

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

**Thursday, the 1st day of December 2022 / 10th Agrahayana, 1944
RP NO. 379 OF 2021(S) IN WP(C) 10659/2021**

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 (ICMR), 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.**
- 6.STATE HEALTH AGENCY, REPRESENTED BY EXECUTIVE DIRECTOR,ARTECH
MEENAKSHI
PLAZA,5TH AND 8TH FLOOR,OPP.GOV.T.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, 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 RP379/21
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.

P.T.0

This petition again coming on for orders upon perusing the petition and this Court's judgment dated 10/05/2021 in WP(C)10659/2021 & order dated 23/06/2022 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, KURYAN THOMAS, PAULOSE C. ABRAHAM & RAJA KANNAN, Advocates for R10, Advocate SRI.M. AJAY, SRI.S. KANNAN, SENIOR GOVERNMENT PLEADER FOR ADDL.R13 and of SRI. SRI.N. NANDAKUMAR (SENIOR ADVOCATE) along with SRI.JAI MOHAN, Advocate, the court passed the following:

P.T.O.



DEVAN RAMACHANDRAN
&
DR.KAUSER EDAPPAGATH, JJ.

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

Dated this the 1st day of December, 2022

ORDER

Devan Ramachandran, J.

We are considering these matters nearly after six months; and we were under the legitimate impression that, perhaps, things are better, at least from the aspect of the recurring violence against Doctors and Healthcare Professionals.

2. However, Sri.S.Gopakumaran Nair, learned Senior Counsel, instructed by Sri.S.Prashanth; and Sri.K.Anand - learned counsel, made certain startling revelations today, including that, for about 12 month period from June, 2021, the number of attacks recorded

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is in excess of 138 or so.

3. This is certainly distressing, because, statistically, this means that there are at least 10 or 12 attacks every month.

4. We are more concerned because we had been issuing orders in the past, under the hortative hope that the official system would function faultlessly; and that the citizens would also be aware of the imperative requirement to treat the Healthcare System with the respect it deserves.

5. Alas, this does not appear to be so.

6. The discussions at the Bar today clearly show that, unless a sense of fear of law is instilled into the citizens, nothing can really change. Experience has shown us that citizens are not fearful of law, but of

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apprehension in case of misconduct or infraction.

7. We are hence guided to believe, *prima facie*, that it is perhaps because citizens get the impression that the processes of law are slow and that they would not be taken to task, that such recurrent occurrences happen. The fact that the Government Hospital System is overwhelmed and that the number of patients are escalating by the day, are common knowledge. Unless the Doctors and Healthcare Professionals are able to act in peace and calm, it would become impossible for the system itself to sustain.

8. Obviously, therefore, we require all the stakeholders, including the Government, to inform us what steps had been and have to be taken to ensure this.

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9. We must, however, record the submissions of Sri.S.Kannan - learned Senior Government Pleader, that every step as ordered by this Court in the earlier orders, including the establishment of Police Outposts in hospitals, had been implicitly adhered to by the Government; and that they are willing to accept any other suggestion to be made, either by this Court or by the stakeholders in that regard.

10. We also assured that the Government shares the concern of this Court *qua* the integrity of the Healthcare System.

11. However, as a first step, in addition to the earlier directions, we are of the firm view that every incident of attack on a Doctor or a Healthcare Professional, including any other staff of the Hospital - be that Security or other - will have to be taken

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cognizance of by the Station House Officer of the concerned Police Station not later than one hour from the time on which it is reported to him. This can be under the Special Law applicable, or under the Indian Penal Code; but an FIR will be need to be registered within the afore time frame, which alone will ensure that the perpetrator/s understands that action is swift and quick.

12. As said above, this is only the first step and we will certainly add to this in the days to come, depending upon the inputs which are to be received from the parties in these cases.

13. In the afore perspective, we hereby order that every Station House Officer concerned, to whom, or to whose Station, a complaint of atrocity or attack or harm on any

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Healthcare Professional - be that Doctors, Nurses, staffs, security or such other, or against the property of a Hospital- shall be recorded as a first information and a case registered within a period of one hour from the time on which such information is obtained or gathered.

14. Needless to say, swift action thereafter shall be initiated, including to apprehend the Offenders, as and when it requires so, leading to prosecution and such other, as the law warrants.

15. As far as the Government of Kerala is concerned, we request them to ensure that the citizens are told, by appropriate methods, the gravity of the offence of an attack on a Hospital or a Healthcare Personnel; and the manner in which this Court proposes to deal with

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it in future.

With the afore directions, we adjourn
these matters to be called on 16.12.2022.

Sd/-

DEVAN RAMACHANDRAN
JUDGE



Sd/-

DR.KAUSER EDAPPAGATH
JUDGE

akv
H/o