

(2014) 03 JH CK 0105
In the Jharkhand High Court
Case No : W.P. (P.I.L.) No. 3486 of 2012

Court on its own motion

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-03-2014

Acts Referred:

Citation : (2014) 03 JH CK 0105

Hon'ble Judges : R. Banumathi, C.J.; S. Chandrashekhar, J

Bench : Division Bench

Advocate : Mokhtar Khan, ASGI, Advocate for the Appellant; Rajesh Kumar, Advocate for the Respondent

Judgement

1. On 26.06.2012, a learned Single Judge of this Court took notice of the news published in various newspapers on 26.06.2012 invoking that on a call of the Indian Medical Association, doctors in various government hospitals and dispensaries remained off their duties on 25.06.2012 and consequently several deaths were reported. The learned Single Judge has taken note of Regulations (sic) and 2.4 of the Indian Medical Council (Professional Conduct, (sic) and Ethics) Regulations, 2002 which read as under:

2.1.1. Though a physician is not bound to treat each and every person asking his services, he should not only be ever ready to respond to the calls of the sick and the injured, but should be mindful of the high character of his mission and the responsibility he discharges in the course of his professional duties. In his treatment, he should never forget that the health and the lives of those entrusted to his care depend on his skill and attention. A physician should endeavor to add to the comfort of the sick by making his visits at the hour indicated to the patients. A physician advising a patient to seek service of another physician is acceptable, however, in case of emergency a physician must treat the patient. No physician shall arbitrarily refuse treatment to a patient. However, for good reason, when a patient is suffering from an ailment which is not within the range of experience of the treating physician, the physician may

refuse treatment and refer the patient to another physician.

2.4 The patient must not be neglected.-- A physician is free to choose whom he will serve, He should, however, respond to any request for his assistance in an emergency. Once having undertaken a case, the physician should not neglect the patient, nor should he withdraw from the case without giving adequate notice to the patient and his family. Provisionally or fully registered medical practitioner shall not willfully commit an act of negligence that may deprive his patient or patients from necessary medical care.

2. The matter was referred to be listed before an appropriate Bench as per Rule 24 of the High Court of Jharkhand Rules, 2001 and accordingly, it was registered as W.P. (P.) No. 3486 of 2012. The respondents appeared and filed their reply.

3. A counter-affidavit has been filed on behalf of the Director, RIMS, Ranchi stating that although a strike was called by IMA on 25.06.2012, on an appeal made by Director, RIMS, Ranchi the doctors and the students did not resort to strike and they had performed their duties though, they demonstrated token protest. The daily attendance register and the data with respect to average major operations conducted on a normal day and on 26.06.2012 were presented before this Court to demonstrate that on 26.06.2012 also the doctors had attended their duties.

4. The doctors working under RIMS and whose photographs have appeared in the newspapers also have filed affidavits stating that they had taken the following oath:

I solemnly pledge myself to consecrate my life to service of humanity.

Even under threat, I will not use my medical knowledge contrary to the laws of Humanity.

I will maintain the utmost respect for human life from the time of conception.

I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient.

I will practice my profession with conscience and dignity.

The health of my patient will be my first consideration.

I will respect the secrets which are confined in me.

I will give to my teachers the respect and gratitude which is their due.

I will maintain by all means in my power, the honour and noble traditions of medical profession.

I will treat my colleagues with all respect and dignity.

I shall abide by the code of medical ethics as enunciated in the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002.

I make these promises solemnly, freely and upon my honour.

5. The doctors have stated on oath that they are bound to serve the people who are in need of medical assistance round the clock for whole year. They have also undertaken to take care of patients who come for medical assistance before them and that they would not refuse treatment to them.

6. We have heard Mr. Rajesh Kumar, the learned counsel appearing for the RIMS who has submitted that on 26.06.2012, the doctors in RIMS were not on strike and they had been attending to their work. He submits that in view of the affidavits filed by the respondents and the doctors themselves, this public interest litigation may be closed.

7. Having regard to the stand taken by the respondents and the materials brought on record, this Court hopes that the doctors would continue to attend to their duties and abide by the oath they have taken. It is expected that the sincerity of the doctors would go a long way in ensuring the proper treatment of the patients in their hospitals, nursing homes and dispensaries.

8. With these observations, this Public Interest Litigation is closed.