

WP No.246 of 2019  
IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction  
ORIGINAL SIDE

PEOPLE FOR BETTER TREATMENT (PBT)  
VERSUS  
WEST BENGAL MEDICAL COUNCIL (WBMC) & ORS.

BEFORE

The Hon'ble Chief Justice THOTTATHIL B. RADHAKRISHNAN

AND

The Hon'ble Justice SUVRA GHOSH

Date: 14<sup>th</sup> June, 2019

Apperance

*Dr. Kunal Sarkar, petitioner in person*  
*Mr. Kishore Dutta, Ld. AG with*  
*Mr. Amitesh Banerjee, Standing Counsel with*  
*..for the State*  
*Mr. Saibalendu Bhowmick, Adv. with*  
*Mr. Biplab Guha, Adv.*  
*..for the WBMC*

The Court: We have heard Dr. Kunal Saha, President of the petitioner appearing in person. We have heard the Learned Advocate General and the learned Counsel for the Medical Council of State of West Bengal.

At the outset, let us record that we do not propose to proceed with the matter as an adversarial litigation. However, we need to provide appropriate push with requisite grease to ensure that the on going strike by a section of doctors comes to an end through governmental intervention by way of persuasion or otherwise, in accordance with law. We do so because, within the parameters of Article 21 of the Constitution of India, 'human rights' as understood in the civilised societies and recognised in the international domain through terms of international conventions, which bind different nations, it is the fundamental requirement that the right to health is given top priority and any need for medical help is immediately extended to any human being even if he is not a citizen. Therefore, we take this opportunity to state that resolution of disputes which would have arisen as a consequence of certain unfortunate events even in the hospital is not to be countered by action of

eminent and well informed people like doctors by keeping away from their primary and fundamental duty to serve the people. Be that as it may, the State Government has also to ensure that the grievance of the doctors, particularly in relation to certain incidents which are alleged to have occurred, are addressed in accordance with law without any delay. We record the submission made by the Learned Advocate General that First Information Report has been lodged and arrests have been made insofar as the alleged incidents in which the doctors are stated to be victims. This means that the State Government has taken efforts to push the machinery in that regard. As a necessary follows and consequence, it is definitely for the doctors to now turn themselves to the reconciliatory mode in the larger interest of the suffering people and answer their oath which they have taken while they became doctors. The great advise given through the Hippocratic Oath ought to lead them to better ways of dealing with the problems which they are faced with. The State Government shall also ensure that adequate protection is provided to the hospitals and place of work of all doctors and also such places where doctors may feel insecure in any circumstances.

Following this order, we hope things will take a better shape so that the Learned Advocate General would be able to place a comprehensive response as to what would happen following this order by the next date of hearing.

Post the matter on 21<sup>st</sup> June, 2019.

(THOTTATHIL B. RADHAKRISHNAN, C.J.)

(SUVRA GHOSH, J.)