

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

**Wednesday, the 8<sup>th</sup> day of March 2023 / 17th Phalgun, 1944  
WP(C) NO. 11820 OF 2021(B)**

**PETITIONERS:**

1. 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:**

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM-695001.
2. HEALTH AND FAMILY WELFARE (F) DEPARTMENT, REPRESENTED BY THE PRINCIPAL SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM-695001.
3. DIRECTOR GENERAL OF HEALTH SERVICES, DIRECTORATE OF HEALTH SERVICES, GENERAL HOSPITAL JUNCTION, THIRUVANANTHAPURAM-695035.
4. STATE HEALTH AGENCY, REPRESENTED BY EXECUTIVE DIRECTOR, ARTECH MEENAKSHI PLAZA, 5TH AND 8TH FLOOR, OPP. GOVERNMENT WOMAN AND CHILD HOSPITAL, THYCAUD, THIRUVANANTHAPURAM-695014.
5. ADDL.R5, JOSEPH BENAVAL, AGED 57 YEARS, S/O K J DEVASIA, SECRETARY, INDIAN MEDICAL ASSOCIATION, KERALA STATE BRANCH, ANAYARA P O, THIRUVANANTHAPURAM -695029(IMPLEADED AS PER ORDER DTD 1.12.2022 IN IA-2/2022)

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay all further proceedings pursuant to Exhibit P1 till the consideration of Exhibit P2 and P3 by the competent among the respondents, pending disposal of the above Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 19-01-2023 and upon hearing the arguments of SRI.K.ANAND, Advocate for the petitioner and of SRI.S.KANNAN, SENIOR GOVERNMENT PLEADER for Respondents 1 to 4 and of SRI. SOORAJ T ELENJIKKAL for ADDL. R5, the court passed the following:

**DEVAN RAMACHANDRAN, J.**

**&**

**Dr.KAUSER EDAPPAGATH, JJ.**

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**R.P.No.379 of 2021 in WP(C) No. 10659 of 2021  
and WP(C) No. 11820 of 2021**  
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Dated this the 08<sup>th</sup> day of March, 2023

**ORDER**

**Devan Ramachandran, J.**

The submissions of Sri.K.Anand are shocking, because even when the matter is seized by us, attacks seem to continue against Doctors and Medical Personnel.

2. The incident now brought to our notice by Sri.K.Anand is stated to be relating to the attack of a Senior Cardiologist in Calicut, which, he maintains, was without any cause.

3. This is tragic because, we have issued several orders, including that the Police must register a First Information Report (FIR) within the first one hour of the attack; but, to make matters worse, Sri.K.Anand says that the Cardiologist was attacked at a time when the Police were, in fact, present in the hospital.

4. If this is true, then it cannot be countenanced by us in any manner.

5. The Commissioner of Police, Calicut City, therefore, will file a detailed report under his own name, before this Court by the next posting date.

6. While doing so, the Commissioner will also keep in mind the submissions made at the Bar, that the accused were not arrested, but that they surrendered much later; and that the FIR was registered nearby twenty four hours after the incident.

7. Prima facie, these are in violation of our orders and we, therefore, expect the Commissioner of Police to come out with the truth in his statement.

8. At this time, Dr.Rajeev Joshi of the Medico-Legal Society of India, pointed out that a similar instance happened at Muvattupuzha, when two Senior Doctors were wrongly restrained and assaulted. He has made available the FIR and such other documents, along with the Memo filed by him, which also includes a complaint preferred by his Organization before the Honourable The Chief Justice of Kerala.

9. We, therefore, direct the Superintendent of Police, Ernakulam (Rural), to file a report *qua* this incident, detailing the

action taken and the progress of the investigation. We notice with some frustration that, even in this case, the FIR does not, prima facie, appear to have been registered within the time frame that we had earlier fixed. This will be kept in mind by the Superintendent of Police, Ernakulam (Rural) while filing his report.

Post on 24.03.2023 at 3.45 P.M.

Hand Over.



**Sd/-DEVAN RAMACHANDRAN,  
JUDGE**

**Sd/-Dr.KAUSER EDAPPAGATH,  
JUDGE**

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