



BEFORE THE DISCIPLINARY COMMITTEE OF PAKISTAN MEDICAL COMMISSION

PF.12-Comp-140/2017-DC/PMC

Mazhar Iqbal Vs. Dr. Foqia Asif

Mr. Muhammad Ali Raza	Chairman
Dr. Anis-ur- Rehman	Member
Dr. Asif Loya	Member

Present:

Mr. Mazhar Iqbal	Complainant
Dr. Foqia Asif (17018-P)	Respondent
Brig (r) Prof. Dr. Ambreen Anwar	Expert (gynecology)
Hearing dated	03.06.2022

I. FACTUAL BACKGROUND

Reference from Punjab Healthcare Commission

1. The instant matter was referred by the Punjab Healthcare Commission to the Pakistan Medical Commission (hereinafter referred to as the "Commission") on 23.11.2016. Initially, Mr. Mazhar Iqbal (hereinafter referred to as the "Complainant") submitted a Complaint against Dr. Foqia Asif (hereinafter referred to as the "Respondent") to the Punjab Healthcare Commission on 08.04.2015 alleging negligence and malpractice. The Punjab Healthcare Commission heard the complaint, where the Complainant submitted that:



- a. Sister-in-law (Bhabhi) of the Complainant namely Mrs. Shahnaz Munawar (Patient) aged 40 years was suffering from some gynecological ailment for the previous two years. She consulted Dr. Foqia Asif Khan who advised her surgical operation.
- b. On the advice of Dr. Foqia Asif Khan the complainant brought the patient to Khan Hospital, Sheikhpura on 19.03.2015. On the same day at about 10:00 pm surgery was performed. Post-operatively, the patient developed complication. On the next day i.e. on 20.03.2015 at about 7:00 pm the patient became serious and she was re-explored.
- c. At about 04:30am on 21.03.2015 the patient was referred to tertiary hospital for further management. She was taken to Hameed Latif Hospital where she could not survive and expired at about 02:30 pm on 21.03.2015.

Findings and Decision of Punjab Healthcare Commission

2. The Punjab Healthcare Commission after investigating the Complaint, decided *inter alia* vide its decision dated 23.11.2016 that:
 - a. The case of Dr. Muhammad Javaid Shakir is referred to PMDC, for doing malpractice leading to the death of the patient.

II. NOTICE TO PARTIES

3. In view of reference of Punjab Healthcare Commission, Disciplinary Committee of the erstwhile PM&DC took cognizance of the matter. Since reference from Punjab Healthcare Commission was sent only to the extent of Dr. Javed Shakir, therefore, initially only he was directed to submit reply/comments. The matter was fixed for hearing before the Disciplinary Committee on 28.06.2019.

III. PROCEEDINGS BEFORE DISCIPLINARY COMMITTEE OF ERSTWHILE PM&DC

Hearing Dated 28.06.2019

4. The matter was fixed for hearing before the Disciplinary Committee of PM&DC. The Committee after hearing the parties recommended as under:

“... ”

- a. *Dr. Javed is General Surgeon and not gynecologist. Dr. Foqia is also MBBS doctor, Dr. Javed should not call Dr. Foqia to do Gynae Surgery. The Committee decided that his license is suspended for one year. Faculty Registration is cancelled for whole life.*

Recommendations for Council:

1. *Dr. Foqia will be issued notice for appearance.*
2. *Dr. Javed Shakir recommended for one-year suspension with faculty registration cancelled permanently. “*

Appeal Before the Medical Tribunal filed by Dr. Javed Shakir:

5. Dr. Javed Shakir feeling aggrieved of the decision of the Disciplinary Committee filed an appeal before the Honorable Medical Tribunal Islamabad. The Honorable Tribunal during the proceedings of the said appeal observed as under:

During the course of arguments, it was pointed out that in the same case of complained gynae surgery, the role of Dr. Foqia was yet to be determined and in its decision/recommendation dated 28.06.2019, communicated to the appellant vide letter dated 08.12.2020, the Disciplinary Committee of the erstwhile PMDC had also directed issuance of notice for appearance to the said doctor, while imposing the impugned penalties on the appellant. The learned counsel for the appellant referred to the affidavit of the complainant wherein he exonerated the appellant and held the said Dr. Foqia responsible for the complained gynae surgery. The representative of the PMC, on the other hand, stated at the bar that a number of cases undecided by the erstwhile PMDC are now being fixed for hearing and decisions thereon, including the case under discussion. There is, however, need for knowing progress in the case as any decision in the instant appeal will certainly having bearing on the said case, reportedly pending decision before the PMC. As such, the representative of PMC is directed to inform the tribunal and confirm pendency of the said case before the PMC. Besides bringing to the notice of the tribunal as to when notice was issued to the said doctor and as to what is the present status of the said case against Dr. Foqia.”

IV. SHOW CAUSE NOTICE TO DR. FOQIA ASIF KHAN

6. In compliance of recommendations of Disciplinary Committee of erstwhile PM&DC and the observations made by the Honorable Medical Tribunal, Show Cause Notice dated 22.11.2021 was issued to Respondent Dr. Foqia Asif Khan in the following terms:

3. **WHEREAS**, Punjab Healthcare Commission vide decision No. C/2015/040 dated 23rd November, 2016 decided the complaint filed by Mr. Mazhar Iqbal (hereinafter referred to as the "Complainant") against Khan Hospital, Sheikhpura and referred the matter to Disciplinary Committee of erstwhile Pakistan Medical & Dental Council which is attached as Annex I and shall be read as an integral part of this notice; and
4. **WHEREAS**, in term of reference by PHCC, the patient was brought to your hospital i.e. "Khan Hospital, Sargodha Road Sheikhpura" where you assessed the patient and diagnosed her as candidate for hysterectomy and called Dr. Muhammad Javed Shakir (F.C.P.S General Surgery) to carryout hysterectomy & oophorectomy at your hospital. The procedure was performed at Khan Hospital on 19th March, 2015, followed by serious complications and then carried to OT for re exploration on 20th March, 2015, furthermore, patient's general health condition deteriorated and was referred to Tertiary Care Hospital for further management on 21st March, 2015 and the patient died on the same date i.e. 21st March 2015 at Hamid Latif Hospital; and
5. **WHEREAS**, the matter was placed before Disciplinary Committee of erstwhile PM&DC in its meeting held on 28th June 2019. The Disciplinary Committee has observed that you are simple MBBS and Dr. Muhammad Javed Shakir performed hysterectomy on your recommendation; and
6. **WHEREAS**, you are registered with Pakistan Medical Commission under Registration No:17018-P, whereby you have got the degree of Basic Medical Qualification (MBBS) only; and
7. **WHEREAS**, a general practitioner cannot practice in the field of specialty without requisite qualification duly recognized by the Commission and represent as having acquired or seek to practice a specialty unless same is recognized by the Commission. Therefore your conduct of carrying out assessment/diagnosis/management of a patient of hysterectomy is in violation of Section 29 (2),(8)&(10) of the Act, read with Regulation 8 (2) of Code of Ethics of Practice for medical and dental practitioners, Regulations, 2011; and
8. **WHEREAS**, it has been observed by Disciplinary Committee that you apparently failed to provide pre/post-operative care as per standards and by causing delay in referral of the patient to tertiary care hospital. There is an in-adequate medical documentation on pre-operative and post-operative plan of care by you. Also you failed to take informed consent from the patient. Therefore, in terms of the facts, it is failure on your part to fulfil your professional responsibilities towards your patient. Such conduct amounts to professional negligence/misconduct and is therefore in breach of Regulation 3, 4, 9, 21, 50 & 34 read with Annex-III of Code of Ethics of Practice for medical and dental practitioners, Regulations 2011.

V. REPLY OF RESPONDENT

7. Respondent Dr. Foqia Asif Khan in response to Show Cause Notice submitted her reply on 22.12.2021 wherein she contended that:
- a) *As per the decision of case No. C/2015/040 dated 23rd November 2016, the following penalties & obligations were imposed on Khan Hospital;*
 - i. *A fine of Rs. 500,000 was imposed, because the hospital wasn't licensed with the PHC, and for the Malpractice leading to the death of patient.*
 - ii. *The obligation was imposed to implement MSDS.*
 - b) *In compliance of the decision of the Punjab Healthcare Commission fine had been paid, specialized gynecologist has been appointed, all the necessary steps keeping in view the judgement has been taken, MSDS has been implemented, and now there is nothing going contrary to the provisions of Section 29.*
 - c) *I (Dr. Foqia Asif Khan) now only practice basic medicine as per the requirement of section 29(2) of the Act. A specialized gynecologist, Dr. Faiza Saleem has been hired for providing specialized diagnosis and treatment at Khan Hospital.*
 - d) *The violation was committed in 2015 and the PMC ACT was passed in 2020 and there cannot be retrospective application of law.*

VI. HEARING

8. After completing codal formalities, the matter was fixed for hearing before the Disciplinary Committee on 03.06.2022. Notices dated 16.05.2022 were issued to Respondent Dr. Foqia Asif Khan and the Complainant directing them to appear before the Disciplinary Committee on 03.06.2022.
9. On the date of hearing the Complainant as well as Respondent doctor appeared before the Disciplinary Committee.
10. The Expert enquired from the Respondent that what were the indications to advise the patient hysterectomy. The Respondent stated that the patient was suffering from Menorrhagia and she had been taking medicines for last two three years. Respondent further stated that the patient told her that she was fed up of taking medicines and requested for surgery upon which she advised her hysterectomy.

11. The Committee asked the Respondent that hysterectomy is a specialized gynecological procedure and how she being simple MBBS can advise hysterectomy. The Respondent stated that she has worked in gynae department of DHQ Hospital for 10 years and Ganga Ram Hospital for 03 years and vast experience in gynae entitles her for gynae consultation/procedure. The Committee clarified her that mere working in gynae department does not qualifies any doctor to act and practice gynecology to which the Respondent Dr. Foqia stated that she did not perform hysterectomy of the patient rather it was performed by our general surgeon on call Dr. Javed Shakir.
12. The Expert asked the Respondent that to diagnose the case of hysterectomy, endometrial biopsy was necessary however in the record no such report was available. The Respondent stated that the patient refused endometrial biopsy. The Respondent further stated that there was no documentation to that effect.
13. The Expert enquired from the Respondent about the post-op care to which she stated that she provides post-operative care to all admitted patients. This patient bled after the surgery which was picked next day at 05:00 pm. Immediately surgeon Dr. Javed Shakir was called who arrived and the patient was re-explored at 07:00 pm by the surgeon. The Expert further enquired from the Respondent about the intensity of hemorrhage to which she stated that it was substantial hemorrhage however when the patient was re-explored no bleeder was found inside the abdomen. A drain was placed and abdomen was closed, thereafter there was no oozing. About 05 pints of blood including one FFP were transfused to the patient.
14. Responding to another question, the Respondent stated that at about 03:00 am she visited the patient and noticed bleeding. She sent samples for Platelets count which came 134. She suspected it a case of DIC. She again discussed the case with surgeon Dr. Javed Shakir on phone who advised to refer the patient to Lahore for further management at some tertiary care hospital. She pushed fluids to the patient and asked the attendants to take her to Doctors Hospital Lahore.
15. The Disciplinary Committee enquired whether she liaised with some doctor at Doctors Hospital before referring the patient, her answer was negative. The Committee further asked whether any

doctor accompanied the patient while shifting her to Doctors Hospital, she replied in negative. She further stated that attendant of the patient informed her on phone that Doctors Hospital has refused to take the patient. Thereafter the patient was taken to Hameed Latif Hospital, Lahore where she died at 02:30 pm the same day.

16. The Disciplinary Committee asked the Complainant about his grievance to which he stated that the Respondent doctor is not a gynecologist however, she practiced as a gynecologist. He further stated that the bleeding of the patient was not noticed by the Respondent rather female attendant of the patient noticed it and reported to Respondent. The Respondent did not come immediately. Attendants again requested Dr. Foqia to come and check the patient as she was bleeding profusely, then Dr. Foqia came and examined the patient.
17. Responding to another question the Complainant stated that after the second operation he asked Dr. Foqia whether there was any need to shift the patient to some other hospital to which she told that the patient is fine. At about 05:00 am, the Respondent Dr. Foqia called him in and asked to immediately take the patient to Doctors Hospital. He further stated that the patient was taken to Doctors Hospital, Lahore but they refused to take the patient. She was then shifted to Hameed Latif Hospital where the duty doctor asked for referral record, however no such record was available with them as Respondent Dr. Foqia gave only a small chit as referral document. He then made a phone call to Dr. Foqia and requested her to explain the case to doctors of Hameed Latif Hospital. The Complainant further stated that the patient reached at Hameed Lateef Hospital, Lahore at about 07:00 am, they were asked to arrange blood. The patient died at about 02:30 pm the same day.
18. The Disciplinary Committee asked the Respondent about the ownership of Khan Hospital, Sheikhpura to which the Respondent stated that she owns the said hospital. The Committee further asked what procedure/protocol is followed at Khan Hospital for referring patient. The Respondent stated that now they have developed proper referral form which contains brief history of the patient and details of surgical procedure performed and complication due to which the patient is being referred.

VII. EXPERT OPINION BY BRIG (R) PROF. DR. AMBREEN ANWAR

19. Brig (R) Prof. Dr. Ambreen Anwar was appointed as an Expert to assist the Disciplinary Committee. The salient points of the expert opinion are as under:

“Evidence:

1. Dr. Foqia herself assisted the operation.
2. She was present on the floor when incident of bleeding occurred.
3. Once patient’s condition did not improve, she referred the patient to higher facility in Lahore.
4. She did not give a standard follow-up to patient but kept a liaison on telephone with the attendants.
5. Dr. Foqia did not charge the family for the care provided.

Expert Opinion:

1. Documentations was found faulty, there was no ICU care in the hospital.
2. In compliance of decision Punjab Healthcare Commission, specialist gynecologist has been appointed and MSDS has been implemented. Complaint to the extent of Dr. M. Javed Shakir (Surgeon) has already been decided.
3. Though no formal / standard follow-up was given but close liaison (follow-up) with attendants was kept.”

VIII. FINDINGS AND CONCLUSION

20. Perusal of the record and statements of the parties reveal that the patient Mst. Shahnaz Munawar aged 40 years, was suffering from menorrhagia for the previous two years and was on medication. After consulting few doctors, she consulted Dr. Foqia Asif Khan who advised her hysterectomy. Upon this advice, the patient was brought to Khan Hospital, Sheikhpura on 19.03.2015 and hysterectomy was performed on the same day at about 10:00pm by Dr. Javed Shakir (FCPS, General Surgery), assisted by the Respondent doctor.
21. Postoperatively, the patient developed complications and she was re-explored on 20.03.2015 i.e. the next day. However, the health and condition of the patient did not improve and on 21.03.2015 at about 04:30am, the patient was referred by the Respondent doctor to Doctor’s Hospital, Lahore, a tertiary care hospital, for further management.

22. The patient was not given admission in Doctors Hospital, Lahore and was subsequently taken to Hameed Latif Hospital, Lahore where she was admitted. After talking to Dr. Foqia Asif Khan, in absence of any detailed referral note/patient record, the duty doctor at Hameed Latif Hospital, Lahore informed the Complainant of only remote chances of survival of the patient. Sadly, the patient did not survive her condition and expired on 21.03.2015 at about 02:30PM.
23. Disciplinary Committee of erstwhile PM&DC while hearing the instant matter against Dr. Javed Shakir observed that Dr. Foqia being simple MBBS was not qualified and authorized to advise the patient hysterectomy which is a purely gynecological procedure and only a qualified gynecologist can do that. Based on this observation recommendations of issuance of Show Cause Notice to Dr. Foqia Asif were given by the then Disciplinary Committee. Show Cause was accordingly issued to which Respondent Dr. Foqia Asif has submitted her reply.
24. During the hearing when the Respondent was asked regarding her qualification to advise hysterectomy to the patient which is gynecological procedure, stated that she has worked in gynae department of DHQ Hospital for 10 years and Ganga Ram Hospital for 03 years. Such vast experience in her opinion entitles her to carry out practice of gynecology.
25. It is a matter of record that the Respondent is a simple MBBS and she does not hold any post-graduate/additional or alternate qualification in gynecology. The practice of medicine and its embodiment in the clinical interactions between a patient and a medical practitioner, is fundamentally a moral activity that arises from the imperative obligation to care for patients. This relationship between a patient and a medical practitioner is based on integrity and principles of trust and honesty, which gives rise to a duty of care and the medical practitioners' ethical responsibility to place patients' welfare above the physician's own self-interest. Medical practitioners are mandatorily required to be honest about their qualifications and skills in their area of expertise when representing the same to a patient.
26. It is important to mention here that in terms of provisions of the PMC Act 2020, a medical or dental practitioner can represent and practice as a specialist only upon having obtained the post graduate qualification which is duly recognized and consequently registered on their license by the PMC. Medical practitioners who have been granted license to practice basic medicine or dentistry

as a general practitioner cannot practice as a specialist or use specialization or consultant titles with their names as it amounts to deceiving the general public. Section 29 of the Pakistan Medical Commission Act 2020 explicitly prohibits in this regard as under:

Section 29. Licensing

“(2) 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 No practitioner shall represent himself as a specialist or practice as a specialist without having appropriate qualifications, recognized and duly registered by the Commission.”

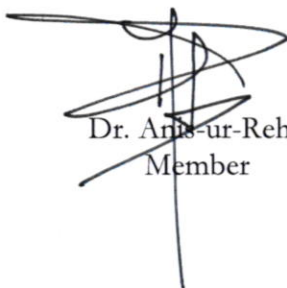
Sub-section (8) provides:

“(8) No medical or dental practitioner shall be permitted to represent in Pakistan as having acquired or seek to practice a specialty unless the same is duly registered on his license by the Authority. ...”

27. The Committee is also mindful of the fact that Respondent Dr. Foqia Asif Khan did not perform hysterectomy of the patient rather it was performed by Dr. Javed Shakir (General Surgeon) and as far as complications of surgery and management of the patient is concerned Dr. Javed Shakir has already been held guilty and appropriate order has already been passed by the Disciplinary Committee of erstwhile PM&DC. However, the Committee is of the considered view that Dr. Foqia was not authorized to carry out practice of gynecology and in this regard stance of Respondent doctor that she has worked in gynae department of DHQ Hospital for 10 years and Ganga Ram Hospital for 03 years is not tenable. Such experience does not entitle the Respondent doctor to carry out any practice which requires recognized qualification along with supervised training. Respondent Dr. Foqia Asif Khan in her written reply has admitted that she now only practices basic medicine as per the requirement of section 29(2) of the PMC Act and a specialized gynecologist has been hired for providing specialized diagnosis and treatment at Khan Hospital. Therefore, the Respondent admits that at the time of the instant case she misrepresented herself as a consultant to the patient and advised hysterectomy which is a procedure only a consultant gynecologist could have advised. Having acted beyond her licensed domain she proceeded to engage Dr. Javed Shakir to perform the surgery at her hospital which was admittedly deficient in the necessary infrastructure and resources to undertake a major surgery. The complications post operative as admittedly occurred were not properly managed at the deficient facility and without a consultant gynecologist or full time consultant surgeon available leaving primary decision making

in the hands of Dr. Foqia, who was not qualified to manage such situations. The referral of the patient by Dr. Foqia did not follow standard protocols and which in itself probably caused first Doctors Hospital not to admit the patient and thereafter, Hameed Latif to only provide emergency care. The facts and evidence confirm that the events starting with Dr. Foqia having misrepresented her qualification and thereafter, having acted beyond her licensed domain in advising a procedure beyond her capabilities and then allowing for a major surgery to be conducted at her self owned hospital which lacked the basic requirements to cater to post operative emergencies or permanent consultants to provide the necessary care for the patient, represent gross negligence on the part of the Respondent doctor. For the sake of profits for her practice and hospital Dr. Foqia placed the patient in danger and not only acted beyond the scope of her license and privileges she further miserably failed in providing the basic duty of care to the patient. For the above reasons the license of Dr. Foqia is suspended for a period of one year and a fine of Rs.100,000 is imposed payable to the complainant with proof of payment provided to the Commission within 30 days failing which her license shall be suspended for a further six months.

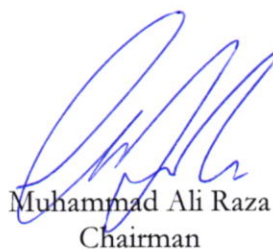
28. The subject proceedings stand disposed of accordingly.



Dr. Anis-ur-Rehman
Member



Dr. Asif Loya
Member



Muhammad Ali Raza
Chairman

20th July, 2022