

**IN THE COURT OF LEARNED CHIEF METROPOLITIAN**

**MAGISTRATE, C A L C U T T A**

**CASE NO. C/20678 OF 2011**

**Police Station: Hare Street**

**KUNAL SAHA ( DR. )**

Resident of 3937 Kul Circle South,  
Hilliard, Ohio-43026, USA and also of,  
Subol Apartment (Flat- E1), 1<sup>st</sup> Floor, 7  
Nilgunge Road, Kolkata – 700056

**...COMPLAINANT / PETITIONER**

**-: VERSUS :-**

- 1. DR. ASOK CHOUDHURY, BA 146, SECTOR 1, SALT LAKE CITY,  
KOLKATA 700064**
- 2. DR. SUBIR KUMAR DATTA, 2 RAM CHANDRA DAS ROW, KOLKATA  
700013**
- 3. DR. SHYAMALENDU CHOUDHURY, B-15/4 UTTARAYAN HOUSING  
ESTATE, 102 B.T. ROAD, KOLKATA 700035**
- 4. DR. C.R. MAITI, ANTARA, 38, R. K. ROAD, RANI SAYAR WEST,  
BURDWAN 713104**

5. DR. (PROF) SUBIR GANGULY, HEAD, DEPT. OF RADIOTHERAPY,  
N.R.S. MEDICAL COLLEGE AND HOSPITAL, 138 A.J.C. BOSE  
ROAD, KOLKATA 700014
6. DR. SOUMEN BANERJEE, BC 233 SECTOR 1, SALT LAKE,  
KOLKATA 700064
7. DR. SAMIR ROY, FLAT NO. 1A, SAHANAGAR HOUSING, 14A GOPAL  
BANERJEE LANE, KOLKATA 700026
8. DR. APARNA LAHIRI, F/5 BONOPHOOL ABASAN, KOLKATA 700048
9. DR. SIKHA DAS, M/8 CLUSTER-1, PURBACHAL, SALT LAKE CITY,  
KOLKATA 700097
10. DR. TAMAL KANTI GHOSH, PARBIRHATA, BURDWAN 713103
11. DR. SURAJIT GHOSH, 4 KASHINATH DUTTA ROAD, KOLKATA  
700036
12. DR. SUDHANGSU KUMAR SARKAR, 51/1 RAJA DINENDRA  
STREET, KOLKATA 700009
13. DR. MANOJ BHATTACHARYYA, HB-267 SECTOR 3, SALT LAKE,  
KOLKATA 700106
14. DR. TAMAL KUMAR BISWAS, 70 BROAD STREET, KOLKATA  
700019

**15. DR. MALOY KUMAR MAITRA, FLAT NO. 7, EE-121 SECTOR 2, SALT LAKE, KOLKATA 700091**

**16. DR. ALOK CHATTOPADHYAY1, 364 BABUR BAG, BURDWAN 713104**

**17. DR. B.P. DUTTA, COTTAGE 113A/3, SARAT GHOSH GARDEN ROAD, KOLKATA 700031**

All ex- and/or present members of West Bengal Medical Council, 8, Lyons Range, 3<sup>rd</sup> Floor, Kolkata – 700 001

**... ACCUSED PERSONS**

**CHARGE UNDER SECTION 201 OF THE INDIAN PENAL CODE, 1860  
READ WITH SECTION 120B OF THE SAID CODE.**

The humble petition of complaint of the Complainant / petitioner above-named

**Most Respectfully Sheweth :-**

- 1.** The Petitioner is a bona fide “overseas citizen of India” (OCI) having a permanent residence at 3937 Kul Circle S., Hilliard, OH

43026, USA and a local residence at Subol Apartment (Flat- E1), 7 Nilgunge Road, P.O. Belghoria, Kolkata – 700056.

It is worthy to mention here that after graduating from the NRS Medical College in Kolkata, India; the petitioner migrated to the USA in 1985 and settled there as an internationally recognized HIV/AIDS researcher who has given numerous scientific presentations on HIV/AIDS in national and international conventions including India.

- 2.** The accused persons are doctors by profession and present or ex-members of the West Bengal Medical Council (WBMC), a body corporate established under Section 3 of the Bengal Medical Act, 1914 [as amended by West Bengal Act XVI of 1954] having its office at 8 Lyons Range (3<sup>rd</sup> Floor), Kolkata 700001 within the jurisdiction of Hare Street police station. The accused nos. 1 and 2 were respectively the then President and Vice President of the West Bengal Medical Council [hereinafter referred to as “the Council”] whereas the accused nos. 3 to 17 are/were the executive members of the council. Each of the accused persons jointly and/or severally transacted with the petitioner as members of the said Council during the entire material time and had/has personal knowledge about the entire incidents.
- 3.** That the petitioner’s wife and a US-based child psychologist, Anuradha Saha, since deceased, had passed away during a social visit to India in 1998 due to gross medical negligence by several

doctors practicing in the city of Kolkata including one Dr. Sukumar Mukherjee, Dr. Baidyanath Halder and (late) Dr. Abani Roychowdhury.

4. That to combat the menace of medical negligence, apart from filing criminal as well as civil cases before the Courts of competent jurisdiction, the petitioner lodged a written complaint with the West Bengal Medical Council in 1999 alleging negligence and maltreatment of his wife, Anuradha Saha resulting into her death and seeking cancellation of the medical registration of the following three doctors who were primarily responsible for the death of Anuradha, namely :

- 1) Dr. Sukumar Mukherjee, (Regn. No. 26861)
- 2) Dr. Baidyanath Halder (Regn. No. 25474)
- 3) Dr. Abani Roy Chowdhury (Regn. No. 27014)

5. The petitioner states that the crux of the allegation in the said complaint filed before the Council was that while in Kolkata, Anuradha developed skin rashes, medically known as “Toxic Epidermal Necrolysis” or **TEN**, an acute dermatological condition usually caused by drug allergy, for which Dr. Mukherjee prescribed to administer Intra Muscular (IM) Injection of Depo-medrol at 80 mg. B.D. (twice daily) for 5 days in the most inappropriate and reckless manner. Depo-medrol, a “long-acting” corticosteroid (steroid) is used for chronic conditions like

asthma/arthritis and not for acute conditions like TEN. Furthermore, the maximum dose of Depo-medrol for any clinical condition is 40-120 mg at 1-2 weeks intervals. The enormous amount of Depomedrol at 80 mg twice daily as advised by Dr. Mukherjee was unprecedented in the parlance of medical science. This massive overdose of Depo-medrol eventually caused or significantly contributed to the untimely death of Anuradha. Such allegation of the petitioner was backed by numerous medical and scientific reports and authorities based upon methodology of clinical trials of Drugs. The complaint filed with the Council by the petitioner was also based on numerous medical experts' opinions from India and countries around the world.

- 6.** That accordingly, the complaint of the petitioner filed with the Council was referred to the Penal & Ethical Cases Committee No. 1 [hereinafter referred to as "PE Committee"] for causing an enquiry into the matter and to take appropriate disciplinary action against the said three doctors who were primarily responsible for causing the untimely death of Anuradha.
- 7.** The petitioner respectfully submits that during the enquiry by the PE Committee, the petitioner also placed various materials backed by supporting documents attributing specific acts of medical negligence against each of the accused doctors, followed by the replies given by the accused doctors to justify their

defence. Despite the fact that the petitioner provided numerous supporting opinions from renowned international medical experts, the Council members headed by the respondent no. 1 decided to obtain opinions from local medical experts on their own. As such, the PE Committee first sought opinion from a renowned Kolkata-based dermatologist, Prof. (Dr.) Ranjit Kumar Panja through a letter dated 3<sup>rd</sup> March, 1999 in which the Council provided not only the allegations filed by the petitioner but also other relevant documents including the deposition and defence taken by the accused Dr. Mukherjee and Dr. Halder **(Annexure-A)**. Prof. Panja sent his expert comments in a sealed envelope to the Council. After analyzing different aspects of the case including the defence taken by the accused physicians, Prof. Panja categorically and unequivocally affirmed the guilt of Dr. Mukherjee and Dr. Halder which would be evidently clear from his letter which is annexed herewith and marked as **Annexure-B**. The petitioner for ready reference, begs to refer to and rely upon some pertinent portions of the valued opinion provided by Prof. Panja:

*“Continuation of deposteroids in high dosage twice a day appeared to me as **unique but not rational and scientific**.*

*... I see **no reason why the dose of oral Prednisolone was further increased by Dr. Halder to 120 mg when the patient was already receiving Depomedrol 80 mg I.M. B.D. and***

*Prednisolone once a day, prescribed by Dr. Mukherjee. **It should have been kept in mind that the patient was having the cumulative dose of steroids with long half-life since 7.5.98 i.e. for 5 days and that the patient had developed TEN while on a massive dose of steroids.***

*It is clear that **the patient was receiving treatment vaguely** as a steroid responsive dermatitis without any precise diagnosis till 11.05.98 when the patient presented with TEN as diagnosed by two Dermatologists after 5 days of massive dose of parenteral deosteroids and oral Prednisolone. The condition of the patient did not improve and rather deteriorated. The patient who initially presented with angioedema with vasculities developed TEN in spite of steroid therapy should have raised the suspicion whether corticosteroids precipitated the attack of TEN by provoking bacterial sepsis. As the onset of TEN is as **a rule acute**, and as both Dr. Mukherjee and Dr. Halidar thought 'drugs' to be the cause of TEN, **they should have thought of the drugs taken from 7.5.98 to 10.5.98 to be the offending drug.***

*Dr. Sukumar Mukherjee is an eminent and experienced consultant in Medicine. **His initial mistake was to treat the patient himself** when Mrs. Saha had only dermatological manifestations without any systemic signs and symptoms except mild fever. **He should have referred the patient to a competent dermatologist** straightway for investigations and treatment*

*specially when he was leaving the country within a few days. **He did on the contrary, put the patient on a high dose of steroids without any definitive diagnosis. In his statement he has argued on the use of steroids in TEN while he should have explained about the choice of steroid and its dosages schedule to justify his line of treatment. On 11.5.98, his description of the lesion did not tally with the finding of the Dermatologists and as such he was still thinking about allergy of exogenous origin. I think continuation of high dose steroid schedule in spite of deterioration and a development of TEN is not expected of a physician of the standard of Dr. Mukherjee.***

*Regarding the treatment giving by **Dr. Haldar** and is suspicion about drug being the cause of TEN **was rather casual**. As senior specialist, **he should have thought of staphylococcal scalding sin syndrome and superficial type of Steven Jhonson's syndrome and should have steered on the need of biopsy before raising the dose of oral steroids to 120 mg**. I wonder **whether he cared to see the treatment already being given to the patient**. It is **regrettable** to note that **Dr. Haldar was against joint consultation with the doctor who was treating the patient is considered absolutely essential**. His statement lacks the expected humility of an **educated man**. He forgets that it is a **conventional ethics** not to accept professional fees from a doctor specially when he claims that **Dr. Saha was***

**his student.** *Mentioning that in his statement shows that Dr. Halder was doing a great favour to Dr. Saha.” (emphasis added)*

8. As shown above, while the categorical opinion expressed by Prof. (Dr.) Panja leaves no doubt about the guilt of Dr. Mukherjee and Dr. Halder in the treatment of Anuradha, the Council however, ignored the unqualified comments made by Prof. Panja. Despite seeking expert comments from Prof. Panja, the Council did not give any credence to his opinion whatsoever. In fact, the PE Committee simply shoved under the rug the explicit opinion given by Prof. Panja as there is not even a mention of Prof. Panja's opinion in any manner in all the future discussions and minutes of the meetings by the Council. Instead of taking the scientific and categorical opinion of Prof. Panja into consideration for investigation and to hold the Dr. Mukherjee and Dr. Halder guilty for medical negligence, the Council started another witch hunt to find new opinions from other medical experts long after they obtained the opinion from Prof. Panja seemingly to obtain a favorable opinion to exonerate the accused doctors.
  
9. The Council next obtained opinions from some other local experts in the field, namely, Prof. (Dr.) Panchanan Moulik (medicine specialist) and Prof. (Dr.) Sujit Sengupta (dermatologist). Ironically, the opinions expressed by these two experts also supported the petitioner's claim that the treatment provided by Dr. Mukherjee and Dr. Halder was wrong. The opinions

expressed by Prof. (Dr.) Sujit Sengupta and Prof. (Dr.) Phanchanan Moullick are annexed herewith and marked as **Annexure-C (colly.)**. The petitioner begs to refer some of the important and categorical points mentioned by these medical experts showing wrong treatment by the accused doctors:

**Prof. (Dr.) Panchanan Moulik (letter dated 21<sup>st</sup> March, 2001):**

*“Depomedrol 60 mg BD x 3 days is **neither recommended in text books or recommended by the manufacturer.** In case of continued TEN, this dose may be harmful **by increasing sepsis** which TEN patients **invariably suffer**”.*

**Prof. (Dr.) Sujit Sengupta (dated 20<sup>th</sup> March, 2001):**

*“... 80 mg I.M. twice daily for five days constitute high dose in dermatology and **has been incorrectly prescribed by the treating doctor** and also overlooked by the Physician/Pharmacist who has administered the drug (from 7.5.98 X 5 days)*

*No culture and sensitivity from skin or blood has been advised or done, **which is considered as an essential requirement** in the management of any severe Bullous disorder*

*Serum Electrolyte was done only on 11.05.98. **This was never repeated within 17.5.98**” (emphasis added)*

- 10.** The petitioner states that the above views, comments, opinions, evidence on record placed before the PE Committee most palpably establish the fact that due to the medical negligence of the accused doctors, the wife of the petitioner was succumbed to death which the respondents, being the constituent members of the Council, were required to take into consideration while giving their final decision into the matter.
- 11.** It is most unequivocally stated by the petitioner that through numerous letters, reminders and references he applied before the accused persons in the Council for getting the copies of the said materials including the medical experts' opinions as mentioned hereinabove but in spite of petitioner's best of efforts, the accused persons neither paid any heed to the petitioner nor supplied any copy of the said documents to him keeping the petitioner in complete dark about the ongoing proceedings in the Council. Finally in July, 2011, after change in the political scenario in West Bengal, the petitioner could collect those expert opinions, evidences and other relevant materials by exerting the rights under the Right to Information Act, 2005.
- 12.** But since the above views, comments, opinions, evidence on record were clearly indicative of the guilt of Dr. Mukherjee and Dr. Halder having high influence in the West Bengal Medical

Council, the accused persons with the *mala fide* intention to shield those evidences and to screen the doctors for some oblique and ulterior motive, very dishonestly held a meeting on 17.04.2001 and referred back the case to the PE Committee for fresh consideration.

13. That during enquiry into the matter afresh, the PE Committee requested another expert, Prof. (Dr.) Santanu Kumar Tripathi, a professor of pharmacology, to give his valued opinion into the entire aspect of the matter, seemingly in another attempt to obtain some favorable opinions to acquit Dr. Mukherjee and Dr. Halder. However, Prof. Tripathi *vide* his opinion dated 27.06.2001 also found incriminating materials suggestive of medical negligence by the accused doctors endorsing the views earlier expressed by Prof. Ranjit Kumar Panja (and also by Prof. Moulik and Prof. Sengupta). The relevant portions from the opinion expressed by Prof. Tripathi underscoring the negligent therapy by Dr. Mukherjee and Dr. Halder are shown below (**Annexure-D**):

**Prof. (Dr.) Santanu K. Tripathi (letter dated 27<sup>th</sup> June, 2001):**

*“References cited by Dr. Sukumar Mukherjee himself in order to defend his position, **do not appear to lend support to the treatment regimen chosen by him on 7.5.98.....”***

*.....Dr. Sukumar Mukherjee as he tried to justify had chosen Depomedrol because of its “slow and limited bioavailability” and*

he was convinced that this should match in “slowly evolving disease”. This, however, **does not commensurate with his decision to give it twice a day for three consecutive days** (p.5).

.....***the manner in which the particular steroid formulation has been prescribed and potentially used in the present case is not evidence-based, to say the least*** (p.6).

.....it can be definitely expected that ***he (Dr. Halder) should have given clear instructions*** about the further continuation or the discontinuation of the treatment (Depomedrol). If Dr. Halder really meant that from that moment on, his and only his prescription should have been complied, this perception and understanding of his leaves him open to the risk of sudden and abrupt withdrawal from the high dose steroid treatment regimen by the nursing staff., ***which in itself could be difficult for him to reconcile***” (p.7).  
(emphasis added)

14. The petitioner states that the accused persons, being the members of the Council very designedly kept the incriminating materials provided against Dr. Mukherjee and Dr. Halder by the P.E. Committee out of the purview of their consideration and very abruptly exonerated Dr. Halder (and also late Dr. Roychowdhury) from the charges leveled against them. But as the evidence collected against Dr. Sukumar Mukherjee by the PE Committee during enquiry was so grave that the accused persons were

constrained to find a *prima facie* case against Dr. Sukumar Mukherjee for medical negligence and framed charge against Dr. Sukumar Mukherjee on 8.11.2001, in the following tune:

*“That you have used Injection Depomedrol 80 mg BD on Mrs.Anuradha Saha, wife of Dr. Kunal Saha of U.S.A who was under your treatment on and from April 24, 1998, to May 11, 1998, which is much above the recommended dose of the drug and, hence, you are required to justify use of the said drug at such a high dose”.*

- 15.** But to the utter shock and surprise of the petitioner, the accused persons, taking undue advantage of the official positions in the West Bengal Medical Council, without least consideration of the materials on records and ignoring all the scientific evidences and expert opinions against the offending doctors, *vide* purported judgment and order dated 18.06.2002 exonerated and clean-chited Dr. Sukumar Mukherjee from all the charges causing wrongful gain to themselves and huge wrongful loss to the petitioner.
  
- 16.** It is most respectfully submitted that the total contradictory stand taken by the accused persons, first by framing charge against Dr. Sukumar Mukherjee and then, without least consideration of the materials and scientific evidences already on record, exonerating Dr. Mukherjee from all the charges makes it

abundantly clear that the accused persons all through acted in connivance with the said offending doctors and withheld the incriminating materials against them to save their skin and deliberately prevented the petitioner from getting justice for his deceased wife.

- 17.** The petitioner also filed criminal as well as civil cases against the said doctors and hospital (AMRI) in Kolkata in 1998 and 1999, respectively. The trial court (Ld. Chief Judicial Magistrate) at Alipore *vide* his judgment and order dated 29<sup>th</sup> May, 2001 found two senior doctors (Dr. Sukumar Mukherjee and Dr. Baidyanath Halder) guilty for criminal negligence and convicted them under Section 304A of the Indian Penal Code and sentenced them each to suffer imprisonment for three months and also fine of Rs. 3000/-but one of the accused, late Dr. Abani Roy Chowdhury was acquitted.
- 18.** Challenging the said order, two separate appeals were preferred by Dr. Sukumar Mukherjee and Dr. Baidyanath Halder before the Learned Sessions Judge, Alipore. On the other side, the petitioner/complainant preferred appeal against order of acquittal of late Dr. Abani Roy Chowdhury in the Hon'ble High at Calcutta being C.R.A. No. 295 of 2002. The Hon'ble Court also got the said two appeals transferred to the Hon'ble Court to be heard along with the appeal No. 295 of 2002 being renumbered as C.R.A. No. 83 of 2003 and 84 of 2003. The said appeals were heard at length

by the Hon'ble Justice G.C. De. Finally vide Order dated 19<sup>th</sup> March, 2004 the Hon'ble Court allowed the said two appeals against conviction and dismissed the appeal against acquittal preferred by the petitioner.

- 19.** That the petitioner cherished serious grievances and moved Criminal Appeal Nos. 1191-94 of 2005 before the Hon'ble Supreme Court against the impugned judgment of the Hon'ble Calcutta High Court. The Petitioner also filed Civil Appeal No. 1727 of 2007 in the Apex Court against the National Consumers Forum (NCDRC) that also dismissed the complaint of medical negligence.
- 20.** That it is pertinent to mention in this regard that while dismissing the application filed by the petitioner, the Hon'ble NCDRC relied heavily upon the final order passed by the West Bengal Medical Council. In fact, the order passed by the Council acquitting the three doctors has been quoted in its entirety in the final judgment passed by the Hon'ble NCDRC. The Hon'ble NCDRC was clearly misguided by the order passed by the West Bengal Medical Council as the Hon'ble Commission has observed at the very beginning of the judgment:

*“Whether the Courts or the Consumer Fora can sit in appeal against the decision taken by the expert doctors (of WBMC) with regard to*

*administration of a particular dose of medicine?*

*Answer would be – No”..... the W.B.Medical Council has specifically arrived at the conclusion that there is no deficiency or negligence on the part of the doctors.*

Thus, it is evidently clear that the deliberate and *mala fide* decision taken by the accused persons in the Council has also obstructed the course of delivery of justice.

- 21.** As indicated above, the petitioner also filed criminal and civil appeals before the Hon'ble Supreme Court. The Apex Court passed a final judgment on August 7, 2009 disposing both the criminal and civil appeals together in which the Supreme Court has categorically held the four Accused doctors (including the Dr. Mukherjee and Dr. Halder) and AMRI hospital guilty for medical negligence and responsible for the death of Anuradha. The said Judgment has been reported in 2009 (9) S.C.C. 221. In the said judgment, the Hon'ble Apex Court has elaborately discussed all aspects of medical negligence and specifically attributed culpability on the part of the three accused doctors including Dr. Mukherjee/Dr. Halder for causing death of the wife of the petitioner, inter alia, holding as follows :-

*“We are, therefore, of the opinion that the **universally accepted medicated treatment protocol had also not been followed.***

It is also to be noted at this juncture, that there may well be a difference of opinion on the course of action to be adopted while treating a patient of TEN, but the treatment line followed by **Dr. Mukherjee** which entailed administration of 80 mg of **Depomedrol** injection twice is not supported by any school of thought. **The treatment line, in this case, does not flow from any considered affinity to a particular school of thought, but out of sheer ignorance of basic hazards relating to use of steroids as also lack of judgment.**

.....

According to general practice, long acting steroids are not advisable in any clinical condition, as noticed hereinbefore. However, instead of prescribing to a quick acting steroid, the prescription of a long acting steroid without foreseeing its implications is certainly an act of negligence on his part without exercising any care or caution. **As it has been already stated by the Experts who were cross examined and the authorities that have been submitted that the usage of 80-120 mg is not permissible in TEN.**

Furthermore, after prescribing a steroid, the effect of immunosuppression caused due to it, ought to have been foreseen. The effect of immunosuppression caused due to the use of steroids has affected the immunity of the patient and **Dr. Mukherjee has failed to take note of the said consequences.**

After taking over the treatment of the patient and detecting TEN, **Dr. Halder ought to have necessarily verified the previous prescription** that has been given to the patient. On 12th May, 1998 although `depomedrol was stopped, **Dr. Halder did not take any remedial measures** against the excessive amount of `depomedrol that was already stuck in the patients body and **added more fuel to the fire** by prescribing a quick acting steroid `Prednisolone at 40mg three times daily, **which is an excessive dose**, considering the fact that a huge amount of "Depomedrol" has been already accumulated in the body.

Life saving `supportive therapy including IV fluids/ electrolyte replacement, dressing of skin wounds and close monitoring of infection is mandatory for proper care of TEN patients. Skin(wound) swap and blood tests also ought to be performed regularly to detect the degree of infection. Apart from using the steroids, aggressive supportive therapy that is **considered to be rudimentary for TEN patients** was not provided by Dr. Halder. Further `vital-signs of a patient such as temperature, pulse, intake-output and blood pressure were not monitored. All these factors are considered to be the very basic necessary amenities to be provided to any patient, who is critically ill. **The failure of Dr. Halder to ensure that these factors are monitored regularly is certainly an act of negligence.**

*Occlusive dressing were carried as a result of which the infection had been increased. **Dr Halders prescription was against the Canadian treatment protocol** reference to which we have already made herein before.*

*It is the duty of the doctors to prevent further spreading of infections. How that is to be done is the doctors concern. Hospitals or nursing homes where a patient is taken for better treatment should not be a place for getting infection.*

*After coming to know that the patient is suffering from TEN, **Dr. Abani Roy Chowdhury ought to have ensured that supportive therapy had been given. He had treated the patient along with Dr. Halder and failed to provide any supportive therapy** or advise for providing IV fluids or other supplements that is a necessity for the patient who was critically ill.” (emphasis added).*

- 22.** That it is also pertinent to mention in this context that after the accused persons of the Council exonerated the doctors responsible for Anuradha’s death, the petitioner filed an appeal with the Medical Council of India (MCI), appellate authority and highest medical regulatory body in India, against the impugned order passed by the Council. After a thorough investigation, the doctor members of the MCI also found Dr. Mukherjee and Dr. Halder guilty for “professional misconduct” and causing death of

Anuradha. The MCI also directed the West Bengal Medical Council to cancel the medical registration of Dr. Mukherjee/Dr. Halder *vide* an order passed in May, 2011 (**Annexure-E**). Holding Dr. Mukherjee and Dr. Halder guilty for medical negligence by the doctor members of the MCI establishes beyond all reasonable doubts that the accused persons in the West Bengal Medical Council acted with *mala fide* and conspired to exonerate Dr. Mukherjee and Dr. Halder from all charges of medical negligence.

**23.** That on the backdrop of what has been canvassed in the foregoing paragraphs, it is most palpable and glaring that the accused persons had entered into a deep-rooted criminal conspiracy amongst themselves to screen the offenders and in pursuance to that, as overt acts, the accused persons knowing fully well that the offending doctors had committed the offence of medical negligence and thereby caused death of the wife of the petitioner, deliberately concealed and withheld the evidences and/or information relating to the said offenders with the intention to save their skin and thereby committed the offence punishable under Section 201 of the Indian Penal Code read with Section 120B of the said Code.

**24.** That this Learned Court has ample jurisdiction to entertain this petition of complaint and try the offenders as the accused persons have committed the aforesaid offence and/or part thereof at the office of the West Bengal Medical Council situated within the

jurisdiction of Hare Street police station and well within the jurisdiction of this learned Court.

- 25.** The petitioner states that from the year 2001, the petitioner ran from pillar to post and exhausted all possible means to get the incriminating materials and evidences collected against the three doctors, which were never supplied to the petitioners by the accused persons even after making applications under the Right to Information Act. However, due to radical change in political scenario in West Bengal as many of the accused persons including the respondent no. 1 and 2 gave resignation from their official positions in the Council, the petitioner could manage to get those materials only in July, 2011 and could learn about such dishonest acts perpetrated by the accused persons to screen the offending doctors as stated above.
- 26.** That the petition of complaint is made *bona fide* and in the interest of justice.

In the facts and circumstances mentioned hereinabove, it is humbly prayed by the petitioner that Your Honour may take cognizance of the offence alleged and issue process against the accused persons under Sections 201 read with Section 120B of the Indian Penal Code, 1860 and in the event of

their appearance in this Learned Court, try, convict and sentence them as per law and justice and also be further pleased to impose litigation costs and pass order of adequate compensation both in favour of the petitioner under Sections 359(1) and 357(3) of the Code of Criminal Procedure respectively and also pass such other order or orders that Your Honour may think fit and proper in the interest of justice.

And for this act of kindness your petitioner, as in duty bound, shall ever pray.

***Filed by :***

***Advocate***

***Dated. This The            day of August, 2011***

**LIST OF THE WITNESSES:-**

- (i) The complainant and his staffs
- (ii) Dr. Panchanan Moulik
- (iii) Dr. Sujit sengupta
- (iv) Dr. Santanu Kumar Tripathy

And others

**ANNEXURES:**

- A) WBMC letter to Dr. Ranjit Panja dated 3<sup>rd</sup> December, 1999.
- B) Response of Dr. Ranjit Panja
- C) Letters from Prof. Moulik, and Prof. Sengupta (colly.)
- D) Letter from Prof. Tripathi
- E) MCI Order of May, 2011