



BEFORE THE DISCIPLINARY COMMITTEE OF PAKISTAN MEDICAL COMMISSION

In the matter of

PF.8-1897/2020-DC/PMC

Bilal Khoja Vs. Dr. Aisha Gul

Mr. Ali Raza Chairman

Dr. Anis-ur- Rehman Member

Dr. Asif Loya Member

Present:

Dr. Aisha Gul (14808-D) Respondent

Dr. Najeeb Saad Administrator, Alvi Dental Hospital, Karachi

Dr. Sahibzada Noor Muhammad Expert (Dentistry)

Hearing dated 04.06.2022

I. FACTUAL BACKGROUND

1. The instant Complaint was lodged by Mr. Bilal Khoja (hereinafter referred to as the “Complainant”) against Dr. Aisha Gul (hereinafter referred to as the “Respondent”) on 04.10.2020 alleging professional negligence. The Complainant alleged that he is suffering from an injury resulting from negligent dental work and intentional misconduct on part of Respondent Dr. Aisha Gul

II. SHOW CAUSE NOTICE

2. In view of the allegations leveled in the complaint, Show Cause Notice dated 18.03.2021 was served to Dr. Aisha Gul, in the following terms:

Decision of the Disciplinary Committee in the matter of Complaint No. PF.8-1897/2020-DC/PMC

4. **WHEREAS**, in terms of the Complaint, it has been alleged that while operating upon the Complainant you have negligently caused injury to the patient that led him to be dentally impaired and has left him to be in excruciating pain; and
5. **WHEREAS**, in terms of the Complaint, it has been further alleged that, due to your negligence, the contours and structure of his lower first and second molar are ruined beyond repair leading to gum recessions due to exposure of food particles; further apprehending the possibility of infection present in the tooth; and
6. **WHEREAS**, in terms of the facts mentioned in the Complaint it is failure on your part to fulfill your professional responsibilities towards your patient. Such conduct is a breach of code of ethics and service discipline and amount to Professional Negligence/ Misconduct.

III. REPLY OF RESPONDENT DR. AISHA GUL

3. In response to the Show Cause Notice dated 18.03.2021, Respondent Dr. Aisha Gul submitted her reply on 22.04.2021, wherein she stated that:
 - a. Mr. Bilal Haider Khoja, was examined by me for the first time, on 14.11.2019 at Alvi Dental Hospital (Shabbaz Branch) for his initial consultation.
 - b. He had severe pain in the Upper Left 3rd Molar region, which presented with a deep cavity located mesially just below the gum level for which he was advised extraction. We also identified a recurrent cavity below a previously filled tooth (by another dentist somewhere else) in his Lower Right 1st Molar. The filling was deep and we Informed him that if we were to attempt a re-filling there is a possibility of nerve exposure which would lead to the need to have a Root Canal procedure. After the initial discussion and consultation, the patient opted to have the wisdom tooth extracted during the same appointment.
 - c. A follow-up phone call was made from the hospital the next day on 15.11.2019, and our record shows that the patient did not answer the call.
 - d. On 16.11.2019, Mr. Bilal was seen to treat the recurrent cavity in the lower Right 1st Molar. I took meticulous care during the procedure to save the tooth from perforating the root canal chamber. However, knowing it was close to the nerve the patient was advised that he may need a Root Canal Treatment (RCT), should he have any pain symptoms.
 - e. Mr. Bilal returned on 24.11.2019 for a check-up complaining that the filling was loose and possibly the mesial contact of the tooth was inadequate. We carefully examined the situation and observed that the filling was very much intact and the contact was also found sufficiently normal, we also confirmed the situation with a radiograph
 - f. On 27.11.2019, Mr. Bilal came again with the same complaint and he was re-checked by another dentist, the same remarks were made, that the filling was fine and he was asked to follow a good cleaning & flossing regime. As per patient insistence (with some rude behavior & Interaction) we offered him to repeat the filling at no cost to help satisfy his complaints and also our emphasis on good customer care. We again inform him of the risks for nerve exposure due to a deep cavity and he opted to have the filling redone and the filling procedure was redone to his satisfaction.
 - g. On 06.01.2020, Mr. Bilal returned to our practice for Scaling and Polishing. He made no observation regarding any discomfort or pain on the concerning tooth.
 - h. Six months later on 03.06.2020, Mr. Bilal Khoja came for a detailed discussion and appointment at our branch located at Sindhi Muslim and was seen by our team of dentist. Mr. Khoja was extremely

rude and his behavior was unbecoming of a respectable person. He continued to misbehave with all our staff, respected doctors and also senior faculty. We again advised him the need to have a Root Canal Treatment as the cavity was already very deep. Despite the rude behavior our team patiently heard him fully, and in an attempt to pacify his concerns we agreed to re-do the filling at no-cost to him for the third time, even this time we made sure that the filling was done to the best possible practice again, and the mesial margin was carefully contoured to only allow for a dental floss to pass through. Mr. Bilal was satisfied and a radiograph was taken to ensure that things were performed up to the mark. This appointment was not charged as we felt it our way to pacify the patient.

- i. *On 13.06. 2020, we clearly repeated the need to have a RCT, but he again refused to accept and blamed us for the inadequate filling, having already done the filling multiple times we advised against re-doing the filling for the 4th time.*
- j. *He returned again on 17.06.2020 with the same complaint and our recommendations remained the same to have a RCT. Both these interactions were sadly very abusive and his misbehavior was unbecoming. We like always, have offered him the appropriate solution which was 'Root Canal'.*
- k. *I would like to state for the record that from the very first visit i.e. 14.11.2019 till his last visit i.e. 17.06.2020, I and my team took special care of Mr. Bilal to our best possible ability. We offered to do a RCT but he repeatedly refused and asked to do a filling which we did do a number of times (3 times). This tooth was a case of deep recurrent filling which was evident even in the initial radiograph, suggestive of the need for a Root Canal.*
- l. *Radiograph clearly shows no damage to the lower 2nd Molar or bone in that area due to any instrumentation.*

IV. REJOINDER

4. The reply submitted by the Respondent doctor was forwarded to the Complainant for rejoinder on 28.05.2021. The Complainant, however, did not submit his rejoinder.

V. HEARING

5. The matter was fixed for hearing before the Disciplinary Committee on 04.06.2022. Notices dated 18.05.2022 were issued to the Complainant and Respondent Dr. Aisha Gul directing them to appear before the Disciplinary Committee on 04.06.2022. The Administrator, Alvi Dental Hospital, Karachi was also directed to appear before the Committee along with complete medical record of the patient.
6. On the date of hearing, the Complainant failed to appear before the Disciplinary Committee. Respondent doctor Aisha Gul and the Administrator of Alvi Dental Hospital, Karachi appeared before the Disciplinary Committee.

7. The Respondent Dr Aisha Gul was asked about the whole event to which she stated that the patient came with severe pain in the Upper Left 3rd Molar region with a deep cavity located mesially just below the gum level for which the tooth needed an extraction as observed in an OPG X-ray. The Complainant was told about a lower recurrent cavity below a previously filled tooth, which was a mechanical damage, not cavity or decay (performed by some other dentist somewhere else), unknown to patient. The Respondent further submitted that the patient was counselled and informed that the molar underneath has cavity and if filling is done, the condition might expose the nerve and lead to a root canal and severe pain in the lower side. The Complainant was insistent that he will not do a root canal or a crown procedure and that his filling procedure be done. Hence, the filling procedure was performed.
8. Responding to question put by the Disciplinary Committee regarding follow up visits of the Complainant, she stated that the Complainant again visited for scaling procedure and did not mention anything regarding the filling procedure done previously. After about 6 months the Complainant again visited with the complaint that the food keeps getting stuck in the treated tooth. She counselled the patient, that repairing the tooth with a filling or unsupported composite or any over hand filling will further complicate the situation rather than solving it.
9. Respondent Dr. Aysha further added that the Complainant was informed about his condition, the status of the previous dental procedure and the risks that might be involved if he does not follow the advice of his doctor, however, the Complainant chose to have the un-recommended filling procedure done.
10. The Committee asked the Respondent as to why had she had done filling three times on demand of a patient if it was not required, to which she responded that she had done the first & second filling and then the third time the patient visited their other facility to get the filling done by another colleague.
11. The Disciplinary Committee further enquired from the Respondent that what was the solution in her opinion as the patient has consecutively visited three time, to which she responded that crown was the solution in this case, a suggestion which the patient refused.

12. Respondent further stated that, the patient was very abusive and rude in his behavior despite the fact that she provided the Complainant with the best medical counselling and did the procedure free of cost after the expression of his pain/discomfort in his subsequent visit.
13. The Disciplinary Committee enquired from the Respondent as to why has she decided to waive the charges of the patient to which she responded that, this is policy of their clinic that if the patient is not satisfied then they waive off the charges.
14. The Administrator of Alvi Dental Hospital gave an overview of the case and stated that, crown was ideal solution whereas filling was less ideal solution but not a wrong treatment in this particular case.

VI. EXPERT OPINION BY DR. SAHIBZADA MUHAMMAD NOOR

15. Dr. Sahibzada Muhammad Noor (MDS Endodontics) was appointed as Expert to assist the Disciplinary Committee in the instant Complaint. The Expert has opined in the matter as under:

“.....I have reached to the conclusion that Dr. Aisha Gul had clearly explained in detail to the patient the best course of treatment. However, the complainant Pt. Mr. Bilal Khoja opted to decline the advice, and after having problems with the filling he returned to the clinic and presumably put the blame for his incorrect decision on Dr. Aisha Gul. At the patient’s request the filling was repeated again and Mr. Bilal Khoja was again reminded that the tooth should have a Root Canal Treatment and a crown. Which he declined.

Dr. Aisha and her colleagues tried their best to restore a tooth that was a borderline case for Endodontic procedure while the adjacent tooth was damaged by the previous dentist. Having questioned her and looked at the radiographs I have concluded that Dr. Aisha Gul followed the correct treatment protocol therefore, I see no neglect or intentional maltreatment carried out by Dr. Aisha Gul.”

VII. FINDINGS AND CONCLUSION:

16. After going through the record and hearing the Respondent the Disciplinary Committee has noted that Complainant Mr. Bilal Khoja visited the Respondent Dr. Aisha Gul on 14.11.2019 with

complaint of severe pain in the Upper Left 3rd Molar region. His OPG x-ray was performed and was diagnosed with a deep cavity located mesially just below the gum level for which the tooth extraction was advised. During this visit the Complainant was also informed that it may lead to a RCT. The notes provided by the Respondent mention the details of 14.11.2019 as follow: *Severe pain in UL8, deep cavity in LR6, Advised Extraction of UL8 and Deep filling or Root Canal Treatment.* As per record a follow up phone call was made to the Complainant on 15.11.2019 however he did not answer the call.

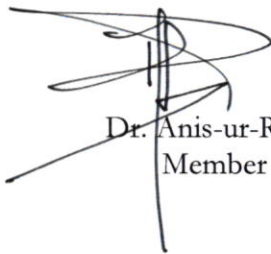
17. The Complainant again visited the Respondent Dr. Aisha Gul on 16.11.2019 for treatment of the recurrent cavity in the lower Right 1st Molar. As per record/ notes *“LR6 Composite very deep filling, if pain occurs the RCT followed with Crown”.*
18. On 24.12.2019 the Complainant again visited the Respondent Dr. Aisha Gul for a check-up complaining that the filling was loose and possibly the mesial contact of the tooth was inadequate. The record shows that Periapical x ray was performed and after examination the Complainant was informed that the filling was very much intact. The record further shows that no charges were received from the Complainant for this visit.
19. The Committee has further noted that the Complainant again visited Alvi Dental Hospital on 27.12.2019 with the same complaint. This time he was checked by some other dentist namely Dr. Awab. As per written reply of the Respondent *“he was re-checked by another dentist, the same remarks were made, that the filling was fine and he was asked to follow a good cleaning & flossing regime. As per patient insistence (with some rude behavior & Interaction) we offered him to repeat the filling at no cost to help satisfy his complaints and also our emphasis on good customer care. We again inform him of the risks for nerve exposure due to a deep cavity and he opted to have the filling redone and the filling procedure was redone to his satisfaction.”* The record/notes provided by the Respondent regarding 27.12.2019 mentions *“LR6 OD Composite checkup, refilling, patient is very rude and misbehaved a lot, as per patient’s insistence rebuild the contours more tightly, no charges.”* As per hospital record a follow up call was made to the Complainant on 28.12.2019 however the call was not answered by the Complainant.

20. On 06.01.2020, the Complainant visited Alvi Hospital for scaling and polishing. As per record *“patient did not complain about filling, checked all his teeth advised to follow good hygiene”* After this visit the Complainant did not visit the Respondent or any other dentist till 03.06.2020. The record shows that on 03.06.2020 the Complainant once again visited the Alvi Dental Hospital. As per record/notes *“LR6 OD Composite, refilling done with over contouring. Gap has been closed and only floss can go....showed patient in mirror and informed everything, patient was super satisfied. Reemphasized the patient that he should get RCT crown to ideally solve this.* As per record a follow up call was made to the patient who informed that he feels slight problem and that if it doesn't get better he will visit again.
21. The Committee has further noted that the patient once again visited on 08.06.2020 and as per available record during that visit his filling was found fine and no gap from occlusal area was found. He was advised to have hot salt water rinse and OH maintenance, if the pain persist visit Dr. Ahar. The last visit of the patient to Alvi Dental Hospital was on 17.06.2020 and as per record the patient was checked without any charges. The record further reveals that the patient allegedly had a rude behavior during this visit.
22. The Disciplinary Committee has gone through the record and statements both written as well as oral made by Respondent Dr. Aisah Gul and has noted that the patient paid multiple visits to Dr. Aisha Gul for treatment of his tooth. The record shows that on very first visit the patient was counselled and advised that RCT was required to fix the problem. The patient however insisted for filling and refused RCT. The record further reveals that during multiple visits the patient was treated and refilling was also done.
23. The Expert of dentistry appointed in the matter has also opined that *“Dr. Aisha Gul had clearly explained in detail to the patient the best course of treatment. However, the complainant Pt. Mr. Bilal Khoja opted to decline the advice, and after having problems with the filling he returned to the clinic and presumably put the blame for his incorrect decision on Dr. Aisha Gul. At the patient's request the filling was repeated again and Mr. Bilal Khoja was again reminded that the tooth should have a Root Canal Treatment and a crown. Which he declined. Dr. Aisha and her colleagues tried their best to restore a tooth that was a borderline case for Endodontic procedure while the adjacent tooth was damaged by the previous dentist. Having questioned her and looked at the radiographs I have concluded that Dr. Aisha Gul followed the correct treatment protocol therefore, I see no neglect or intentional maltreatment carried out by Dr. Aisha Gul.”*

24. In view of submissions of parties, documents available on record and the expert opinion, no dental negligence has been committed by the Respondent doctor, therefore, she is exonerated from the allegations leveled against her in the Compliant.
25. However, the Committee would like to point out that every time the patient visited, he was counseled and advised that RCT was required to fix his dental problem, however, every time filling was done on the demand of patient. As a doctor the Respondent doctor was sure that filling is not the ideal or final solution of the dental issues of the patient and she admittedly counseled the patient as well to this effect, yet filling was done three times knowing the fact that it is not going to work and issue will reoccur. Patient kept coming back and the Respondent doctor instead of acting as per her clinical judgment in the capacity of a dental practitioner, served his wishes to provide him temporary treatment every time, just because he was reluctant to RCT.
26. A practitioner has to proceed in management of patient as per their own clinical judgement and provide treatment accordingly and not yield to the request of the patient by providing an interim solution and that too more than once. The assertion of the Respondent Dr. Aisha Gul that she had been repeating the refilling on insistence of the patient is something which is not expected from a medical/dental practitioner. In this case although the Respondent as a matter of courtesy has repeated treatment twice but that is something which was not required to resolve the issue as admitted by the Respondent doctor herself.
27. It may be noted here that the doctor has the right to choose and proceed with the treatment of choice and not to choose the treatment on demand/request of the patient if such choice of the patient is not appropriate in the given circumstances. What the Respondent did was pandering to her patient which is not expected from a practitioner under her obligations of duty of care towards the patients. If the patient as stated was not willing for RCT it was the doctors obligation to request him to obtain a second opinion or visit a different dental surgeon rather than repeating a procedure which would not have yielded the desired results in her opinion.
28. Further, the Committee also shows concern about waving off the charges of the patient and giving treatment free of cost especially in this case which the Respondent claims to be the policy of the

clinic. It is pertinent to highlight here that waiving of charges does not absolve the liability of a practitioner as to their duty of care and management of patient when it comes to the right treatment to resolve the issues of a patient. Any such act done in good faith by the treating doctor will in fact have the possibility of creating a presumption on the part of the patient that medical/dental negligence has occurred during the treatment. Therefore, practitioners need to be aware that firstly waiving off charges does not absolve them from their duty of care and secondly, if done for a repeat treatment without having a proper record consented by the patient as to why such charges for a repeat treatment is being waived as a voluntary choice on the part of the practitioner the same can lead to possible presumptions on the part of patients.

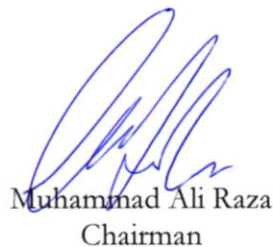
29. In view of the above the instant matter stands disposed of.



Dr. Anis-ur-Rehman
Member



Dr. Asif Loya
Member



Muhammad Ali Raza
Chairman

20th July, 2022