

ITEM NO.1

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SUO MOTO WRIT (CrI) No.2/2024

IN RE: ALLEGED RAPE AND MURDER INCIDENT OF A TRAINEE DOCTOR IN
R.G. KAR MEDICAL COLLEGE AND HOSPITAL, KOLKATA AND RELATED
ISSUES

Date : 22-08-2024 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s)

By Courts Motion

For Respondent(s)

Mr. Tushar Mehta, SG
Mr. Kanu Agrawal, Adv.
Ms. Swati Ghildiyal, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Madhav Sinhal, Adv.
Mr. M.K. Maroria, Adv.

Mr. Phiroze Edulje, Adv.
Mr. Anjan Datta, Adv.
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Ms. Ishita Srivastva, Adv.
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Ms. Rupali Panwar, Adv.
Mr. Saurabh Sharma, Adv.
Ms. Sumon Pathak, Adv.
Mr. V.K. Pushpakumar, Adv.

Mr. Ibrahim Ahmed, Adv.
Mr. Adarsh Kumar, Adv.

Mr. Mihir Desai, Sr. Adv.
Ms. Jhuma Sen, Adv.
Mr. Anirudh Sanganeria, AOR

Mr. Kapil Sibal, Sr. Adv.
Dr. Menaka Guruswamy, Sr. Adv.
Mr. Sanjay Basu, Adv.
Ms. Astha Sharma, AOR
Mr. Nipun Saxena, Adv.
Ms. Anju Thomas, Adv.
Ms. Aparajita Jamwal, Adv.
Mr. Sanjeev Kaushik, Adv.
Ms. Mantika Haryani, Adv.
Mr. Shreyas Awasthi, Adv.
Mr. Utkarsh Pratap, Adv.
Ms. Pratibha Yadav, Adv.
Ms. Ripul Swati Kumari, Adv.
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Mr. Lavkesh Bhambhani, Adv.
Ms. Arunima Das, Adv.
Mr. Devadipta Das, Adv.
Mr. Archit Adlakha, Adv.
Mr. Aditya Raj Pandey, Adv.
Ms. Mehreen Garg, Adv.

Mr. Abhimanyu Tewari, AOR
Ms. Eliza Bar, Adv.

Mr. Raghenth Basant, Sr. Adv.
Mr. Ravi Raghunath, Adv.
Ms. Kaushitaki Sharma, Adv.

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Ms. Pragya Barsaiyan, Adv.
Ms. Anandita Rana, Adv.
Ms. Vanshita Gupta, Adv.
Mr. Madhav Aggarwal, Adv.
Ms. Sayantani Basak, Adv.

Ms. Geeta Luthra, Sr. Adv.
Ms. Shivani Luthra Lohia, Adv.
Mr. Nitin S., Adv.
Mr. Anirban Chanda, Adv.
Mr. Aadarsh Kothari, Adv.
Ms. Arpita Sahu, Adv.

Mr. Shashank Shekhar Jha, Adv.
Ms. Priyanka Thakur, Adv.

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Ms. Sneha Kalita, Adv.
Ms. Kavya Jhavar, Adv.
Ms. Nandini Rai, Adv.

Mr. Sanjay Hegde, Sr. Adv.
Mr. Amanakuttan K.K., Adv.
Ms. Rambha Singh, Adv.
Mr. Akhilesh Kr. Mishra, Adv.

Ms. Karuna Nandy, Sr. Adv.
Mr. Sabyasachi Chatterjee, Adv.
Mr. Gajendra Negi, Adv.
Mr. Subhro Prokas Mukherjee, Adv.
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Mr. Svarit Vniyal Mishra, Adv.

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Mr. Pankaj Rishikrishnan, Adv.
Mr. Rohit Pandey, Adv.
Mr. Ujjwal Gaur, Adv.
Ms. Manisha, Adv.
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Mr. Maninder Singh, Sr. Adv.
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Mr. Rithvik Mathur, Adv.
Mr. Priyanshu Tyagi, Adv.

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Mr. Shivam Singh, Adv.
Mr. Akshay Singh, Adv.
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Mr. Rahul Kumar Jai, Adv.
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Ms. Akanksha Gupta, Adv.
Mr. Ajay Awasthi, Adv.
Ms. Mugdha Pande, Adv.
Mr. Vaibhav Thaledi, Adv.

Mr. Danish Iqbal, Adv.
Mr. Shrey Singh, Adv.

Mr. Firdous Samim, Adv.
Ms. Gopa Biswas, Adv.
Mr. Ali Asghar Rahim, Adv.

Ms. Bansuri Swaraj, Sr. Adv.
Mr. Siddhesh Shirish Kotwal, Adv.
Mr. Billwadal Bhattacharyya, Adv.
Mr. Bikram Banerjee, Adv.
Ms. Ana Upadhyay, Adv.
Ms. Manya Hasija, Adv.
Mr. Tejasvi Gupta, Adv.
Mr. Pawan Upadhyay, Adv.
Mr. T. Illayarasu, Adv.

Ms. Tanvi Dubey, Adv.
Mr. Raghav Sabharwal, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 In compliance of the order dated 20 August 2024, a status report has been submitted by the Central Bureau of Investigation. Likewise, status report and an affidavit have been submitted by the State of West Bengal. The status reports and the affidavit are taken on the record.
- 2 As already noted earlier, the investigation into the circumstances relating to the death of a postgraduate doctor at RG Kar Medical College Hospital is being conducted by the CBI. The Kolkata Police is looking into the investigation following the vandalization of the hospital after the protests at the site.
- 3 From the material which has been produced before the Court, it appears that a request for conducting the polygraph test of the accused has been submitted to the ACJM, Sealdah, which is stated "to be under process". The ACJM shall pass orders on the application no later than by 5 pm on 23 August 2024.
- 4 During the course of the hearing, a number of counsel have appeared on behalf of diverse stakeholders, including associations representing resident and other doctors. The counsel who have intervened in these proceedings together with the parties for whom they have intervened, are set out below:

(i)	Federation of Resident Doctors Association;	Mr Devadatt Kamat, Sr Adv
(ii)	Delhi Medical Association;	Mr Vijay Hansaria, Sr Adv
(iii)	West Bengal Junior Doctor's Front	Ms Geeta Luthra, Sr Adv

(iv)	People Union for Civil Liberties, West Bengal	Mr Mihir Desai, Sr Adv
(v)	Federation of All India Medical Associations;	Ms Tanvi Dubey, Adv
(vi)	National Federation of All India Medical Associations;	Ms Tanvi Dubey, Adv
(vii)	Joint Platform of Doctors, West Bengal;	Ms Karuna Nandy, Sr Adv
(viii)	Resident Doctors Association, AIIMS;	Mr Raghenth Basant, Sr Adv
(ix)	Central Kolkata United Doctors Welfare Associations;	Ms Aparajita Singh, Sr Adv
(x)	United Doctor's Front Associations;	Mr Shashank Shekhar Jha, Adv
(xi)	Indian Medical Association (IMA);	Mr Maninder Singh, Sr Adv
(xii)	The Federation of Association of Medical Consultants of India;	Mr Jamshed Mistry, Adv
(xiii)	Original Petitioners in WPA (P) No 332/2024 before the High Court of Calcutta;	Ms Bansuri Swaraj, Sr Adv
(xiv)	All India Federation of Government Doctors Associations;	Mr Shreekrishna Ganbawale, Adv
(xv)	Victim for Private Doctors Association, Calcutta;	Mr Ashok Bhan, Sr Adv
(xvi)	Medico Legal Society of India;	Dr. Rajeev Joshi, In-person

(xvii)	Aadi - A Step Towards Humanity	Mr Anuj Kumar Dhaka, Adv
(xviii)	Sreerupa Mitra Chaudhury	Mr Mahesh Jethmalani, Sr Adv
(xix)	Joint Platform of Doctors, West Bengal.	Ms Karuna Nandy, Sr Adv

- 5 While constituting a National Task Force¹, this Court had specifically clarified that the NTF should engage with diverse stakeholders. Consequently, the NTF should hear representatives of diverse stakeholders so as to enable it to have inputs from all those who are concerned with the process which has been initiated by this Court for maintaining safety and well being of the doctors and other medical professionals at their work places.
- 6 During the course of the hearing, counsel have placed some additional suggestions which may be taken into account by the NTF, including:
- (i) Institutionalization of distress call systems;
 - (ii) Regulation of duty hours; and
 - (iii) Constitution of a compensation distress fund.
- 7 The above suggestions may be considered by NTF whose remit has been couched in broad terms by this Court. The views of diverse stakeholders including the Interns, Residents, Senior Residents, doctors and nurses as well as of the para-medical staff would be taken into account by the NTF before its recommendations are made.

1 "NTF"

- 8 To facilitate the filing of suggestions before the NTF, we direct the Secretary in the Union Ministry of Health and Family Welfare to open a web portal on the website of the Ministry on which the associations, or as the case may be, different stakeholders may submit their suggestions for consideration before the NTF.
- 9 Mr Kapil Sibal, senior counsel appearing on behalf of the State of West Bengal and the Kolkata Police submits that while this Court has permitted peaceful protests, the order should not be misconstrued to mean that the authorities are precluded from exercising their regulatory powers in accordance with law. This Court has not enjoined the State from exercising such lawful powers as are entrusted in terms of the law. However, we categorically reaffirm that peaceful protests should not be disturbed or disrupted, and the State shall not take any precipitate action against those who are peacefully protesting against the incident which took place at RG Kar Medical College Hospital.
- 10 In view of the fact that this Court has taken measures to ensure the institutionalization of the concerns of the medical professionals in terms of the previous order dated 20 August 2024, it is only to be expected that doctors would now return to work.
- 11 Mr Tushar Mehta, Solicitor General states that in compliance of the orders of this Court, the Central Industrial Security Force has been deployed at RG Kar Medical College Hospital to ensure the safety of doctors, nurses and all other medical professionals.
- 12 An apprehension has been expressed on behalf of the doctors stating that they are being proceeded against for the protests which took place in the past. We are expecting compliance with the assurance which has been given to the Court that the doctors would join normal duties. In the meantime, if

any adverse action has been taken against any protesting doctor for protests which have been carried out prior to the date of this order, no coercive steps shall be taken against them.

- 13 During the course of the hearing, counsel representing several resident doctors associations have indicated to the Court that the doctors are willing to go back to work and their duties. However, it has been submitted that the State Governments may take a considered view on putting into place at least some safety measures to assuage the concerns of the doctors.
- 14 We consider the above suggestion to be fair. In order to facilitate this, we direct that the Secretary in the Union Ministry of Health and Family Welfare shall engage with the Chief Secretaries and Directors General of Police so as to ensure that the State Governments/Union Territories put into place certain basic minimum requirements pending the receipt of the report of the NTF to assuage the concerns of the doctors over their safety at their work places. The exercise of holding meeting should be completed within a period of one week from today. The State Governments shall take remedial and appropriate action given the exigencies of the situation within a period of two week thereafter.
- 15 Pending the submission of the report of the NTF, all State Governments and Union Territories shall be alert to any apprehended violations or breaches of safety in medical establishments. The States/Union Territories would without awaiting the report of the NTF take suitable measures such as installing CCTV cameras and call distress systems.
- 16 List the matter on 5 September 2024.

(CHETAN KUMAR)
A.R. -cum-P.S.

(POOJA SHARMA)
Court Master

