

**PRESIDENT'S SECRETARIAT (PUBLIC)  
AIWAN-E-SADR, ISLAMABAD**

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**Rep. No.530/WM/2022  
Date of Decision: 25.01.2023**

**Islamabad Healthcare Regulatory Authority**

**Vs**

**Mst. Farrukh Naeem Tahir**

**REPRESENTATION FILED BY ISLAMABAD HEALTHCARE REGULATORY AUTHORITY  
AGAINST THE ORDERS OF THE WAFAQI MOHTASIB IN COMPLAINT NO.WMS-  
HQR/0003471/2022**

Kindly refer to your representation addressed to the President in the background mentioned below:-

2. This representation has been filed by Islamabad Healthcare Regulatory Authority (the Agency) assailing the orders dated 26.08.2022/ 25.10.2022 of the Wafaqi Mohtasib. In the original order dated 26.08.2022 it has been held as under:-

*“...it appeared during hearing proceedings that in a case titled Dr. Iqtidar Mehmood Dara vs. M/s Shifa International Hospital, Islamabad, the Agency imposed a fine of Rs.500,000/- on the Hospital and also issued directions to the latter to refund the amount paid in lieu of medical bills. As against this, in the complainant's case decided on 21.02.2022 by the Agency, although a fine of Rs.900,000/- was imposed but no direction for refund of paid bill was given to the Hospital, incurred on the treatment of the complainant's mother. Thus, the complainant has been discriminated in refund of amount paid in lieu of medical bills.*

*In view of the above, the case is referred to CEO, Islamabad Healthcare Regulatory Authority in terms of Regulation 23(1)(z) of the Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations, 2013 to consider the case of the complainant on the analogy of another case of Dr. Iqtidar Mehmood Dara.”*

3. The complainant preferred a review petition that was disposed of vide order dated 25.10.2022 in the following terms:-

*“Perusal of the record revealed that the Agency's representative claimed that the Shifa International Hospital approached the Supreme Court of Pakistan against the orders of the Islamabad High Court in Writ Petition No.1211/2022 but could not provide any copy of hearing notice from the apex court. He, however, produced a copy of Legal Notice by the Counsel of Shifa International Hospital stating therein that he had filed a Civil Petition for Leave to Appeal (CPLA) in Supreme Court of Pakistan which also did not bear any CPLA number. Since the complainant approached this Office on 26.07.2022 after the dismissal of Writ Petition No.1211/2022, therefore, this Office is not debarred to take up the review petition on filing a Civil Petition by the Hospital in the Supreme Court of Pakistan.*

*Admittedly, in another decision dated 22.10.2021 in Dr. Iqtidar Mehmood Dara vs M/s Shifa International Hospital, the Agency imposed a fine of Rs.500,000/- and further directed to refund the amount paid in lieu of medical bills. However, in the complainant's decision dated 21.02.2022 by the Agency, a fine of Rs.900,000/- was imposed but no such direction was given to the Shifa International Hospital, Islamabad to reimburse the medical bills amounting to Rs.2,979,637/- incurred on the treatment of the complainant's mother. The Agency being a Regulatory Authority of Healthcare Establishment, itself ordered the Shifa International Hospital, Islamabad to reimburse the medical bills of Dr. Iqtidar Mehmood Dara, but on the other hand it has discriminated the complainant by not ordering the Shifa International Hospital, Islamabad to reimburse the medical bills of the complainant which is unjustified. The objective of the creation of a regulatory authority shall be defeated if it imposes fine on the healthcare establishment for its negligence and professional misconduct but does not provide any relief to the effected citizen.*

*In view of the above, while disposing the Review Petition, the earlier findings dated 26.08.2022 are modified to the extent of the findings contained in para above. It is recommended that the Agency may review its earlier order and provide relief to the complainant in terms of the precedent of Dr. Iqtidar M. Dara case.*

*Compliance report shall be submitted within 30 days of the receipt of these revised findings.”*

4. Mst. Farrukh Naeem Tahir (the complainant) had alleged that her mother was diagnosed with Covid-19 who died due to negligence of doctors of Shifa International Hospital, Islamabad and she lodged a complaint before the Agency against the hospital and the Agency imposed a fine of Rs. 900,000/- on the hospital for committing negligence but did not ask the hospital to refund the medical bill as per order of the Wafaqi Mohtasib. Thereafter, she filed a review application and requested to re-open the case and re-visit its earlier decision dated 19.05.2022 with direction to the Agency to issue instruction to the hospital to refund the medical bill and the learned Wafaqi Mohtasib re-opened the case for investigation in terms of Regulation 23(2) of the Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulation, 2013 and passed the impugned orders, hence the instant representation by the Agency.

5. The case was fixed for hearing on 05.01.2023. The complainant Mst. Farrukh Naeem Tahir whereas Hamza Akhter, Law Officer on behalf of the Agency have attended the hearing.

6. The representative of the Agency has contended that the Agency is only empowered under Section 29 of Islamabad Healthcare Regulatory Authority Act, 2018 to impose fine on account of mal-practice, maladministration and medical negligence when proved against a healthcare establishment and there is no provision in Islamabad Healthcare Regulatory Authority Act, 2018 (hereinafter "the Act") which empowers the Authority to award compensation to an aggrieved party; that the complainant has filed a complaint before the Agency against the negligence of doctors of Shifa International Hospital, Islamabad which caused death of her mother and the Agency imposed a fine of Rs. 900,000/- vide order dated 21.02.2022 on the hospital which has been received accordingly; that the Agency has not incorporated in its decision anything regarding reimbursement of medical expenses and grant of damages; that the Section 29 of the Act, empowers the Agency to impose fine not more than Rs. 1,000,000/- and that the learned Wafaqi Mohtasib has failed to appreciate the facts on the subject, thus the representations may be accepted by setting aside the impugned order.

7. The complainant has contended that her mother was diagnosed with Covid-19 who died due to negligence of doctors of Shifa International Hospital, Islamabad and she lodged a complaint before the Agency against the hospital; that the Agency vide order dated 21.02.2022 imposed a fine of Rs. 900,000/- instead of reimbursement of the medical bills amounting to Rs. 2,979,637/- incurred on the treatment of her late mother; that in a similar complaint against the same hospital namely Dr. Iqtidar Mehmood Dara Vs. Shifa International Hospital, Islamabad, the Agency vide its decision dated 22.10.2021 had decided that "*the Medical Bill should be refunded to the complainant by Shifa International Hospital*". The complainant has further stated that the learned Wafaqi Mohtasib has rightly passed the orders which may be upheld.

8. After perusal of record and hearing the parties, it has been observed that as per preamble of the Act, the main purpose of the establishment of Islamabad Healthcare Regulatory Authority is that "*...to provide a regulatory framework to ensure provision of quality health care services, by implementing quality standards by the healthcare sector, to residents of the Islamabad Capital Territory and where as it is expedient to establish the Islamabad Healthcare Regulatory Authority for aforesaid purpose and to provide for matters connected therewith and ancillary thereto*"; that "healthcare establishment" is defined in Section 2 (xv) of the Act; that "*medical negligence*" means any negligence by an Act or omission of a healthcare professional in performing his duty. In medical negligence cases it has to be established that; (a) there was a duty which the healthcare professional owed to the patient; (b) there was a breach of duty; (c) the breach result in injury to the patient; and (d) the injury resulted in, causing damage or death.

9. Section 4 of the Act explains process and functions of the Authority which includes Section 4(f) "*regulate healthcare establishments in accordance with standards and notified practices*" that as per Section 4 (w) the Agency is empowered to "*take Action against violation of any provision of this Act and regulations made thereunder on complaint by an aggrieved person*" and according to the Section 4(y) the Agency is responsible to "*exercise any powers and perform any functions as may be necessary for carrying out the purposes of this Act on the instruction of the Federal Government*".

10. In view of the above, it has also been observed that the Agency investigated the complaints, found medical negligence and imposed fine of Rs. 900,000 upon the hospital which has also been received by the Agency and thus medical negligence has been established upon the healthcare establishment ; however, the Agency did not direct the hospital to reimburse actual amount of medical bill incurred on the treatment of the complainant's mother as per orders of the learned Wafaqi Mohtasib; whereas in another case namely Dr. Iqtidar Mehmood Dara Vs. Shifa International Hospital, Islamabad, the Agency vide its decision dated 22.10.2021 held that "*The Medical Bill should be refunded to the complainant by SHIFA International Hospital*". It is established principle that similarly placed persons should be treated alike and equal treatment to all is the hallmark of our Constitution i.e. Article 4 and 25. The object and purpose of the law will be fulfilled only when the complainant is provided relief for any negligence by the hospital. The Agency must have been more vigilant and watchful to fulfil its responsibilities. The learned Wafaqi Mohtasib has rightly passed the impugned orders after affording due opportunity of hearing to the parties which deserves to be upheld. Needless to mention that Hospital has not assailed the order of the learned Wafaqi Mohtasib. The Agency is directed to issue instructions to the hospital to refund the amount to the complainant within a week positively. The instant representation is liable to be rejected.

11. Accordingly, the Honourable President has been pleased to reject the instant representation in the above terms.

-Sd-  
**(Asghar Ali)**  
**Director (Legal)**

The Chief Executive Officer,  
Islamabad Health Regulatory Authority (IHRA),  
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H-8/2, **Islamabad.**

Mst. Farrukh Naseem Tahir D/o Ch. Muhammad Sadiq,  
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**Rawalpindi.**

**Copy to:**

- i. The Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Constitution Avenue, Islamabad.
- ii. The Secretary, Ministry of National Health Services Regulations & Coordination, 3<sup>rd</sup> Floor, Kohsar Block, Pak Secretariat, Islamabad.
- iii. The Press Secretary, President's Secretariat (Public), Islamabad.