

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 1477 OF 2022

(Against the Order dated 14/07/2022 in Appeal No. 624/2022 of the State Commission Uttar Pradesh)

1. ANIL VERMA

.....Petitioner(s)

Versus

1. DR. DEVENDRA TRAUMA & GENERAL HOSPITAL &
ANR.

.....Respondent(s)

BEFORE:

HON'BLE DR. S.M. KANTIKAR, PRESIDING MEMBER

For the Petitioner : Appeared at the time of arguments
 Mr. Nikhil Jain, Advocate
 Mr. Sagar Juneja, Advocate

For the Respondent :

Dated : 20 Feb 2023

ORDER

1. Heard the learned Counsel for the Petitioner.
2. The short delay of 23 days in filing this Revision Petition is condoned.
3. Brief facts are on 17.01.2014, the Complainant – Anil Verma (for short ‘the patient’) underwent few laboratory tests alongwith test for Hepatitis-B (HbsAg) in Dr. Devendra Trauma and General Hospital (for short ‘the hospital’), Mathura. The Pathologist – Dr. Shikha Vyas informed HbsAg positive and demanded Rs.20,000/-. He informed that it was serious disease like AIDS and the treatment is available only in the OP hospital. Therefore, it was shock to the Complainant, his BP shot up and he suffered mental agony. As the patient could not deposit Rs.20,000/-, the OP Dr. Devendra Kumar referred him to RG Kar Medical College, Kolkata. Immediately on 21.01.2014 the patient started his treatment at Kothari Medical Centre, Kolkata. He underwent the test again and found that it was negative. Thus, being aggrieved by the wrong report issued by the OPs, the patient filed a complaint before the District Forum, Mathura.
4. The District Forum dismissed the Complaint. Being aggrieved, the Complainant filed the First Appeal before the State Commission, it was dismissed.
5. Thus, against the impugned Order of the State Commission, the Complainant filed the instant Revision Petition.
6. Heard the learned Counsel for the Petitioner. Perused the medical record and different laboratory reports.
7. On careful perusal of the record, it is evident that the OP performed the HbsAg test by HEPACHECK- the dipstick method. In my view, it was the screening test only. Thereafter, in Kothari Medical Centre, the patient underwent the test again. The test was done by Q-Polychromatic Chain Reaction (Q-PCR) on 24.01.2014. The HBV DNA, **HBeAg** was negative. PCR is the most sensitive test for early detection of HBV status. The test turned out to be negative.
8. It should be borne in mind that the initial tests were performed by Card method at Kolkata, but the blood was tested by DNA technology (PCR), which gives most accurate results. Therefore, all the quantitative analysis hepatic viral markers for Hepatitis B & E were normal. In my view, the Complainant wrongly interpreted the test results. The method of testing, quality of test reagents differs place to place.

The card test has more chances of false positive result. The PCR/ELISA are most sensitive than card method.

9. The Hon'ble Supreme Court in the cases viz '**Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd.**^[1] and '**Sunil Kumar Maity vs. State Bank of India & Anr.**'^[2] held that the scope of Revision Petition is limited. In my view there was no negligence while performing the HbsAg test, it was conducted with controls as an accepted reasonable practice. Admittedly, the concurrent findings of facts being noted, thus within the meaning and scope of section 21(b), I don't find any jurisdictional error, or a legal principle ignored, or miscarriage of justice, as may necessitate interference in the exercise of the revisional jurisdiction from this Commission.

The instant Revision Petition is devoid of merit and it is dismissed in limine.

[1] *2011 11 SCC 269*

[2] *Civil Appeal No. 432 / 2022 Order dated 21.01.2022*

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DR. S.M. KANTIKAR
PRESIDING MEMBER