

12.06.2023

This Proceeding was initiated on information received from the Superintendent District Jail Aurangabad stating that UTP Sheela Devi was sent to ANMCH by ambulance for deliver of a child but she has given birth to a dead child after the operation.

Cognizance of the information was taken on 13.07.2020 by the State Commission.

It further appears from the perusal of the record that NHRC also took cognizance of the above information and proceeding i.e. case no.665/4/2/2020 -DH was initiated but that proceeding was closed under sec 36(1) of PHR Act 1993 as this proceeding was pending before as the State Commission came before.

During Enquiry

- 1) Photocopy initial health screening of U.T.P. Sheela Devi at the time of admission. 2) Photocopy of the treatment record of Sheela Devi. 3) Photocopy of Medical Board opinion from Sadar Hospital, Aurangabad 4) Photocopy of letter dated 27.02.2020 and 09.10.2020 of the Superintendent District Jail Aurangabad were produced.

On receiving above documents opinion of forensic medicine expert Dr Vinay Kumar was obtained and opinion of the investigation division of BHRC has also been obtained.

Dr. Binay Kumar after examining the above materials produced during the Enquiry found the following:-

- 1) The exact medical condition and whereabouts of the patient between 20.02.2020 to 26.02.2020 is not mentioned in the file.
- 2) Patient was referred to medical board of district hospital Aurangabad at 12.30 p.m. in emergency condition but a patient reach ANMCH Gaya only by 9:00 p.m. He has suggested that delay in transportation of patient to ANMCH Gaya should be investigated.

As such an opportunity was given to the Jail Superintendent to explain the delay in transportation of the under-trial prisoner Sheela Devi. It further appears that the detailed report has been submitted by the Superintendent District Jail Aurangabad (Pg 97-95/C)

Again opinion of Dr. Binay Kumar, Forensic Medicine Expert, Additional Professor, Department of Forensic Medicine and Toxicology of AIIMS, Patna was sought on the report submitted by the Superintendent, District Jail, Aurangabad.

Forensic Medicine Expert after analysing the previous report and report of Superintendent, District Jail, Aurangabad has come to the following conclusion: -

1. The distance between Sadar Hospital, Aurangabad and ANMCH, Gaya is about 76 Kilometres. On an average, it takes about 1.5 hours to 02 hours to cover the same distance by roadways but in this Emergency case, it took around 09 hours to cover the same distance explanation for which remains unclear even after the reply from Superintendent, District Jail, Aurangabad.
2. It was a case of obstructed labour in which timely medical aid was most important factor.

On the basis of above he is of following opinion that the Foetus died due to undue delay in transportation of patient from Sadar Hospital, Aurangabad to ANMCH, Gaya.

The Investigation Division of the State Commission also after analysing the materials available on the record has come to following conclusion:-

i) The report of Superintendent Jail is evasive on the issue of delay in getting the UTP shifted to ANMCH, Gaya from Sadar Hospital.

ii) There are no records of the treatment of check-up of UTP at Sadar Hospital from 22.02.20 to 25.02.20

iii) When the OT of Sadar Hospital was under repairs, why was the UTP not sent to ANMCH earlier. It was only when her condition became precarious due to obstructed labour and LSCS became imminent was she referred to ANMCH. As a result of the delay she suffered from ruptured Uterus and Bladder and her life and life of Foetus was put in danger. Although she survived the trauma but the foetus could not be saved.

If agreed, explanation on points number ii) and iii) above can be sought from Civil Surgeon Aurangabad.

Transmitting a copy of report of The Investigating Division, DM Aurangabad, Civil Surgeon Aurangabad and Superintendent District Jail, Aurangabad were given opportunity to explain the queries as mentioned above made by the Investigation Division.

In compliance thereof, a report had been received.

From perusal of the report, it appears that matter was examined by the committee constituted by The Civil Surgeon come Chief medical officer Aurangabad, who after examining the materials submitted its report.

The above committee has placed the sequence of events which according to them are as follows:-

जाँच प्रतिवेदन

महिला बंदी श्रीमति शीला देवी, पति श्री विनोद राम, सा० कलेन, जाना-खुदवों, जिला-औरंगाबाद का चार सदस्यीय जाँच कमिटी का जाँच प्रतिवेदन :

आज दिनांक 16.12.2022 को अपराह्न 03:00 बजे असैनिक शल्य चिकित्सक सह मुख्य चिकित्सा पदाधिकारी औरंगाबाद के आदेश इगापांग 3663 दिनांक 14-12-2020 के द्वारा गठित राम सदस्यीय जाँच कमिटी द्वारा मंडल कारा, औरंगाबाद की बंदी श्रीमति शीला देवी, पति-श्री विनोद राम, सा०-कलैन, थाना-खुदवा, जिला-औरंगाबाद का उपलब्ध अभिलेखों के आधार पर जाँच किया गया। जाँच के क्रम में कमिटी के सदस्यों को निम्न बातें ज्ञात हुई-
दिनांक 20.02.20

- महिला बंदी श्रीमति शीला देवी पति-श्री विनोद राम, सा०- कलैन, थाना-खुदवा जिला-औरंगाबाद को मंडल कारा, औरंगाबाद द्वारा दिनांक 20.02.2020 को वाह्य कक्ष विभाग, पंजीयन सं० -639620F11357 के द्वारा ड्यूटी पर कार्यरत महिला चिकित्सा पदाधिकारी, डा० मणि कुमारी द्वारा जाँच किया गया।
- उपाधीक्षक, सदर अस्पताल, औरंगाबाद के परामर्श पर गर्भवती महिला बंदी श्रीमति शीला देवी को अन्तः रोगी विभाग, पंजीयन सं०-1164/20.02.2020 के द्वारा सदर अस्पताल, औरंगाबाद के महिला कक्ष में प्रसव हेतु दिनांक 20.02.2020 के अपराह्न में ही भर्ती कर लिया गया।
- भर्ती के समय गर्भवती महिला बंदी प्रसव पीड़ा में नहीं थी। चिकित्सक के सलाह पर प्रारंभिक जाँच कराया गया, जिसमें HB-8.5 gm Blood group- O+ एवं Vitals सामान्य थे।
- उपलब्ध कराये गये जच्चा बच्चा कार्ड पर LMP की तिथि 18.05.2019 एवं EDD की तिथि 25.02.2020 अंकित है।

दिनांक 21.02.2020

दिनांक 21.02.2020 को ड्यूटी पर कार्यरत महिला चिकित्सा पदाधिकारी द्वारा गर्भवती महिला बंदी को देखा गया। जाँच के समय महिला बंदी प्रसव पीड़ा में नहीं थी। चिकित्सक द्वारा उचित सलाह दी गयी।

दिनांक-22.02.2020

ड्यूटी पर कार्यरत महिला चिकित्सा पदाधिकारी द्वारा गर्भवती महिला बंदी का जाँच किया गया। जाँच के समय महिला बंदी सामान्य थी, प्रसव पीड़ा अभी भी प्रारंभ नहीं हुयी थी। चिकित्सक द्वारा उचित परामर्श दी गयी।

दिनांक 24.02.2020

को ड्यूटी पर कार्यरत महिला चिकित्सा पदाधिकारी डा० कविता सहदेव द्वारा गर्भवती महिला बंदी का जाँच किया गया। महिला बंदी सामान्य थी।

दिनांक 26.02.2020

- को प्रातः 08:00 बजे ड्यूटी पर कार्यरत विशेषज्ञ महिला चिकित्सा पदाधिकारी डा० लालसा सिन्हा द्वारा गर्भवती महिला बंदी श्रीमती शीला देवी का जाँच किया गया। जाँच के समय महिला बंदी प्रसव पीड़ा के प्रारंभिक दौर में थी और स्थिति सामान्य थी।
- अपराह्न 12:05 बजे पुनः परीक्षण के दौरान चिकित्सा पदाधिकारी को बाधित प्रसव की अनुभूति हुई। जाँच के दौरान पाया गया कि बच्चेदानी का मुँह तो पुरा खुला है, लेकिन बच्चे को नीचे आने की प्रक्रिया बाधित है जिससे सामान्य प्रसव संभव नहीं है तथा प्रसव के लिए सिजेरियन ऑपरेशन की आवश्यकता है।
- इस संबंध में सदर अस्पताल औरंगाबाद के शल्य का में Renovation Activity चलते राज्य क्रिया रूप से संपन्न नहीं हो रहा था। फलतः सी-सेक्शन की आवश्यकता को देखते हुये बेहतर एवं सुरक्षित चिकित्सा उक्त गर्भवती महिला बंदी को विशेषज्ञ महिला चिकित्सा पदाधिकारी द्वारा अविलय सिविल सर्जन सह पद उपाधीक्षक सदर अस्पताल औरंगाबाद को सूचना देत अनुग्रह नारायण मगध मेडिकल कॉलेज गया, रेफर करने हेतु अनुरोध किया गया।
- महिला चिकित्सा पदाधिकारी के अनुरोध पर त्वरित कार्रवाई करते हुये सिविल सर्जन औरंगाबाद द्वारा चार सदस्यीय चिकित्सा पर्षद का गठन किया गया। उक्त के संबंध में सिविल सर्जन की अध्यक्षता में दिनांक - 20.02.2020 को अपराह्न 12:30 बजे सदर अस्पताल, औरंगाबाद में चिकित्सा पर्षद की बैठक की गयी। चिकित्सा पर्षद के अन्य सदस्य उपाधीक्षक, सदर अस्पताल, डा० लालसा सिन्हा, विशेषज्ञ महिला चिकित्सा पदाधिकारी डा० मणी कुमारी, महिला चिकित्सा पदाधिकारी एवं डा० श्याम कुमार सामान्य चिकित्सा पदाधिकारी थे। सभी सदस्यों द्वारा विमर्शोपरान्त यह निर्णय लिया गया कि गर्भवती महिला बंदी को बेहतर ईलाज मुहैया कराने एवं सुरक्षित प्रसव हेतु अनुग्रह नारायण मगध मेडिकल कॉलेज गया भेजा जाये। उपाधीक्षक सदर अस्पताल औरंगाबाद के पत्रांक 242 दिनांक 26.02.2020 के द्वारा अधीक्षक मंडल कारा औरंगाबाद को इसकी सूचना दी गयी।

- अधीक्षक मंडल कारा, औरंगाबाद द्वारा इस संबंध में त्वरित कार्रवाई करते हुये गर्भवती महिला बंदी श्रीमती शीला देवी को बेहतर ईलाज हेतु अनुग्रह नारायण मगध मेडिकल कॉलेज, गया ले जाया गया।

After received of the above report the file was again referred to the Investigating Division of the State Commission for analysing the reports and other materials available on record and for submissions of its opinion.

The Investigating Division on analysing the materials is of following opinion:- There are many lapses on the part of Aurangabad jail administration and Sadar Hospital administration like:-

The issue of delay in getting the pregnant U.T.P. shifted to ANMCH, Gaya remains unexplained by Superintendent of Jail Aurangabad.

There are no records of the treatment or antenatal check of the U.T.P. And Sadar Hospital from 22.02.2020 to 25.02.2020 even in the joint enquiry report of the committee constituted by Civil Surgeon, Aurangabad there is no mention of the antenatal check of the UTP on 25.02.20 which is perplexing.

If the OT of Sadar Hospital was under repairs then either the delivery cases should not have been handle by the Sadar Hospital or there should have been a tie up with some nearby hospital having all facilities to handle any emergency. This was taken to casually by the doctors of Sadar Hospital Aurangabad. Also there was separately in referring the patient to ANMCH, Gaya.

Considering the entire discussion made above following facts are admitted:-

- 1) at 12.05 P.M. Medical officer had found sign of obstructed labor which is an obstetrical emergency and if the situation is not handle immediately it can be fatal for both mother and child.
- 2) the patients was referred to ANMCH Gaya at 12:30 p.m. for the LSCS operation by Sadar Hospital and patient reach at ANMCH at 9:00 P.M. and at that time OT of Sadar Hospital was under repair
- 3) she was admitted to ANMCH Gaya at 9:24 pm on same day.

As such the investigating division and forensic medicine expert has rightly is of the opinion that, The Foetus due to delay in transportation of the disease prisoner the State Commission is also agree with the another conclusion of The Investigation Division that if the OT of Sadar Hospital was under repair, the either the delivery cases should not have been handle by the Sadar Hospital or there should have been tie up with some nearby Hospital having all facility to handle any emergency.

As such the State Commission is of the view that the matter was taken very casually by the Doctors or other authorities of the Sadar Hospital Aurangabad, due to which though the under trial prisoner service the troma but the foetus could not be save.

In conclusion, It is appeared that there is negligence in the treatment of the disease prisoner during delivering of the child due to which the foetus could not been save


Accordingly this is a case where birth of a death foetus by the deceased prisoner is due to laches and negligence on the part of Sadar Hospital Administration as such the State Government is vicariously liable for the lost to the disease prisoner.

As such Office is directed to issue so cause to The State of Bihar through The Chief Secretary to so cause as to why an amount of compensation of Rs. 2 lakhs is not awarded to the under trial prisoner Sheela Devi for the negligence committed by the administration causing loss of her child.

So cause must be received with it in 8 weeks otherwise final order may be pass.

Let a copy of order maybe communicated to the Chief Secretary, Additional chief secretary head and Additional chief secretary home for information and needful.

Put up on 10.10.2023


(Ujjwal Kumar Dubey)
Member