

**DEVAN RAMACHANDRAN &
Dr.KAUSER EDAPPAGATH, JJ.**

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R.P.No.379 of 2021 in W.P.(C)No.10659 of 2021
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Dated this the 25th day of May, 2023

ORDER

Devan Ramachandran, J.

Sri.S.Kannan – learned Senior Government Pleader, has filed a memo, producing therewith the Ordinance promulgated to amend the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 (“Act” for short). We do not propose to speak on it since same is unnecessary on our side at the moment. Suffice to say, a long pending request of the healthcare professional community appears to have been taken note of and acted upon.

2. Coming to the protocols to be followed by the police while producing persons in their custody before learned Magistrates and healthcare professionals, Sri.S.Kannan has brought to our notice that a draft has been prepared by the police department and submitted before the Government.

This certainly is a welcome step, but, as we had said on the earlier date when this case was listed, same should be settled on a war-footing, because we cannot afford another incident to happen.

3. That said, the State must also take into confidence the Association of Doctors and Judicial Officers, as also the Health University, while finalising the protocols, because they are the persons who will be immediately affected by them in their professional capacity.

4. There is another issue that is pending before us, namely, the protection to be offered to the various categories of hospitals on a regular basis. Sri.Ajith Kumar, the Additional Director General of Police, who had appeared before us in person through the online medium on 11.05.2023, had informed us that the services of the State Industrial Security Force (SISF) can be made available to both Government and private sectors, but on approved terms.

5. Sri.S.Kannan - learned Senior Government Pleader, today informs us that there is a proposal under active consideration to give SISF protection to the Government hospitals without any charge; and that the Health Department has been asked to make a list of those

in priority.

6. As far as the private hospitals are concerned, Sri.S.Kannan submitted that the Government is of the opinion that they should make their own arrangements, without having to rely upon the SISF.

7. Though the policy of the Government with respect to the Government hospitals is certainly in the right direction, we are of the view that the affording of protection to private hospitals, on their request, by the SISF is also one that they must consider and address, particularly when they unequivocally say that they are willing to pay for such.

In the afore circumstances, we issue the following directions:

(a) The Government will hear the representatives of the Kerala Judicial Officers Association; Kerala University of Health Sciences (KUHS); Indian Medical Association, Kerala State Branch; Kerala Private Hospitals Association; Kerala Government Medical Officers Association (KGMOA) and Kerala Government Medical College Teachers Association (KGMCT), while finalising the protocols for production of persons from their custody.

Though Sri.S.Kannan has sought for a month's time

for the above purpose, we are of the opinion that we require to be informed much earlier. Therefore, the decision of the Government in this regard shall be made available to us, as far as practically possible, by the next posting date.

(b) The Government will actively consider providing security cover to all hospitals - be that Government or private – through the SISF. They will be at full liberty to consider and enumerate the terms, including for payment by the hospitals in the private sector; and for this, when the Kerala Private Hospital Association is heard as ordered above, this aspect shall also be kept in mind.

(c) We make it clear that our earlier orders, regarding the registration of an FIR within an hour of the intimation to the Police of an incident involving an attack on medical professionals, will continue to be in effect.

List on 08.06.2023.

H/o

Sd/- **DEVAN RAMACHANDRAN,**
JUDGE

Sd/- **Dr. KAUSER EDAPPAGATH,**
JUDGE.

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