

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.3683 OF 2008
(For Prel. Hearing)

KAILASH HOSPITAL & RES.CENTRE L.& ANR.

Appellant (s)

VERSUS

SANJEEV DUGGAL & ORS.

Respondent(s)

(With appln(s) for ex-parte stay and office report)

Date: 08/07/2008 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE G.S. SINGHVI

For Appellant(s) Mr. Raju Ramachandran, Sr. Adv.
Mr. Alok Aggarwal, Adv.
Mr. Sudhir Mishra, Adv.
Mr. Sridhar Potaraju, Adv.
Mr. Ramanesh, Adv.
Mr. D. Julius Riamei, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
ORDER

Heard learned counsel for the appellants.

The civil appeal is allowed in-part.

[Alka Dudeja]
Court Master

[Om Prakash]
Court Master

[Signed order is placed on the file]
IN THE SUPRME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3683 OF 2008

Kailash Hospital and Research
Centre Ltd. and Anr.

... Appellant(s)

Versus

Sanjeev Duggal and Ors.

... Respondent(s)

ORDER

Heard learned counsel appearing on behalf of the appellants.

By the impugned order, the National Consumer Disputes Redressal Commission (for short, "the Commission"), while awarding compensation of Rs.2,50,000/- along with damages of Rs.25,000/- and costs of Rs.10,000/- to the respondents in a case of medical negligence, gave the following directions :

"A copy of this order be sent to U.P. State Medical Council and Chief Secretary, Government of U.P. for enquiry and further action, to see if such a Hospital, i.e., 1st OP, and the Second OP, still should be there where they are, i.e., whether they should continue to be registered by the respective Registering Authority, for if they are allowed to continue to be there, in our view, they may be causing more harm than good to the Society/ patients, if they are allowed to continue to work in such a dishonest manner."

...2/-

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Shri Raju Ramachandran, learned senior counsel for the appellants submitted that his clients are not pressing their challenge to the award of compensation, damages and costs, but the direction given to the State Medical Council and Government of U.P. to take action against them may be set aside because a solitary instance of the alleged medical negligence cannot justify closure of the hospital.

In our opinion, the award of compensation etc., made by the Commission does not suffer from any legal error warranting interference by this Court, but, at the same time, we are convinced that the Commission was not at all justified in giving the direction extracted hereinabove. It appears that the said direction was given by the Commission out of sheer anguish and not on consideration of any sound legal principle.

Ordinarily, we would have issued notice to the respondents, but in the facts and circumstances of the case, we do not propose to adopt that course because the respondents will be put to unnecessary cost of litigation without any justifiable reason.

...

3/-

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Accordingly, the appeal is allowed in part and the direction given by the Commission to the State Medical Council and Government of U.P. to take action against the appellants is set aside. However, liberty is given to the respondents, in case they are so advised, to move this Court for recall/modification of this order.

.....J.
[B.N. AGRAWAL]

.....J.
[G.S. SINGHVI]

New Delhi,
July 08, 2008.