressed to only liquids. No fever. Deviation of neck was present since birth. At each swallow, girl tried to clear throat. Mother noticed the girl eating some seed (Lehswa) twenty days back. The patient was presented in casualty of All India Institute of Medical Sciences with worsening of dysphagia. Barium swallow done on 01st September, 2018 revealed filling defect above the mid esophagus. She underwent the surgical procedure of Rigid Esophagoscopy. As per the operative details, the impacted seed was at twenty centimeter distal to incisors; not amenable to oseophagoscopic removal. Fogarty’s # 7 passed distally but FB completely impacted, not amenable to removal. NG insertion with no 8 IFT was tried under visions but could not be done. Biopsy was tried with biopsy forceps, but could not be done. Stamm’s gastrostomy was done over a 14 Fr Malecot’s catheter to establish a feeding access, with a plan to remove foreign body at a later date.

The patient was discharged on 07th September, 2018 with advice for oesophascopy to extract foreign body at a later day alongwith esophageal biopsy/Thoracoscopic biopsy. The patient followed in paediatric surgery OPD on 14th September, 2018 when he was referred to Department of Gastroenterology for consideration for esophagoscopy + biopsy. Further, on 28th September, 2018, the gastrostomy tube was replaced and the patient was again referred to gastroenterology department for review and consideration for esophagoscopy + biopsy. The patient suffered bleeding from gastrostomy site and was taken to emergency of SMS Hospital, Jaipur on 29th September, 2018 who referred the patient to ENT Department but allegedly, no treatment was given.

The patient again reported to Department of gastroenterology, All India Institute of Medical Sciences on 12th October, 2018 who planned for laser assisted breakage of foreign body, dilatation with 6 mm-8 mm balloon, to be done on 15th October, 2018. Admittedly, the laser machine was not available on 15th October, 2018 and also on 18th October, 2018 when the patient reported in All India Institute of Medical Sciences, Department of Gastroenterology. As per the complaint, there was deterioration in condition of the patient and she expired on 26th October, 2018 (no death related medical records were made available, except for death certificate).

1. The patient was admitted and was taken for emergency procedure promptly after arranging a bed, even when no other major hospital in Delhi visited by the patient accepted her for management.
2. Concerned doctors promptly tried to remove foreign body and performed a gastrostomy when repeated attempts to remove the impacted foreign body failed. It is pertinent to note that paediatric surgeons are trained in the procedure of such foreign body removal.
3. The treating doctors had planned for thoracotomy and foreign body removal. However, the surgery was deferred in favour of lesser invasive procedure i.e. UGI Endoscopy by Gastroenterologist.
4. In view of previous failed procedures of foreign body extraction and difficulty anatomy of esophagus; the removal of foreign body was planned with the help of laser instrument.
5. Lack of the logistics like availability of the laser machine can be circumstantial and may not be considered as negligence; however, alacrity in this case would have been desirable.
6. It is noted that in this case in addition to involvement of specialists of Paediatric Surgery, Gastroenterology; it would have been prudent if ENT consultation was also taken, to afford the patient a benefit of more multidisciplinary approach.

In view of the observations made herein-above, it is very unfortunate to note that in one of the premier Institutes of this country, a child who had a foreign body in her esophagus, continued to suffer because the same could not be removed due to lack of medical equipment (laser machine). We hope that the Hospital Administration will introspect and take necessary steps to ensure that such necessary saving equipments is available at all times, so that such untoward events do not occur, in future.

Complaint stands disposed.

Sd/: Sd/: Sd/:

(Dr. Satish Tyagi) (Shri Bharat Gupta) (Dr. Ramanuj Bansal)

Delhi Medical Association, Legal Expert Expert Member,

Member, Member, Disciplinary Committee

Disciplinary Committee Disciplinary Committee

Sd/: Sd/:

(Dr. Anup Mohta) (Dr. Pankaj Tyagi)

Expert Member Expert Member,

Disciplinary Committee Disciplinary Committee

The Order of the Disciplinary Committee dated 04th August, 2022, was taken up for confirmation before the Delhi Medical Council in its meeting held on 10th August, 2022 wherein “*whilst confirming the decision of the Disciplinary Committee, the Council observed that in facts and circumstances of this case, the interest of justice will be served, if a warning is issued to Dr. Vishesh Jain, Dr. Sandeep Agarwala, Dr. Saumya Jagannath, Dr. Shalimar and Dr. Anoop Sarya; hence, the Council directs that a warning be issued to Dr. Vishesh Jain(Delhi Medical Council Registration No.DMC/R/1254), Dr. Sandeep Agarwala (Delhi Medical Council Registration No.10392), Dr. Saumya Jagannath Mahapatra (Delhi Medical Council Registration No.DMC/R/7225), Dr. Shalimar (Delhi Medical Council Registration No.DMC/R/00185) and Dr. Anoop Saraya (Delhi Medical Council Registration No.7646). Further, a copy of this Order be also sent to the Directorate General of Health Services, Govt. of India and the Secretary, Ministry of Health & Family Welfare, Govt. of India for taking note of the observations made in the Order of the Disciplinary Committee and initiate necessary remedial measures, for future.*

*This observation is to be incorporated in the final Order to be issued. The Order of the Disciplinary Committee stands modified to this extent and the modified Order is confirmed.*

 By the Order & in the name of

 Delhi Medical Council

 (Dr. Girish Tyagi)

 Secretary

Copy to :-

1. Shri Rajpal s/o Shri Bishamber Dyal, r/o Gram and Post Bihali, Tehsil Ateli, Mahendragarh, Haryana 132029.
2. Dr. Vishesh Jain, Through Director, All India Institute of Medical Sciences, Ansari Nagar, Delhi-110029.
3. Dr. SandeepAgarwala, Through Director, All India Institute of Medical Sciences, Ansari Nagar, Delhi-110029.
4. Dr. Saumya Jagannath, Through Director, All India Institute of Medical Sciences, Ansari Nagar, Delhi-110029.
5. Dr. Anoop Saraya, Through Director, All India Institute of Medical Sciences, Ansari Nagar, Delhi-110029.
6. Dr. Shalimar, Through Director, All India Institute of Medical Sciences, Ansari Nagar, Delhi-110029.
7. Director, All India Institute of Medical Sciences, Ansari Nagar, Delhi-110029.
8. Registrar, Uttar Pradesh Medical Council, 5, Sarvapally Mall Avenue Road, Lucknow-226001, Uttar Pradesh **(Dr. Anoop Saraya is also registered with Uttar Pradesh Medical Council under registration No. 27398 dated 25-05-1983)- for information & necessary action.**
9. National Medical Commission, Pocket-14, Sector-8, Dwarka, Phase-1, New Delhi-110029-w.r.t. letter No.MCI-211(2)(Gen.)/2019-Ethics/166183 dated 21-117-2019-**for information & necessary action** **and further, Dr. Sandeep Agarwala is also registered with Medical Council of India under registration No. 5978 dated 07.01.1987-for information & necessary action.**
10. Director General of Health Services, Ministry of Health & Family Welfare, Govt. of India, Nirman Bhawan, Maulana Azad Road, New Delhi-110011-**for information & necessary action.**
11. Secretary, Ministry of Health & Family Welfare, Govt. of India, Nirman Bhawan, Maulana Azad Road, New Delhi-110011-**for information & necessary action.**

 (Dr. Girish Tyagi)

 Secretary