DMC/DC/F.14/Comp.2435/2/2018/ 29th October, 2018

**O R D E R**

The Delhi Medical Council through its Executive Committee examined a complaint of Shri. Ashok Kumar, r/o- House No.69, Village Ghondli, Krishna Nagar, Delhi-110051, alleging medical negligence on the part of Dr. Reena Poddar, First Aid Clinic, A-26, Hasan Pur, I.P. Extension, Delhi, in the treatment of complainant’s daughter Ms. Bharti Rai at First Aid Clinic, resulting in her death.

The Order of the Executive Committee dated 18th September, 2018 is reproduced herein-below:

“The Executive Committee of the Delhi Medical Council examined a complaint of Shri Ashok Kumar, r/o- House No.69, Village Ghondli, Krishna Nagar, Delhi-110051 (referred hereinafter as the complainant), alleging medical negligence on the part of Dr. Reena Poddar, First Aid Clinic, A-26, Hasan Pur, I.P. Extension, Delhi, in the treatment of complainant’s daughter Ms. Bharti Rai at First Aid Clinic (referred hereinafter the deceased), resulting in her death.

It is noted that the Delhi Medical Council has also received the representations from the Police Station Madhu Vihar, East District Delhi and Dy. Commissioner of Police, East District, Delhi, whose subject matter is same as that of complaint of Shri Ashok Kumar, hence, the Executive Committee is disposing all these matters by this common Order.

The Executive Committee perused the complaint, written statement of Dr. Santosh Dixit and other documents on record.

The Executive Committee further noted that notice dated 04th July, 2018 sent to the Dr. Reena Poddar wherein it was directed to submit written statement and medical records pertaining to this matter, to the Delhi Medical Council, returned undelivered with noting from the Postal department “untraceable”.

The Executive Committee makes the following observations :-

1. It is noted that the deceased, 24 years old female suffered a trauma to her left foot on 12th April, 2018. She visited Ms. Reena Poddar who administered the treatment in form of injection, medicine, stitches, and dressing (as per Dr. Reena Poddar receipt S.No.538 dated 12-04.2018). Since the deceased continued to suffer pain, she consulted Dr. Santosh Dixit. As per the prescription dated 16th April, 2018 of Dr. Santosh Dixit, he did(A/S dressing with Betadin and prescribed ZO 200 and tablet Calpol). Thereafter, the deceased visited Dr. Hedgewar Arogya Sansthan Hospital in emergency on 16th April, 2018 at 6:48 a.m. with complaints of fever, vomiting, giddiness; she was prescribed medication. The deceased was subsequently seen in surgery unit of Dr. Hedgewar Arogya Sansthan Hospital on same day at 8:29 a.m. where she was advised ASD with other medications. The deceased again visited the emergency of Dr. Hedgewar Arogya Sansthan Hospital on 16th April, 2018 at 20:24 with complaints of breathlessness, palpitation, chest pain, dyspepsia and history of allergy to cefixime (taken for fever following stitches for RTA (L) foot) as per record of Dr. Hedgewar Arogya Sansthan Hospital . Her blood-pressure was noted as 76/58 mmHg, pulse rate-148/min, SPO2 98%, temperature 101 degree F. She was prescribed IVF NS, RC, injection Avil, injection PCM, injection Rantac and referred to medicine unit. As per the complaint, since there was no improvement in the condition of the deceased; she was taken to Dr. R.M.L. Hospital and admitted on 17th April, 2018. She was noted to have complaints of general rashes-(after taking cefixime) also vomiting, loose motions. Rashes also accompanied by pain abdomen and fever. No history of headache, vomiting on examination. She was conscious and oriented. Blood-pressure-70/50 mmHg, ECG sinus tachycardia generalized erythematous rashes all over body. She was investigated and diagnosed as a case of sepsis left foot cellulites-post trauma with septic shock-refractory with MODS-AKI, ARDS, ALI with Steven Johnson Syndrome (Drug inducted Cefixime). Wound debridement was done with up-gradation of antibiotic coverage. The deceased’s condition continued to deteriorate and she succumbed at 6.45 a.m. on 23rd April, 2018, inspite of all resuscitative measures.
2. In this case it seems that no autopsy was done. Based on the medical records made available to the Delhi Medical Council, it appears that the deceased died due to septicemia with multiorgan failure.
3. It is observed that Ms. Reena Poddar is not a qualified doctor but a charlatan who misrepresents herself as a holder of B.A.M.S.(Bachelor of Ayurvedic Medicine & Surgery) qualification, as is printed on her stamp impression but actually she is holder of unrecognized qualification of B.S.A.M. (Basic of Alternative System of Medicine) awarded by the Institute of Alternative Medicine. It further seems that on the website [www.4docsearch.com](http://www.4docsearch.com), she has been misrepresenting herself as general physician, M.B.B.S.

It is further observed that Ms. Reena Poddar is not qualified to prescribe any medication or treatment to any person and her action of treating the deceased on 12th April, 2018 with injection medicine, stitches and dressing tantamount to quackery, thereby endangering the health of the deceased.

1. It is observed that the drugs namely ZO 200 and tablet Calpol are allopathic drugs which can be prescribed only by a person who holds recognized medical qualification as per Schedules First, Second or Third to Indian Medical Council Act, 1956 and duly registered with Delhi Medical Council.

It further is observed that for practicing allopathic system of medicine in the NCT of Delhi, a person should hold recognized medical qualification as per First, Second or Third Schedules to Indian Medical Council Act, 1956 and should be registered with the Delhi Medical Council.

It is also observed that Dr. Santosh Dixit who purportedly is a holder of B.I.M.S. qualification and who as per the prescription dated 16th April, 2018 treated the deceased with A/S dressing with Betadin and prescribed ZO 200 and tablet Calpol, is neither qualified nor authorized to practice allopathic system of medicine.

The Supreme Court of India in the matter titled Poonam Verma Vs. Ashwin Patel and Ors. (AIR 1996 SC 2111), has held that “A person who does not have knowledge of a particular system of medicine but practices in that system is a Quack and a mere pretender to medical knowledge or skill or to put it differently a charlatan.”

The Supreme Court of India in Dr. Mukhtiar Chand & Ors.Vs.State of Punjab & Ors. (JT 1998 (7) SC 78) has held that “A harmonious reading of Section 15 of 1956 Act (Indian Medical Council Act) and Section 17 of 1970 Act (Indian Medicine Central Council Act) leads to the conclusion that there is no scope for a person enrolled on the State Register of Indian medicine or Central Register of India Medicine to practise modern scientific medicine in any of its branches unless that person is also enrolled on a State Medical Register within the meaning of 1956 Act.”

The same was reaffirmed by Supreme Court in Civil Appeal No. 3541 of 2002 titled Martin F.D’Souza Vs. Mohd. Ishfaq, where it as held that “a professional may be held liable for negligence on the ground that he was not possessed of the requisite skill which he professes to have. Thus a doctor who has a qualification in Ayurvedic or homeopathic medicine will be liable if he prescribes allopathic treatment which causes some harm.”

The High Court of Delhi in W.P.(C) No.7865/2010 in the matter titled “Delhi Medical Association Versus Principal Secretary (Health) & Ors. has held that “no practitioner of Indian System of Medicine or holding a qualification as listed in the Schedule to the Indian Medicine Central Council Act, 1970, even if it be of in integrated medicine as defined in Section 2(h) of the Delhi Bharatiya Chikitsa Parishad Act, 1998, is entitled to practice modern scientific system of medicine as defined in the Indian Medical Council Act, 1956 read with Indian Medical Degrees Act, 1916 and as has come to be known as Allopathic system of medicine. All the authorities concerned with enforcement of the provisions of the Indian Medical Council Act, 1956, Delhi Medical Council Act, 1997, Indian Medicine Central Council Act, 1970 and the Delhi Bharatiya Chikitsa Parishad Act, 1998 and/or entrusted with the task of preventing persons not holding qualification as mentioned in the Schedules of the Indian Medical Council Act, 1956 from practicing modern scientific system of medicine, to not allow any person holding qualification in Indian Medicine as described in the Schedule to the Indian Medicine Central Council Act, 1970, even if holding a degree in integrated course as defined in the Delhi Bharatiya Chikitsa Parishad Act, 1998, from practicing modern scientific system of medicine.”.

It is, therefore, the decision of the Executive Committee that Ms. Reena Poddar and Dr. Santosh Dixit persons unqualified in the field of modern scientific system of medicine (allopathy) acted recklessly by administering the treatment which was beyond their knowledge, skill and competence, with scant regard to the life and safety of the deceased and that the actions on the part of Ms. Reena Poddar and Dr. Santosh Dixit constitute an act of negligence for which they are liable to prosecuted under the provisions of Indian Penal Code in addition to Section 27 of the Delhi Medical Council Act, 1997.

Complaint stands disposed.”

 Sd/: Sd/: Sd/:

(Dr. Arun Kumar Gupta) (Dr. Ajay Gambhir) (Dr. Satendra Singh)

Chairman, Member, Member,

Executive Committee Executive Committee Executive Committee

 Sd/: Sd/:

(Dr. Vinay Aggarwal) (Dr. P.N. Aggarwal) Member Expert Member

Executive Committee Executive Committee

The Order of the Executive Committee dated 18th September, 2018 was taken up for confirmation before the Delhi Medical Council in its meeting held on 18th October, 2018 wherein “*whilst confirming the Order of the Executive Committee, the Council noted the following observations made by the Hon’ble Supreme Court vide Order dated 1st October, 2018 in S.L.P (C) 26145/2016 in the case titled as “All India Indian Medicine Graduates Association (Regd.) Vs. Delhi Medical Association & Ors.”*

*“Leave granted.*

*In the meanwhile, no coercive action shall be taken against persons who are practicing the Integrated System of Medicine pursuant to degrees/diplomas that have been obtained from Universities which are recognized for teaching the same.”*

In light of the above observations of the Hon’ble Supreme Court, the Council observes that the matters pending before the Hon’ble Supreme Court might impinge on the case at hand, if the police through further inquiry establishes that Dr. Santosh Dixit is practicing the Integrated System of Medicine pursuant to degree/diplomas that have been obtained from University which is recognized for teaching the same; otherwise the police may proceed in accordance with law, as per the Executive Committee Order.

The Council, however, directs that Ms. Reena Poddar who is unqualified person be prosecuted under Section 27 of the Delhi Medical Council Act, 1997 in addition to the provisions of Indian Penal Code.

This observation is to be incorporated in the final Order to be issued. The Order of the Executive 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. Ashok Kumar, r/o- House No.69, Village Ghondli, Krishna Nagar, Delhi-110051.
2. Dr. Santosh Dixit, Dixit Chowk, Parwana Road, Baldev Park, Delhi-110051- For information.
3. Dr. Reena Poddar, A-26, Hasan Pur, I.P. Extension, Delhi-110092.
4. Dr. G.S. Grewal, Hony. State Secretary, Delhi Medical Association, DMA House, Daryaganj, New Delhi-110035. (w.r.t. No. DMA/QEC/2018/1139 dated 02nd May, 2018)-for information
5. SHO Police Station Madhu Vihar, East District, Delhi-110092(w.r.t.no. 682NDMTS/SHO/Madhu Vihar, dated 21.06.2018) - For information.
6. Dy. Commissioner of Police, office of the Dy. Commissioner of Police, East Distt., Bola Nath Nagar, Near Swaran Cinema, Vishwas Nagar, Shahdara, Delhi-110032 (w.r.t. No. 2778/Compt./East(DA-Misc.) dated 09.07.2018)- For information.
7. Shri. Ram Niwas Goel, Speaker, Delhi Vidhan Sabha, Old Secretariat, Delhi-110054.(w.r.t. No. F.1(1)/COS/2018/2064 dated 05.10.2018)-for information.

 (Dr. Girish Tyagi)

 Secretary