**STATE CONSUMER DISPUTES REDRESSAL COMMISSION**

**WEST BENGAL**

**FIRST APPEAL NO. SC/19/A/176/2024**

ANINDYA CHAKRABORTY .....Appellant(s)
PRESENT ADDRESS - NUTANPALLY, BALIA, GARIA, P.S.- NARENDRAPUR,WEST BENGAL.

Versus

ISPAT COOPERATIVE HOSPITAL .....Respondent(s)
PRESENT ADDRESS - KALIKAPUR, P.S.- SONARPUR,WEST BENGAL.
THE CHAIRMAN, ISPAT COOPERATIVE HOSPITAL
PRESENT ADDRESS - KALIKAPUR, P.S.- SONARPUR, SOUTH 24 PARGANAS,WEST BENGAL.
THE ADDITIONAL CHIEF SECRETARY
PRESENT ADDRESS - SWASTHYA BHAVAN, GN-29, SECTOR-V, SALTLAKE, KOLKATA- 700091,WEST BENGAL.
COMMISSIONER OF FAMILY WELFAIR & STATE MISSION DIRECTOR
PRESENT ADDRESS - SWASTHYA BHAVAN, GN-29, SECTOR-V, SALTL;AKE, KOLKATA- 700091,WEST BENGAL.
DIRECTOR OF HEALTH SERVICE
PRESENT ADDRESS - SWASTHYA BHAVAN, GN-29, SECTOR-V, SALTLAKE, KOLKATA- 700091,WEST BENGAL.
EXECUTIVE DIRECTOR STATE HEALTH & FAMILY WELFARE SAMITY
PRESENT ADDRESS - SWASTHYA BHAVAN, GN-29, SECTOR-V, SALTLAKE, KOLKATA- 700091,WEST BENGAL.
DISTRICT MAGISTRATE, SOUTH 24 PARGANAS
PRESENT ADDRESS - 25, BELVEDIERE ROAD, ALIPORE, KOLKATA- 700027,WEST BENGAL.

**BEFORE:**

**HON'BLE MR. JUSTICE BIBHAS RANJAN DE , PRESIDENT**

**HON'BLE MRS. MRIDULA ROY , MEMBER**

**FOR THE APPELLANT:** DR J.P. GUPTA (Advocate)

**FOR THE RESPONDENT:** ISPAT COOPERATIVE HOSPITALTHE CHAIRMAN, ISPAT COOPERATIVE HOSPITALTHE ADDITIONAL CHIEF SECRETARYCOMMISSIONER OF FAMILY WELFAIR & STATE MISSION DIRECTORDIRECTOR OF HEALTH SERVICEEXECUTIVE DIRECTOR STATE HEALTH & FAMILY

WELFARE SAMITYDISTRICT MAGISTRATE, SOUTH 24 PARGANAS

**DATED: 25/08/2026**

**ORDER**

HON'BLE MR. JUSTICE BIBHAS RANJAN DE, PRESIDENT

## PREFACE

1. This appeal arises from a Consumer Complaint initiated before the Ld. Consumer Disputes Redressal Commission at Baruipur (hereinafter referred to as DCDRC), docketed as CC No.78 of 2022, wherein the Complainant pleads grievous deficiencies in service and unfair trade practice.

## FACTS

2. The narrative unfolds on the evening of May 1, 2021, at 8.56 P.M., when the complainant was admitted to the care of Ispat Co-operative Hospital, where he remained until May 6, 2021. In their hour of need, the complainant's family presented a valid Swasthya Sathi Card, seeking medical benefits guaranteed thereunder. Regrettably, the Hospital administration summarily declined this rightful request, leaving the family with no recourse but to accept a premium, paid accommodation under duress.

3. Furthermore, the complainant contends that despite being lodged in a standard general ward for the entirety of his stay, the final statement of accounts was deceptively inflated with exorbitant intensive care unit (ICU) charges. Bound by circumstances, the complainant was coerced into liquidating a staggering sum of Rs.2 lakhs to secure his discharge. Aggrieved by the systematic refusal of the Swasthya Sathi Scheme and the financial exploitation that followed, the complainant sought justice through the institution of the instant consumer action.

## OBSERVATION OF THE DCDRC

4. The Consumer complaint was declined pursuant to the observations of the Ld. DCDRC as reproduced below :

*"…It appears that the complainant cum patient was admitted on 01.05.2021 and was discharged from the O.P.No.1 hospital on 06.05.2021 diagnosed for sufferance from COVID 19 as per clinical note cum final diagnosis in the discharge certificate dated 06.05.2021. It appears from discharge summary that the patient was presented with fever and pneumonia and diagnosed as Covid positive. The patient was released with an advice for home isolation of 10 days and medication thereof for post Covid 19 treatment. From the final bill and receipt dated 17.05.2021 for Rs.2 lakh it appears that the bed/room number is quoted as "iccu-2-44". The complainant filed complaint before the Govt. authorities cumO.P.no.3 about the allegations centring around refusal to accept Swastha Sathi card duly supported by track report from postal department and legal notice was sent dated 21.02.2022.*

*The Swastha Sathi scheme is a state sponsored welfare scheme on health services. The benefit of the schemes are hosted in the public domain wherein the beneficiary can escalate their grievances including admission or refusal issues through various Whatsapp and toll free numbers for immediate redressal details of which are also printed on the back side of the Swastha Sati smart card and hosted in public domain. No document is found exhibited about lodging any complaint on the alleged date of refusal on 01.05.2021 on nearby till after more than 9 months either to any of the authorities or the hospital administration or the district/state grievances redressal committee instituted by the govt. authority. Hence it has not been possible to ascertain the legitimacy of the facts which should have been on real time basis. The only document in support of the claim of the complainant having reported for the social security card is his evidence but on the same issue the OP1 and OP2 have also filed counter affidavit denying the same leading to shortfall of cogent proof through some record or documents with adequate evidentiary value. As per various declared policies of the DGHS and authorities, the general beds and facilities had to be converted to ICCUs/ICUs for higher coverage towards patients and emergencies to combat the pandemic. But in this complaint case there is no much reflection on inadequacy of ICU/ICCU facilities,*

*specially read with the itemized medical bills, element of which reflects the most of the IVs were administered which are normally used in an ICU/ICCU/ITU/PICU/NICU set ups only.*

*Hence, the case of the complaint is not sustainable in want of cogent proof in support of his contention and the complainant has failed to make out the case prima facie…"*

## ARGUMENT

5. The Appellant, Mr. Anindya Chakraborty appearing in person, earnestly contends that the Hospital authority's outright refusal to honour the Swasthya Sathi Card constitutes a gross deficiency in service. Furthermore, Mr. Chakraborty submits that the hospital's Act of levying exorbitant charges for an intensive care unit (ICU) stay, despite his admission to a standard general bed, amongst to a flagrant an egregious unfair trade practice u/s 2 (47) of the Consumer Protection Act, 2019. In solemn support of these contentions, he places reliance upon the foundational principles enunciated in the following judicial precedents :

- Cpl. Ashish Kumar Chauhan (Retd.) v. Commanding Officer & Ors., reported in 2023 INSC 857.
- V. Kishan Rao v. Nikhil Super Specialty Hospital, reported in (2010) 5 SCC 513.
- Rubi (Chandra) Dutta v. United India Insurance Co. Ltd., reported in (2011) 11 SCC 269.

6. In stark contradiction, Mr. Suraj Roy, the Ld. Counsel representing the interests of Respondents Nos. 1 & 2 – the Hospital authority – vehemently averred that the record remains utterly barren of any documentary evidence demonstrating that the complainant ever lodged a formal protest regarding the alleged rejection of the Swasthya Sathi Card. Pressing his argument further, Mr. Roy submitted that under the unprecedented duress of the COVID-19 crisis, the hospital was compelled to metamorphose all general wards into

intensive care units (ICU). Consequently, amidst the turbulent peak of the pandemic, the discharge certificate was issued with an inadvertent clerical error, mistakenly designating the occupancy of bed no. 1002.

7. Although Respondent No.3 to 7 chose to remain absent during oral arguments, they nevertheless submitted a written brief. Therein, they vigorously contested the complainant's status as a "consumer" under the Consumer Protection Act, asserting that medical care sought under the aegis of a Swasthya Sathi Card continues a claim for free treatment.

## DECISION

8. We have reviewed the precedents advanced by the appellant with the utmost care and meticulous attention.

9. While the Ld. DCDRC acknowledged the Doctor's advice within the discharge certificate dated 06.05.2021, it regrettably overlooked the deeper truths enshrined in the very same document. A meticulous examination of the discharge summary alongside the final invoice reveals a stark and troubling contradiction : the complainant was accommodated in a general bed for the duration of his 5/6 day stay, yet the hospital unjustly levied charges for an ICCU bed. This glaring discrepancy and exploitive invoicing by the hospital administration undeniably constitutes a textbook instance of "unfair trade practice".

10. It is respectfully submitted that the Ld. DCDRC fell into palpable error by erroneously focusing on the purported non-production of documents verifying the lodgment of a complaint before competent authorities regarding the refusal of the Swasthya Sathi Card. Paradoxically, the Ld. Commission conspicuously took into consideration a specific complaint dated 21.02.2022 within the contours of its final order, thereby revealing a stark material contradiction in its findings.

11. Furthermore, the Ld. DCDRC proceeded on a flawed trajectory of mere conjecture and assumption, erroneously presuming that under the prevailing policies of the Directorate General of Health Services (DGHS) and allied authorities, general beds and medical facilities were seamlessly converted to ICCUs/ICUs to optimize emergency coverage during the pandemic. Strikingly, the Ld. Commission chose to rely on this presumption without seeking a shred of strict, corroborative proof of such conversion from the Hospital administration.

12. That apart, it strains judicial credulity to accept that the complainant would proactively lodge formal grievances against denial of Swasthya Sathi Card benefits with the appropriate authorities on 24.01.2022 and 21.02.2022 – with copies duly communicated to the hospital administration – without simultaneously and vigorously demanding cashless treatment against the said Swasthya Sathi Card from the hospital itself. Consequently, the poignant claim regarding the outright refusal of the Swasthya Sathi Card by the hospital authority cannot be brushed aside or lightly ignored, as it remains deeply embedded in the factual matrix of the case.

13. Hospitals are legally required to provide accurate, transparent billing that matches their treatment logs. Charging a patient for a high-cost intensive coronary care unit (ICCU) bed while officially documenting that he stayed in a regular general bed, in our humble opinion, is a form of fraudulent and manipulative billing. By putting a regular bed no. on the discharge certificate but charging for an ICCU bed in the final bill, the hospital is misrepresenting the services actually delivered to inflate the bill. It is needless to mention here that Consumer Courts in India have consistently penalized health care providers for such deceptive practices.

14. It is no doubt that a patient can file a consumer application against a private hospital or nursing home for refusing treatment under the Swasthya Sathi Card under the Consumer Protection Act, 2019, healthcare is considered a "service". Even though patient is not paying cash out of pocket, the Govt.

pays the empanelled on behalf of the holder of Swasthya Sathi Card. **This creates a legal consumer–provider relationship**. Turning away a patient who holds a valid card constitutes a **deficiency of service**.

15. Besides, the landmark judgement of the Hon'ble Apex Court in *Indian Medical Association vs. V. P. Shantha (1995) 6 SCC 651* established that health insurance or Government-sponsored schemes where payments are made on behalf of the patient fall strictly under the Consumer Protection Act.

## CONCLUSION

16. In contemplation of the exhaustive deliberations set forth in the preceding paragraphs, it shines forth with absolute clarity that the appellant has triumphantly established a profound deficiency of service regarding the denial of the Swasthya Sathi card. Furthermore, the appellant has laid bare the unfair trade practices of the institution, which unconscionably raised invoices for intensive coronary care unit (ICCU) services while patient/appellant herein reposed within the confines of a general hospital ward.

17. Consequent upon these findings, the impugned decree dated the 28th of March, 2024, rendered in connection with Consumer Complaint No.78/2022, is hereby dissolved and set aside.

18. The appeal ascends to full allowance.

19. Accordingly, consumer complaint No.78 of 2022 stands graciously allowed under the following solemn mandates :

i) The opposite parties No. 1 & 2, being the Hospital administration, shall forthwith restore and refund the sum of Rs.2 lakhs unto the complainant, granted with the distinct liberty to seek due reimbursement of the said evaluation against the complainant's Swasthya Sathi Card.

ii) The opposite parties no. 1 & 2, bound in joint and several liability, are hereby commanded to bestow compensation to the tune of Rs.50,000/-,

accompanied by litigation costs in the sum of Rs.25,000/-, payable directly to the complainant.

iii) The entirety of the aforementioned directives shall be meticulously executed and complied with within a span of Eight (8) weeks from this day.

20. Any and all pending applications, having been rendered entirely infructuous by this final judgment, stand harmoniously disposed of.

21. Let a copy of this mandate be transmitted to the Jurisdictional DCDRC.

22. Let the administrative office dutifully dispense complimentary copies of this order to all parties herein concerned.

**.....J**
**BIBHAS RANJAN DE**
**PRESIDENT**

**.....**
**MRIDULA ROY**
**MEMBER**