

**IN THE HIGH COURT OF JUDICATURE FOR MADHYA PRADESH,
BENCH AT INDORE**

**WP No. 1882/2014 (PIL)
(Shailendra Singh Vs. State of M. P. & others)**

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Indore, dated 3/6/2021

Heard through Video Conferencing.

Shri Pranay Choubey learned counsel for the petitioner.

Shri Purushendra Kaurav learned Advocate General for the respondent / State.

Shri Rishi Shrivastava learned counsel for JUDA MP, Indore.

Shri Siddharth R. Gupta learned counsel for JUDA Jabalpur and Gwalior.

This matter has been listed for hearing on IA No. 5469/2021 filed by the petitioner Shailendra Singh with the prayer that members of Junior Doctors Association (for short, “JUDA”) of Government Medical Colleges in the entire State of Madhya Pradesh and other Associations or Unions of Doctors/Medical Officers/ Nurses/Medical Staff, should be restrained from continuing with the strike and that direction be given to the State Government to initiate appropriate action against the erring directors under the Essential Services Maintenance Act, National Disaster Management Act and the Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002. It is also prayed

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that action be taken against the members of Junior Doctors Association who have by proceeding on strike committed contempt of the orders passed by this Court on 31/1/2014 and 25/7/2018 whereby this Court restrained all the medical officers attached to Government Hospitals and Government Medical Colleges in the State of Madhya Pradesh from proceeding on strike.

We have heard Shri Pranay Choubey learned counsel for petitioner and Shri Purushendra Kaurav learned Advocate General for the State. We have also heard Shri Rishi Shrivastava, who appeared for Junior Doctor Association of M.P. and Shri Sidharth R. Gupta, who appeared for Junior Doctor Association, Jabalpur and Gwalior.

Shri Pranay Choubey, learned counsel for petitioner has submitted that members of Junior Doctors Association, who are students of post graduation study course in various branches of medicine have abstained from work w.e.f. 31 of May 2021, demanding increase in their stipend. It is contended that members of JUDA have stopped providing services to the patients in the Covid Wards. As a result of their strike, the emergency services in

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all type of hospitals have been shut down. Even though Essential Services Maintenance Act has been imposed against the striking doctors but the government has so far not taken any disciplinary action against them. The newspaper clippings of leading news papers regarding strike have been placed on record.

Shri Rishi Shrivastava and Shri Siddharth R. Gupta, learned counsel for the striking doctors argued that the first demand of the Junior Doctors is for increase in the amount of stipend which is static for past many years ranging from Rs.55,000/- to Rs.59,000/-. It has been argued that 17 States in the Country have already increased the stipend during the covid period as high as Rs.85,000/- and that the Junior Doctors Association is having all the documents to substantiate this. Therefore, the government ought to consider the demand of the resident doctors in the right earnest. It is contended that the Chief Secretary of Madhya Pradesh in 2018 gave the assurance to them that their stipend shall be increased by 6% but nothing happened thereafter. It is submitted that a meeting was convened between the representatives of JUDA and the Health Minister of the State on 6th May 2021 in which again assurance was

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given by the Health Minister to positively consider increasing the stipend payable to the members of JUDA, but till date this has not been acted upon.

It is submitted that second demand of the junior doctors is that they should be provided adequate security at the work place as in certain incidents they were subjected to not only misbehaviour but also beating by the attendants and family members of the patients in various government hospitals. It is also submitted that third demand of the junior doctors is that since many of them have been infected with corona virus, resulting in their family members also getting infected. Therefore, their demand is that if they and their family members are infected with corona virus, they should be provided free of cost treatment in the same hospital where they are working. Their fourth demand is that the medical colleges should waive the fee for the period of extension of the study course of post graduation and diploma over and above the period of three years. And fifth demand is that 10% additional/extra marks given to the P.G. students who are rendering their services in rural/ remote/ difficult areas, should also be given to resident doctors giving their

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services in the Covid ward of the hospitals by treating such duty at par therewith.

Shri Purushendra Kaurav, learned Advocate General submitted that the resident doctors by proceeding on strike have committed contempt of the order of this Court passed on 25th July 2018 whereby they were restrained from doing so. It is contended that the state government may consider their demand only if they first call off the strike and resume the duty. Without resumption of duty, they cannot be invited for negotiations. The learned Advocate General has submitted that as far as safety of junior doctors at the work place is concerned, the government is already conscious of the same and is making adequate arrangements and will further examine what additional measures can be taken in that behalf. Moreover, the government is ready to provide treatment to junior doctors and their family members if they get infected while discharging their duties in Covid ward of the hospitals. As regards the fee for the extended period of study course, learned Advocate General submitted that no such demands has been made.

This court on 25/01/2018, when the members of JUDA had

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then given a call for strike, required the petitioner to implead the said association party respondent. Learned counsel for the petitioner submitted that since pursuant to the aforesaid order passed by this Court the strike was called off, required application for impleadment was not filed. The petitioner has today filed an application IA No.5492/2021 for impleadment of the JUDA. Application is allowed. The Junior Doctor Association is impleaded as party respondent through its President Dr. Arvind Meena.

We tried to persuade the office bearers of the Association Dr. Arvind Meena, President, JUDA, Dr. Pradip Patel, Vice President JUDA, Rai Sen Tanwar, Treasurer of JUDA and Dr. Anshul Chawle officer bearer of JUDA, who appeared before us through video conferencing, to immediately call off the strike so that the respondent State may be required to start negotiation with them but without any success.

Despite persuasion by this Court and efforts made by Shri Rishi Shrivastava the learned counsel and Shri Sidharth R. Gupta, learned counsel appearing for the JUDA, the striking doctors are not prepared to call off the strike. The office bearers of JUDA are

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insisting that they would enter into dialogue with the Government only when their demands are met.

All doctors have a solemn duty towards humanity. This duty binds them to serve the citizens suffering from any kind of disease. In the present scenario, this duty requires them to join hands with all fellow citizen in fight against the ongoing pandemic of Coronavirus. We shall do well to reproduce the declaration in the form of oath given by the doctors when they entered profession, as per the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 which reads as follows:-

“I solemnly pledge myself to consecrate any life to service of humanity.

Even under threat, I will not use my medical knowledge 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.

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

Clearly, in this crucial phase of our lives when whole of the country is grappling with the deadly menace of Covid-19 following its second wave, the striking doctors have completely forgotten the solemn oath taken by them in the above extracted declaration. We quite appreciate that they have suffered hardship and rendered duties at odd hours at the cost of their health. But at the same time it is also equally true that they have chosen a wholly inappropriate time to press for their demands, howsoever reasonable they may be, by proceeding on strike.

Their advocates Shri Rishi Shrivastava and Shri Sidharth R. Gupta requested for a pass over, so as to try to persuade them to immediately call off the strike and enter negotiation with the high powered committee that may be formed by this Court. We passed over the matter to enable them to do so. Matter was then called out in second round. The office bearers of JUDA however remained steadfast in their approach and maintained that strike shall be called

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off only when their demands are met. We cannot appreciate this stubborn attitude and condemn their action in proceeding on strike at such a critical juncture when almost entire nation is struggling to survive the second wave of Corona virus, which has engulfed several hundred human lives in different parts of the country.

Faced with this situation, we declare the strike by junior doctors as illegal and direct them to immediately resume their duties. If they do so, a high powered committee consisting of the Chief Secretary of the State, Additional Chief Secretary, Medical and Health and the Commissioner, Medical Education shall immediately call them for negotiation. If they fail to do so within 24 hours, it would be open for the government to take any legal action against them as it may deem fit in accordance with law.

List the matter again on **07.06.2021** to see the further progress.

(MOHAMMAD RAFIQ)
CHIEF JUSTICE

(SUJOY PAUL)
V. JUDGE

BDJ

Digitally signed by
BHUVNESHWAR DATT
JOSHI
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