

Jabalpur, Dt. 25.07.2018

Shri Pranay Choubey learned counsel for the petitioner.

Shri Deepak Awasthy, learned Deputy Advocate General for the respondents/State.

Shri D. K. Paroha learned counsel for respondent no.2.

Shri Swapnil Ganguly learned counsel for the intervenor.

On the request of the learned counsel for the petitioner, the petitioner is permitted to implead the Junior Doctor's Association, the Nursing Staff Association and the Para-Medical Staff Association as respondents.

The learned counsel for the petitioner submits that an application (I.A No.8921/2018) seeking intervention has been filed by a person who is adversely effected by the ongoing strike of the Junior Doctor's Association, Nursing Staff Association and the Para-Medical Staff Association as he has been denied treatment in Medical College, Bhopal.

The learned counsel for the petitioner as well as the intervenor submits that this Court by order dated 31.1.2014, relying on the decision of the Supreme Court in the case of **T. K. Rangarajan vs. Government of Tamil Nadu and others**, AIR 2003 SC 3032, has already issued an interim order restraining the respondent nos.6 & 7 and all its members as well as all other Medical Officers attached to Government Hospitals and Government Medical Colleges in

the State of Madhya Pradesh from going on or continuing with strike, directly or indirectly, and have also been prohibited from disrupting the essential medical services administered in the Government Hospitals and Government Medical Colleges. It is also pointed out that this Court in its order dated 31.1.2014 has already ordered that failure to comply with the direction shall invite suitable legal consequences including action for breach of the directions issued by this Court.

It is submitted that inspite of the aforesaid order of this Court passed on 31.1.2014, the Junior Doctor's Association, the Nursing Staff Association and the Technical Staff Association have gone on strike paralysing the entire medical services in the State of M.P. which is not just in violation of the directions issued by this Court but is also in breach of the directions of this Court.

The learned counsel for the petitioner has also relied upon the order passed by this Court in W.P No.5970/2017 (**Rajesh Patel vs. State of M.P.**) wherein this Court had issued prohibitory orders against the proposed strike of Patwaris with a mandatory direction to them to resume work and the Chief Secretary was directed to inform all Collectors to ensure compliance of the directions issued by this Court. The learned counsel for the petitioner has also placed before this Court order dated 14.6.2018 passed in W.P No.12869/2018 wherein similar orders in respect of the proposed strike of Naib Tehsildars and Tehsildars working in the State of M.P., were issued. The learned counsel for the petitioner as well as the learned counsel for the intervenor

submit that similar directions may again be reiterated in the present petition as well.

Having heard the learned counsel for the parties, it is observed that this Court has already prohibited all medical officers working in Government Hospitals and Government Medical Colleges from going on or continuing with any strike by order dated 31.1.2014.

We reiterate the said order. In addition, we direct that the Nursing Staff Association as well as the Supporting Technical Staff Association and other employees and staff working in Government Hospitals and Government Medical Colleges are also prohibited from going on or continuing with any strike. We also direct that since this Court in the present petition as well as in other cases has already issued similar directions, any such strike undertaken by any of the respondent Associations or any other Medical Officer or staff attached to the Government Hospitals and Government Medical Colleges shall be treated to be illegal and necessary appropriate action in that regard shall be taken by the authority concerned. It is further directed that all these medical officers, staff and others shall resume their duties forthwith failing which necessary action can be taken against them, not just by the State, but also by this Court.

We also direct that the Chief Secretary of the State to issue necessary orders to ensure compliance of the directions issued by this Court.

At this stage the learned Dy. Advocate General submits that he has been instructed by Dr. Navneet Saxena, Dean, Medical College, Jabalpur that the Para-Medical Staff Association have resumed their work. He also

informs that the State has issued an order on 23.7.2018 declaring medical services as essential service under the provisions of Section 4(1) of the M.P. Atyavashyak Sewa Sandharan Tatha Vichchinnata Niwaran Adhinyam, 1979, prohibiting all persons engaged in providing medical services from going on mass leave or refusing to work. The learned Dy. Advocate General further informs this Court that the State and its authorities are taking all measures to see that the patients who approach the Medical Colleges or Government Hospitals for treatment are provided the same by making alternative arrangements.

In view of the aforesaid statement of the learned Dy. Advocate General, it is further directed that the authority concerned shall take action in accordance with the provisions of the Act of 1979 as well as all necessary steps to ensure compliance of the orders passed by this Court.

It goes without saying that nothing mentioned in this order or any previous order passed by this Court in the present petition would prevent the authorities of the State from addressing the issues raised by the striking medical officers and staff.

C.C as per rules today.

(R.S. Jha)
Judge

(Mohd. Fahim Anwar)
Judge

mms/-