



## BEFORE THE DISCIPLINARY COMMITTEE OF PAKISTAN MEDICAL COMMISSION

In the matter of

Complaint No. PF. 12-Comp-86/2016-Legal

Mr. Muhammad Aslam Dogar vs Dr. Mohammad Ashfaq

Mr. Ali Raza	Chairman
Mr. Aamir Ashraf Khawaja	Member
Dr. Asif Loya	Member

*Present:*

Brig Dr. Irfan Shukr	Expert (Surgery)
Dr. Muhammad Ashfaq (9768-P)	Respondent

### I. FACTUAL BACKGROUND

#### Reference from Punjab Health Care Commission

1. A reference was sent to the Disciplinary Committee of erstwhile PMDC on 09-05-2016 by Punjab health Care Commission (PHCC) in the matter of complaint by Mr. Muhammad Aslam Dogar (hereinafter referred to as the "Complainant") against Dr. Muhammad Ashfaq (herein after referred to as the "Respondent"). Facts arising out of the complaint are that brother of the complainant namely Muhammad Sharif was suffering from hernia who visited Rural Health Center Khudian where Respondent after initial checkup asked him to visit his private hospital namely Khurshid Mukhtar Memorial, Khudian Kasur, as an immediate surgery was required to be conducted. Complainant submitted Rs. 30000/- for the said treatment on 10-6-2014 whereafter Respondent took the patient to operation theatre at 10 o'clock and after an hour came out and informed the attendants that operation has successfully been done but the patient was not relieved of the severe pain. Complainant further alleged that upon being inquired the Respondent stated, to shroud his failure, the reason of the pain is due to stomach disrupt.



Thereafter, upon condition being deteriorated the patient was taken to Dr. Saeed Hospital where after an X-Ray it was disclosed that large intestine of the patient was cut during the surgery by the Respondent and it was advised to immediately take the patient to General Hospital Lahore. Since the condition of the patient was deteriorated due to spread of poison another surgery was performed on 14-6-2014 and bag for passing stool was attached. Complainant further alleged that Respondent Doctor being unqualified caused gruesome damage to the patient hence sought strict action as per law.

2. The matter was taken up by the Punjab Health Care Commission and the Board decided that the case of Dr. Muhammad Ashfaq be referred to PM&DC for taking appropriate action against him under the law for not having adequate expertise.

### **Reply of the Respondent**

3. In response to hearing notice issued to the Respondent by the Disciplinary committee he filed his written reply vide letter dated 02-09-2016 and stated therein that being aggrieved of the order passed by the PHCC, an appeal has been preferred before the court of Learned District and Sessions judge Qasoor and same is pending adjudication. Therefore, instant complaint cannot be proceeded with during the pendency of the said appeal and requested for sine die adjournment till the disposal of the appeal.

### **II. PROCEEDING OF DISCIPLINARY COMMITTEE OF ERSTWHILE PMDC**

4. The matter was taken up by the Disciplinary Committee. Both parties were absent. Case was adjourned to next meeting of Disciplinary Committee.

### **III. DISCIPLINARY COMMITTEE UNDER PAKISTAN MEDICAL COMMISSION ACT**

5. Pakistan Medical and Dental Council was dissolved on promulgation of Pakistan Medical Commission Act on 23 September 2020 which repealed Pakistan Medical and Dental Council Ordinance, 1962. Section 32 of the Pakistan and Medical Commission Act, 2020 empowers the Disciplinary Committee consisting of Council Members to initiate disciplinary proceedings on the complaint of any person or on its own motion or on information received against any full license holder in case of professional negligence or misconduct. The Disciplinary Committee shall



hear and decide each such complaint and impose the penalties commensurate with each category of offence.

### Hearing on 20-03-2021

6. The Disciplinary Committee held the hearing of pending disciplinary proceedings including complaint of Mr. Muhammad Aslam Dogar on 20-03-2021. Respondent was present whereas the Complainant was absent.
7. The Respondent was asked if he is in receipt of findings of the Punjab Health Care Commission to which he denied stating that he does not have findings of PHCC. Moreover, he stated that he does not have record of the case and sought time for providing the same. However, this stance of Respondent had turned out to be false since as per PHCC findings he was not just present during the hearing and had narrated his statement but was also cross examined during the proceedings whereby he had admitted before the PHCC Board that the patient was operated by him at Khurshid Mukhtar Memorial Hospital.
8. On a specific question regarding his practice at private hospital named Khurshid Mukhtar Memorial Hospital he initially stated that he never worked at the aforementioned private hospital however later he changed his statement and said he performed only one surgery in the the instant case at this hospital.
9. The Disciplinary Committee inquired about administering anesthesia to patients on which he performed surgery. He stated that there was no qualified anesthetist available at the aforementioned private hospital therefore he gave spinal anesthesia to patients himself.

### Expert opinion by Brig. (Retd) Dr. Irfan Shukar

10. Brig. (Retd) Dr. Irfan Shukar who was appointed as an expert to assist the Disciplinary Committee in the matter has opined that:

*“Brother of the complainant namely Mr. Muhammad Sharif was operated by Dr. Muhammad Ashfaq Chaudhary for Right Inguinal Hernia. The patient was discharged but his pain persisted. The patient was then presented to Dr. Saeed Ahmed at Javed Hospital, Khudian with complaint of abdominal distension and absolute constipation. On plain X-ray abdomen, there was air under the diaphragm.*



*The patient was then taken to Lahore General Hospital, His emergency exploratory laparotomy was done. Perforation was found proximal to ileocecal junction which was repaired and diversional ileostomy was done and the wound was closed by tension suturing. The patient was discharged later on.*

*Injury of intestine is a known complication of inguinal hernia, especially if it is complicated. These injuries can be missed, if surgeon is not careful or lacks expertise. But there was no delay in management.*

*It appears that Dr. Muhammad Ashfaq does not have the qualification to give him privilege to perform operation on a patient. Moreover, he missed per operative injury for which he should be liable to disciplinary action.”*

#### **IV. FINDINGS/ CONCLUSION OF THE DISCIPLINARY COMMITTEE**

11. The Disciplinary Committee has perused the relevant record, submissions of the parties and the expert opinion in the matter. In terms of Complaint the Complainant had alleged that brother of the Complainant namely Mr. Muhammad Sharif was operated by Dr. Muhammad Ashfaq Chaudhary at Khursheed Mukhtar Memorial Hospital, Khudian Khas, District Kasur, on 10-06-2014 for right inguinal hernia. The patient was discharged on 11-06-2014 but his pain persisted. It disclosed that large intestine of the patient was cut during the surgery by Respondent and was taken General Hospital Lahore where another surgery was performed on 14-6-2014, since the condition of the patient was deteriorated due to spread of poison.
12. During the hearing the Respondent changed his stance repeatedly. He denied his appearance before the Punjab Health Care Commission and made false statement. It is evident from the findings given by the Board of Punjab Health Care Commission that he was not just present during the proceedings and had narrated his statement but was also cross examined during the proceedings whereby he had admitted before the PHCC Board that the patient was operated by him at Khurshid Mukhtar Memorial Hospital. The Respondent also initially made false statement regarding his practice at private hospital named Khurshid Mukhtar Memorial Hospital and stated that he never worked there however later he changed the statement and said he performed only one surgery in the instant case at the aforementioned hospital.
13. Moreover, the Respondent was working at Rural Health Centre Khudian. When patient suffering from hernia visited Rural Health Center Khudian, the Respondent after initial checkup asked him to visit his private hospital namely Khurshid Mukhtar Memorial, Khudian Kasur and suggested him an immediate surgery. The Respondent infact persuaded the patient to come to



his own private clinic. Such practice of Respondent in terms of his management of the patient was in violation of the code of ethic and professional practice.

14. The Committee has observed from available record it is evident that the patient underwent an emergency exploratory laparotomy on 14-06-2014. Perforation was found proximal to ileocecal junction, which was repaired, diversional ileostomy was done and the wound was closed by tension suturing. The patient was discharged on 30-06- 2014. The Respondent doctor while performing the surgery for right inguinal hernia damaged the large intestine of the patient. As per license the Respondent doctor holds the degree of MBBS only. He carried out the surgery without having any requisite qualification/training. The Respondent admitted during the hearing before the Disciplinary Committee he was administering anesthesia to patients he performed surgeries on without any qualification in this field. Moreover, he is practicing on the basis of an expired license.
15. It is clarified that in terms of Section 29(2) of the Pakistan Medical Commission Act, 2020 a general practitioner may treat all ordinarily recognized common medical ailments and shall not practice in fields or specialties, as recognized by the Commission for which formal training is required subject to any restrictions prescribed by the Council. Similarly, no medical practitioner shall represent himself as a specialist or practice as a specialist, without having appropriate qualifications, recognized and duly registered by the Commission. Section 29 is reproduced in relevant parts as under:

#### **Section 29 - Licensing**

A general practitioner may treat all ordinarily recognized common medical or dental ailments and shall not practice in fields or specialties, as recognized by the Commission for which formal training is required subject to any restrictions prescribed by the Council. In life saving emergencies treatment may be provided until ordinarily recognized specialist services can be obtained or a safe referral can be ensured. No practitioner shall represent himself as a specialist or practice as a specialist, without having appropriate qualifications, recognized and duly registered by the Commission.

16. After hearing the parties at length, keeping in view complete facts of the case and expert opinion, the Disciplinary Committee established that the doctor was only MBBS holder and did not possess requisite qualification or training for the skills he observed on a high-risk patient. He not



just performed surgery on the patient but also gave spinal anesthesia to the patient. Moreover, he was not competent enough to manage the complications.

17. In view of above, the Disciplinary Committee is of considered view that Respondent Dr. Ashfaq Khursheed is carrying out surgeries and administering anesthesia beyond his lawful expertise mere on the basis of MBBS. Neither he is qualified to perform surgeries nor to administer anesthesia. In the basis of foregoing, the Disciplinary Committee is constrained to decide that the Respondent doctor is guilty of gross negligence and misconduct, therefore, his license is suspended for two years. Respondent Dr. Ashfaq is directed to file a formal request for restoration of license on completion of suspension period.
18. Further, a penalty of PKR 100,000 (One Hundred Thousand Rupees) is imposed on Respondent doctor for representing himself as a specialist or practicing as a specialist and misleading the general public. Accordingly, the Respondent Doctor is directed to pay the fine amount in the designated bank of the Commission within fourteen (14) days from the issuance of this decision and forward a copy of the paid instrument to the office of the Secretary to the Disciplinary Committee, failing which license of the Respondent doctor shall remain suspended until such time the fine is paid. is directed to file a formal request for restoration of license on completion of suspension period.
19. The subject proceedings stand disposed of in terms of above directions.

**Mr. Aamir Ashraf Khawaja**  
Member

**Dr. Asif Loya**  
Member

**Muhammad Ali Raza**  
Chairman



31<sup>st</sup> May, 2021