

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN
&
THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

Friday, the 24th day of March 2023 / 3rd Chaithra, 1945
RP NO. 379 OF 2021(S) IN WP(C) 10659/2021(S)

REVIEW PETITIONER/RESPONDENT NO.5:

KERALA PRIVATE HOSPITALS ASSOCIATION HAVING ITS REGISTERED
OFFICE AT KPHA HEAD QUARTERS,ASHIR BHAVAN ROAD,
KACHERIPPADY,ERNAKULAM,KOCHI-682018,
REPRESENTED BY ITS PRESIDENT,HUSSAIN KOYA THANGAL.

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 4 & RESPONDENTS 6 TO 12 IN WP(C)No.10659/2021:

- 1.ADV.SABU P. JOSEPH ,AGED 46 YEARS,S/O.T.A.JOSEPH,
VICE-CHAIRMAN,LEGAL CELL,HUMAN RIGHTS FORUM,
REG.NO.186/IV/19,REGISTERED OFFICE AT
B NO:XX-638,CLASSIC TOWER,A M ROAD,PERUMBAVOOR-683542.
- 2.THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT OF
KERALA,SECRETARIAT,THIRUVANANTHAPURAM-695001.
- 3.DIRECTOR GENERAL OF HEALTH SERVICES,
DIRECTORATE OF HEALTH SERVICES,
GENERAL HOSPITAL JUNCTION,THIRUVANANTHAPURAM-695035.
- 4.INDIAN COUNCIL OF MEDICAL RESEARCH ,
V.RAMALINGASWAMI BHAVAN,
P O BOX NO.4911,ANSARI NAGAR,NEW DELHI-110029.
REPRESENTED BY ITS SECRETARY AND DIRECTOR GENERAL.
- 5.UNION OF INDIA, REPRESENTED BY ITS SECRETARY,
HEALTH AND FAMILY WELFARE,NIRMAN BHAVAN,NEW DELHI-110011.

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- 6.STATE HEALTH AGENCY, REPRESENTED BY EXECUTIVE DIRECTOR,
ARTECH MEENAKSHI PLAZA,5TH AND 8TH FLOOR,OPP.GOVT.WOMAN
AND CHILD HOSPITAL,THYCAUD,THIRUVANANTHAPURAM-695014.
- 7.NATIONAL HEALTH MISSION REPRESENTED BY THE EXECUTIVE
DIRECTOR, NRHM BUILDING,GENERAL HOSPITAL,DIRECTORATE
OF HEALTH SERVICE, JAI VIHAR,KANNUKUZH, Y,
THIRUVANANTHAPURAM-695035.
- 8.KERALA MEDICAL SERVICES CORPORATION LTD.
REPRESENTED BY EXECUTIVE DIRECTOR,C.V.RAMAN PILLAI ROAD,
WOMAN AND CHILDREN HOSPITAL,THYCAUD,
THIRUVANANTHAPURAM-695014.
- 9.THE INDIAN MEDICAL ASSOCIATION(IMA),KERALA
REPRESENTED BY PRESIDENT,HEADQUARTERS,ANAYARA.P.O,
THIRUVANANTHAPURAM-695029.
- 10.QUALIFIED PRIVATE MEDICAL PRACTITIONERS ASSOCIATION,
REPRESENTED BY ITS PRESIDENT,FLOOR-V-E/F,
VALLAMATTAM ESTATE, RAVIPURAM,M.G.ROAD,KOCHI-682015.
- 11.CATHOLIC HEALTH ASSOCIATION OF INDIA,
REPRESENTED BY THE EXECUTIVE DIRECTOR,PASTORAL
ORIENTATION CENTRE, CIVIL LINE ROAD,PALARIVATTOM,
KOCHI-682028.
- 12.MUSLIM EDUCATIONAL SOCIETY ,BANK ROAD,CALICUT-673011,
REPRESENTED BY ITS PRESIDENT DR.P.A.FAZAL GAFOOR.

*ADDL. R13 IMPEADED

13.THE STATE POLICE CHIEF, KERALA

*ADDL R13 SUO MOTU IMPEADED AS PER ORDER DATED 09.09.2021
IN RP 379/21 IN WPC 10659/21.

P.T.O.

ADDL. R14 IMPLEADED

14.DR.ARAVIND C.S., S/O.SREEDHARAN, AGED 50 YEARS,
RESIDING AT THIRUVANANTHAPURAM, GENERAL SECRETARY,
KERALA GOVERNMENT MEDICAL COLLEGE TEACHERS ASSOCIATION,
THIRUVANANTHAPURAM-695 011.

ADDL. R14 IS IMPLEADED AS PER ORDER DATED 19/01/2023 IN
IA.1/2023 IN RP 379/21 IN WPC 10659/21.

Review petition praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to allow the above the Review Petition, review the judgment dated 10/05/2021 in WP(C)No.10659/2021, and to pass such other order or further orders as this Honourable Court may deem fit and proper in the circumstances of the case.

This petition again coming on for orders upon perusing the petition, this Court's judgment dated 10/05/2021 in WP(C)10659/2021 & order dated 08/03/2023 in RP.379/2021 and upon hearing the arguments of SRI.SYAM DIVAN (SENIOR ADVOCATE) along with SRI.K. ANAND, Advocates for the petitioner, ADVOCATE GENERAL & GOVERNMENT PLEADER for R2 & R3, DEPUTY SOLICITOR GENERAL OF INDIA for R4 & R5, DR.S. GOPAKUMARAN NAIR (SENIOR ADVOCATE) along with SRI.SURAJ T.ELENJIKKAL, Advocate for R9, M/S.M.GOPIKRISHNAN NAMBIAR, K.JOHN MATHAI, JOSON MANAVALAN, KURRYAN THOMAS, PAULOSE C. ABRAHAM, JAI MOHAN & RAJA KANNAN, Advocates for R10, SRI.S. KANNAN, SENIOR GOVERNMENT PLEADER for Addl.R13 and of SRI.P.SREEKUMAR, Advocate for Addl.R14, the court passed the following:

P.T.O.

DEVAN RAMACHANDRAN,

&

DR.KAUSER EDAPPAGATH, JJ.

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**R.P.No.379 of 2021 in W.P.(C)No.10659 of 2021
& W.P.(C)No.11820 of 2021**

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Dated this the 24th day of March, 2023

ORDER

Devan Ramachandran, J.

Read order dated 08.03.2023.

2. Sri.S.Kannan - learned Senior Government Pleader, has placed on record the reports of the two police officers, with respect to the incidents mentioned therein.

3. We do not propose to say in detail today; but, suffice it to record that we cannot approve of the attacks on doctors and medical personnel, whatever be the reason. We are indicating this because, we get the feeling that there is an attempt - perhaps unintended - to justify the attacks in one form or the other.

4. We make it clear that, whatever be the provocation or reason that anyone may impel or project, an attack on a medical personnel is unacceptable and that this is non-negotiable.

5. The Government, therefore, has to now tell us the modus to ensure such attacks never take place, because what we are concerned about is not the action after such an attack, but the prevention itself.

6. Sri.S.Kannan - learned Senior Government Pleader sought a

few days time for this, but taking note of the fact that two or three other incidents are also stated to have happened during the period when we are in seizen of this issue, we deem it appropriate to list it on 30.03.2023 itself, because we do not think that any time can be lost.

We close for now, recording that it is our firm belief that unless the Civil society is properly sensitized, as also the doctors, the unfortunate strife at least in a very few cases, will continue. Our endeavor is to end this and we, therefore, call upon the Government to come out with firm suggestions including, legislative, if they have any in mind.

List on 30.03.2023.

**Sd/-
DEVAN RAMACHANDRAN
JUDGE**

**Sd/-
DR. KAUSER EDAPPAGATH
JUDGE**

anm