

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

Thursday, the 19th day of January 2023 / 29th Pousha, 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.

(ADDL. R5 IMPEADED AS PER ORDER DTD 1.12.2022 IN IA-2/2022 IN WP(C) No. 11820/2021).

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 16-12-2022 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, Sri. Sooraj T Elenjickal for Addl. R5, the court passed the following:

DEVAN RAMACHANDRAN
&
DR.KAUSER EDAPPAGATH, JJ.

R.P.No.379/2021 & WP(C)No.11820/2021

Dated this the 19th day of January, 2023

O R D E R

DEVAN RAMACHANDRAN, J.

The attack on a Doctor/Nurse/Healthcare Personnel is an anathema to every tenet of civilization.

2. Mercifully, it appears that, on account of our constant monitoring, the number of attacks around the State has come down drastically – which is so admitted.

3 However, our effort is not over; and this case is, certainly, a work in progress.

4. There are suggestions made at the Bar by learned Senior Counsel – Sri.Gopakumaran Nair and other learned counsel for the parties, that the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 (hereinafter

referred to as ‘the Act’ for short), requires amendments to make it *au courant* with the present requirements.

5. Dr.Rajiv Joshi, Party in Person, representing the Medico-Legal Society of India, appeared online and submitted that his client would also like to make certain suggestions in the afore regard.

6. We are certain that the Government must keep their ears open to every suggestion because, this litigation, as we always say, is not adversarial in any manner whatsoever. We are pleased that Sri.S.Kannan – learned Senior Government Pleader, also affirmed this.

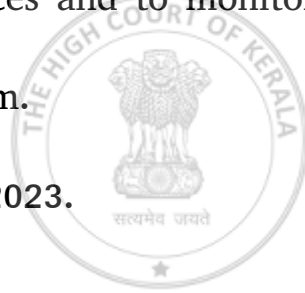
7. In such scenario, we allow all parties to make their suggestions with respect to amendments/modifications to the Act in question, within a period of two weeks from today; in which event, the Government will hear all of them and take a final decision, comprehensively evaluating all such inputs and inform this Court by the next posting date.

8. We also record that Sri.S.Kannan has informed us that several suggestions made by the Indian Medical Association (IMA)

and other stakeholders, have been taken into account and that necessary action initiated. He has offered to place on record a report of the same by the next posting date.

9. We close this order, leaving liberty to any of the parties to bring to the notice of this Court any act of violence against Doctor/Nurse/Healthcare Personnel in any part of the State in future; and make it clear that we will not shy from taking cognizance of such instances and to monitor investigation/action as are warranted against them.

Post on 16.02.2023.



Sd/-

DEVAN RAMACHANDRAN, JUDGE

Sd/-

RR/19.1.'23

DR.KAUSER EDAPPAGATH, JUDGE