

**(2002) 09 DEL CK 0075**  
**In the Delhi High Court**  
**Case No : Suit No. 1348 of 2002**

R.M.L. Hospital

APPELLANT

Vs

Wellington Hospital Workers' Union

RESPONDENT

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**Date of Decision :** 02-09-2002

**Acts Referred:**

**Citation :** (2002) 95 FLR 406 : (2002) 3 LLJ 911

**Hon'ble Judges :** Shamik Mukherjee, J

**Bench :** Single Bench

**Advocate :** Rajinder Nischal, for the Appellant;

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## Judgement

Suit No. 1348/2002

1. Plaint be registered as a Suit.

Issue summons to the defendants on filing of process fee by ordinary process as well as by registered AD post, returnable on October 28, 2002.

2. Learned counsel for the plaintiff submits that he would like to make a prayer for mandatory injunction and undertakes to pay separate Court fee for the said relief and that the word "mandatory" may be read as also incorporated in the plaint wherever the word "Permanent" is mentioned, oral prayer for amendment allowed. Permission granted to file an amended plaint within a period of one week.

Li No. 7678/2002 (U/S 149 CPC)

3. Application is allowed subject to all just exceptions. Court fee be affixed within a period of two weeks.

4. Application stands disposed of.

is No. 7677/2002 (U/S 39, Rules 1 & 2 CPC)

5. In the meanwhile, in view of the Division Bench pronouncement dated May 20,

2002 passed in CW No. 5166/2001 and the averments made by the plaintiff/applicant, I am satisfied that in case ex parte ad-interim injunction including mandatory orders are not granted, the relief claimed itself will become infructuous, and also the work of the hospital and interests of the general public, are bound to suffer irreparable damage.

6. Accordingly till further orders I restrain the defendants, their agents, servants and supporters by way of an ex parte ad-interim injunction from holding any strike, dharna, go-slow and/or raising slogans within 100 meters of outer walls of the Hospital and/or from creating of any hindrance in the ingress and egress of staff or patients or their companions or the vehicles of patients and/or ambulance, emergency vans from and into the gates of the plaintiff Hospital.

7. This Court is conscious of the right which ordinarily exists in favor of employees to peacefully ventilate their grievances and to give expression to their unresolved outstanding demands in accordance with law, but rights of trade unions or of employees to agitational recourses, are not a one-way traffic or a carte blanche to put the lives or the well-being of patients into peril. Hospital staff, and any union which espouses their cause, have a solemn and bounden duty towards society in the form of uninterrupted and undisturbed medical services and hospital care.

8. Moreover under certain circumstances, such as in the case of a hospital, the right needs to be appropriately trammled down, so much so that in terms of Division Bench Judgment dated May 20, 2002, there has to be a complete embargo on all forms of protest and/or agitation, including even milder forms, in relation to a hospital and its staff, since, as held in the said Division Bench order, even such types of protest are an anathema to activities involving matter of life and death such as emergency services or coronary care or administering of oxygen or transfusion of blood or reviving the heart beat or EGG or CT Scan etc.

9. As such I further order by way of mandatory ad-interim order, that the defendants and all its members who are employees of the plaintiff hospital, shall at all times do and perform all their duties and actions in entirety with full devotion, sense of duty and without any delay, and shall refrain from any commission or omission to the contrary and furthermore in all matters of medical care and hospital services, they shall ensure at all times that nothing is done or caused or suffered by them to be done which has or could have an impact prejudicial to hospital/health/patient care and/or to the well-being and smooth and uninterrupted working of the hospital.

10. However keeping in view the directions issued for setting up of a dispute redressal machinery as directed by the Division Bench Judgment dated May 20, 2002, it is ordered that the plaintiff hospital shall set up a permanent negotiating machine along the lines as referred to in the said judgment, within a period of four weeks from the date of this order, in case such or similar machinery is not already existing.

11. The said committee shall stand duly authorised to take up for consideration or to resolving any sudden incident including the present strike notices dated August 20, 2002 and August 26, 2002 which either disrupts or has the potential of disrupting the smooth functioning of the plaintiff hospital. The above said Committee will take a decision one way or the other within a period of thirty days of the matter being placed before them unless the period of thirty days extended with the consent of all the parties.

12. It is made clear that the stay granted shall be conditional upon the plaintiff doing and performing as directed in relation to dispute redressal machinery. The Director General Health Services of Central Government is directed to convene a meeting with the management and staff association of the R.M.L. Hospital to ensure the compliance of the above directions. Copy of this order be made available dusty under signatures of the Court Master to the plaintiffs counsel, with additional copies for Director General, Health Service and the D.C.P. of the area.