



THE HIGH COURT OF KERALA

Ernakulam-682031

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DI-3/128245/2023

Dated: 13-12-2023

OFFICIAL MEMORANDUM

Sub : Summoning of Doctors by courts for taking evidence—  
difficulties pointed out by Doctors – directions issued – reg.

- Ref : 1. OM No.D1-48056/2014 of this Court dated 04-07-2014.  
2. OM No. DI-3/60129/2020 of this Court dated 30-10-2020.  
3. Order of the High Court dated 07-12-2023 in IA-11/2023 in  
OP No. 16667/1996.

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The Hon'ble Supreme Court as well as this High Court had, on several occasions, exhorted the courts to avoid summoning Doctors to the Court, unless it is found necessary as the time of Doctors is extremely valuable and the time spent in courts may adversely affect their services to the patients.

The Honourable the Supreme Court through its decisions in *Parmanand Katara v. Union of India (1989) 4 SCC 286*, *Raj Kumar v. Ajay Kumar & Anr. (2011 KLT 620)*, had reiterated that the law courts shall not summon medical professionals to give evidence unless the evidence is necessary and even if he is summoned, attempt should be made to see that he is not made to wait and waste time unnecessarily. This Court had, vide Official Memorandum cited 1<sup>st</sup> above, instructed the District Judiciary to follow the dictum in the *Parmanand Katara* decision of the Hon'ble Supreme Court.

Further, during the Covid-19 pandemic, the courts were directed to avoid summoning of Doctors for giving evidence to the maximum possible extent and were directed to resort to Video Conferencing for the same, vide OM cited 2<sup>nd</sup> above.

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Despite these directions, grievances have been expressed by many Doctors stating that they are facing difficulty in attending the patients due to the frequent summoning by courts for giving evidence. Considering such a grievance of the Doctors at Mental Hospital, Thiruvananthapuram, the High Court has, in its order cited 3<sup>rd</sup> above, directed that the Doctors in the mental hospitals in Kerala shall not be summoned to be examined in the courts physically. They shall be permitted to appear through online and only in extreme circumstances where their personal appearance is necessary before the courts, they shall be summoned.

In this regard, the courts are also reminded of Rule 5(4)(v) of the Electronic Video linkage Rules, which provides for appearance of Doctors before the court through video conferencing from Hospitals administered by the Central/State Governments or Local Bodies with Medical Superintendent or an officer authorized by them as the remote point co-ordinator. The Courts can resort to the said provision appropriately.

Hence, all judicial officers are directed to take note of the order of the High Court cited 3<sup>rd</sup> and further instructed to be cautious while summoning Doctors, especially Doctors of mental health hospitals, for taking evidence. They shall also adhere to the judicial directions settled by the Honourable Supreme Court in this regard. Generally, the Doctors shall not be summoned to be examined physically in the courts and they shall be permitted to appear through video conferencing mode. Their physical presence before the courts shall be insisted only in extreme circumstances, where their personal appearance is necessary.

(By order)



P.J. Vincent

Registrar (District Judiciary)

To

All the District & Sessions Judges in the State and District Judge, Kavaratti.  
(They shall communicate it to all the judicial officers in their judicial district forthwith)

Copy to :

The Director, Kerala Judicial Academy, Athani.

Adv. G. Unnikrishnan, ( Secretary, Rule Committee, GTWRA1, Vigneswaram,  
Ganapathy Temple Road, Edappally- 682 024.)

The Administrative Records Section (2 copies)

The Stock File.