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THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: January 19, 2011

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Pronounced on: February 21, 2011

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WP (C) No. 8832 of 2006

Scheduled Castes and Scheduled Tribes

Medical Association (Regd.) Delhi Petitioner

Through: Mr.Prashant Bhushan with Mr.Rohit Kr.
Singh & Mr.Bharoo Sood, Advs.

versus

Union of India and others Respondents

Through: Mr.Rajeev Saxena, Sr.Govt. counsel with
Mr.Neeraj Chaudhary, CGSC with
Mr.Khalid Arshad & Mr.Rohan Ahuja,
Advs. for R-1/UOI.
Mr.Darpan Wadhwa, Adv for
R-2/GNCDT.
Mr.Praveen Khattar, Adv. for R-4/DMC
Mr.Rajat Katyal, Adv. for R-5
Mr. Kirtiman Singh, Adv. for R-6.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether reporters of the local papers be allowed to see the judgment? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

DIPAK MISRA, CJ

In this public interest litigation preferred under Article 226 of the Constitution of India, though number of issues have been raised, yet on a considered scrutiny and regard being had to the proponements advanced at the bar, we are disposed to think that three principal issues arise for

consideration, namely, whether the doctors, interns and junior residents in AIIMS can go on strike for whatever reason and further coerce the willing doctors not to discharge their duty on any count whatsoever; whether the competent authorities in charge of the said institutions are accountable to take appropriate action against the erring doctors on proper identification or show leniency for such transgression and delinquency; and whether the report submitted by the Committee headed by Professor Sukha Deo Thorat (known as Thorat Committee report) should be given effect to for the purpose of any previous acts before the report was submitted.

2. The facts which are imperative to be stated for adjudication of the writ petition are that the doctors of All India Institute of Medical Sciences (hereinafter referred to as 'the AIIMS') went on strike on four occasions, i.e., for 17 days in May, 2006 on the issue of reservation of seats for Other Backward Class in institutions of higher education; from 05.7.2006 to 07.7.2006 on the issue of removal of the then Director of AIIMS; from 29.8.2007 to 30.8.2007 on the issue of refusal of the Health Minister for signing the degrees and certificates of students because of certain dispute regarding the continuance of the Registrar of AIIMS; and then on 29.11.2007 on the issue of passing the Amendment Bill fixing the age of retirement of the Director of AIIMS. It is urged that as far as the strike of May, 2006 is concerned, the same was called off by virtue of the order passed by the Apex Court and the directions issued that the punitive orders passed against the doctors and others should be recalled if they join

the duties. As setforth, they joined the duties but thereafter, as the factual matrix would manifest, they went on further strike. Thus, the present petition is really concerned with the strikes excluding the strike that took place in the year 2006.

3. As setforth, the strikes had a tremendous impact and the patients suffered as emergency services were shut down; the patients waiting for treatment remained in the hospital being untreated in serious condition; the patients who were admitted to have surgery and other advanced treatment remained in agony; and further certain doctors, who wanted to help, aid or assist the patients, were coerced and compelled not to attend the patients. It is urged that the doctors, regard being had to their nature of duties, responsibilities, professional ethics and the right of a citizen under Article 21 of the Constitution to avail treatment cannot go on strike or take recourse to demonstration or protest paralyzing the system. In this backdrop, prayers have been made to declare that the doctors and the teaching faculty at AIIMS or for that matter any government or private hospitals cannot go on strike or demonstration or coerce the willing doctors to attend the patients and appropriate disciplinary action be taken against the doctors who had gone on strike. The other issue which has also been raised relates to indiscrimination caused to the students and doctors belonging to reserved category in AIIMS and compliance of the report of the Thorat Committee which was constituted in this regard.

4. At the very outset, we are obliged to state that we will be only dealing with the first two issues and grant liberty to the petitioner to raise the third issue in a comprehensive writ petition with proper particulars so that it can be appositely addressed.

5. A reply has been filed by the respondent No.1, Union of India, averring that the doctors at AIIMS went on strike from 5th July, 2006 to 7th July, 2007. Reference has been made to the Code of Ethics Regulations, 2002 according to which a physician is required to uphold the dignity and honour of his profession.

6. A counter affidavit has been filed by the respondent No.2, Department of Health and Family Welfare, Government of NCT of Delhi, stating, inter alia, that the said respondent had put all its efforts for keeping the medical services operational and functional at the critical event of strike by the doctors and medical students in the month of April and May, 2006. Summer vacation of all faculty members had been cancelled to maintain alternative arrangement and the striking doctors had been issued show cause notices to join back their duties and to recruit junior doctors and senior doctors during the strike period, but no one turned up for the interview. The coercion by the striking doctors to the other doctors to participate in the strike and to abstain from work has not been reported in any of the hospitals administered by the Delhi Government during the aforesaid period and in case it is reported, strict action would be taken.

7. A counter affidavit has been filed by the Delhi Medical Council stating, inter alia, that the said Council has been constituted under the Delhi Medical Council Act, 1997 and is responsible for the maintenance of a register of medical practitioners who are engaged in the practice of modern scientific system of medicine and all its branches and for the regulation of registered practitioners in the National Capital Territory of Delhi. The power, duties and functions of the Council have been enumerated. It is urged that the Delhi Medical Council shall initiate appropriate disciplinary proceeding whenever any complaint is made as regards the professional misconduct by a medical practitioner registered with it in quite promptitude.

8. A reply has been filed by the AIIMS admitting the fact that the doctors were on strike from 5th July, 2006 to 7th July, 2007. Reference has been made to the letter addressed by the Resident Doctors Association, AIIMS. The steps taken by the AIIMS authorities against the doctors who had gone on strike on the first occasion has been highlighted.

9. Rejoinder affidavits have been filed to highlight that no steps have been taken by AIIMS against the erring doctors who had gone on strike for the period of three days, i.e., from 5th July, 2007 to 7th July, 2007 and no responsibility has been fixed.

10. Before we delve into the issue whether strike can be taken recourse to and the willing doctors or students can be coerced to participate in the

said strike, we think it appropriate to highlight the significance of duties in a hospital by a doctor in whichever post he is, para medical staff, nurses, chowkidars, sweepers or any other staff involved with the hospital. The said aspects, needless to emphasize, have inextricable nexus with health. Health is the basic requirement for the preservation of body-the human frame which is the manifestation of life that is seen. It should be borne in mind that life is a glorious gift from God. It is the perfection of nature, a master-piece of creation. Human being is the epitome of the infinite prowess of the divine designer. Great achievements and accomplishments in life are possible if one is permitted to lead an acceptably healthy life. Health is life's grace and efforts are to be made to sustain the same. The Government is required to assist people and its endeavour should be to see that the people get treatment and lead a healthy life. Healthy society is a collective gain and no institution should make any maladroitness attempt to smother it.

11. Regard being had to the aforesaid concept, we shall refer with profit to certain citations which deal with the concepts of preservation of life, the duties of a doctor and the constitutional mandate under Article 21 and the responsibility of any authority or law abiding citizen.

12. In *Pt. Parmanand Katara v. Union of India and others*, (1989) 4 SCC 286, the Apex Court has held thus –

“7. There can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante

cannot be restored as resurrection is beyond the capacity of man. The patient whether he be an innocent person or be a criminal liable to punishment under the laws of the society, it is the obligation of those who are in charge of the health of the community to preserve life so that the innocent may be protected and the guilty may be punished. Social laws do not contemplate death by negligence to tantamount to legal punishment.

8. *Article 21 of the Constitution casts the obligation on the State to preserve life. The provision as explained by this Court in scores of decisions has emphasised and reiterated with gradually increasing emphasis that position. A doctor at the Government hospital positioned to meet this State obligation is, therefore, duty bound to extend medical assistance for preserving life. Every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way.”*

13. In ***Paschim Banga Khet Mazdoor Samity and others v. State of W.B. and another***, (1996) 4 SCC 37, the Apex Court has expressed that in a welfare State the primary duty of the Government is to secure welfare to the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare State. The Government discharges this obligation by running hospitals and health centres which provide medical care to persons seeking to avail of those facilities. Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance. The Government hospitals

run by the State and the medical officers employed therein are duty-bound to extend medical assistance for preserving human life. Failure on the part of the Government hospitals to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21.

14. In *Surjit Singh v. State of Punjab and others*, (1996) 2 SCC 336, the Apex Court has observed thus -

“It is otherwise important to bear in mind that self-preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self-preservation has a species in the right of self-defence in criminal law. Centuries ago thinkers of this great land conceived of such right and recognised it. Attention can usefully be drawn to Verses 17, 18, 20 and 22 in Chapter 16 of the Garuda Purana (A Dialogue suggested between the Divine and Garuda, the bird) in the words of the Divine:

17. *Vinaa dehena kasyaapi canpurushartho na
vidyate Tasmaaddeham dhanam
rakshetpunyakarmaani saadhayet*

Without the body how can one obtain the objects of human life? Therefore protecting the body which is the wealth, one should perform the deeds of merit.

18. *Rakshayetsarvadaatmaanamaatmaa sarvasya
bhaajanam Rakshane yatnamaatishthejje
vanbhaadraani pashyati*

One should protect his body which is responsible for everything. He who protects himself by all efforts, will see many auspicious occasions in life.

20. *Sharirarakshanopaayaah kriyante sarvadaa
budhaih Necchanti cha punastyaagamapi
kushthaadiroginah*

22. Aatmaiva yadi naatmaanamahitebhyo
nivaarayet Konsyo
hitakarastasmaadaatmaanam taarayishyati

15. In *State of Punjab and others v. Ram Lubhaya Bagga and others*, (1998) 4 SCC 117, the Apex Court has held that the right of a citizen to live under Article 21 casts obligation on the State. This obligation is further reinforced under Article 47 and it is for the State to secure health to its citizen which is its primary duty.

“sariramadyam khalu dharmasadhanam.”
“The body is the ultimate means for performing religious duties.”

“naro mitaharabiharasebi samiksakari bisayesbasaktah. Dani param satyaparah ksamaban aptopasebi ca bhabatyarogah.”

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18. Prescribing the capacity of a ‘Doctor’, Charak had stated thus:-

*“daksah tirtharthasastrarthah drstakarma sucirbhisak,
(carakah)”*

“A doctor is he; who is efficient (an expert in the field), who has studied, assimilated all the scriptures on medicine, who has seen other seniors doing surgeries and treating the patients and who is pure or honest.”

19. The great principle giver and a man with multifaceted wisdom, Chanakaya, while speaking about the role of a ‘Doctor’, has pronounced thus:-

*“ayurbedakrtabhyasah sarbesam priyadarsanah.
Aryasilagunopetah esa baidyo bidhiyate..”*

“A doctor is he; who has mastered and practised all the scriptures on health, who is well-behaved to all and who is endowed with the noble qualities of honesty, simplicity and purity.”

20. The negative response of people to certain categories of doctors have been enumerated thus by an eminent writer:-

*“kucelah karkasah stabdhah gaminah sbayamagatah.
Pancabaidyah na pujyante dhanvantarisama api..”*

“People don’t like five types of doctors i.e. ill-dressed; rough in behavior, egoist, rustic and self-invited (come), even though they are experts like Dhanvantari.”

21. Another eminent author while speaking about the professional conduct of a doctor laid down thus:

*“Pratyutpannamatirdhiman.
Byabasui priyambadah.
Satyadhurmaparo yascha.
Vaidya idrk prasasyate.”*

“A doctor, who has got presence of mind and wisdom, who is professional and soft spoken, and who follows the path of Satya (truth) and dharma (code of conduct), is appreciated by all.”

22. Presently, we shall advert to the significance of All India Institute of Medical Sciences. The All India Institute of Medical Sciences came into existence by virtue of a legislation called All India Institute of Medical Sciences Act, 1956 (for brevity ‘the AIIMS Act’). The statement of objects and reasons of the Act is relevant to be reproduced:-

“For improving professional competence among medical practitioners, it is necessary to place a high standard of medical education, both post-graduate and under-graduate, before all medical colleges and other allied institutions in the country. Similarly, for the promotion of medical research it is necessary that the country should attain self-sufficiency in post-graduate medical education. These objectives are hardly capable of realisation unless facilities of a very high order for both under-graduate and post-graduate medical education and research are provided by a central authority in one place. The Bill seeks to achieve these ends by the establishment in New Delhi of an institution under the name of the All-India Institute of Medical Sciences. The Institute will develop patterns of teaching in under-graduate and post-graduate medical education in all its branches so as to demonstrate a high standard of medical education to all medical colleges and other allied institutions, will provide facilities of a high order for training of personnel in all important branches of health activities and also for medical research in its various aspects. The Institute will have the power to grant medical degrees, diplomas and other academic distinctions which would be recognised medical degrees for the purpose of the Indian Medical Council Act, 1933.”

23. Section 13 deals with the objects of the Institute which is as follows: -

*“13. **Objects of the Institute.** – The objects of the institute shall be –*

- (a) *to develop patterns of teaching in under-graduate and post-graduate medical education in all its branches so as to demonstrate a high standard of medical education to all medical colleges and other allied institutions in India;*
- (b) *to bring together in one place educational facilities of the highest order for the training of personnel in all important branches of health activity; and*
- (c) *to attain self-sufficiency in postgraduate medical education.”*

24. Section 14 deals with the functions of the Institute and such functions are linked to the promotion of objects specified in Section 13.

The relevant aspects are reproduced below:-

- “(a) Provide for undergraduate and postgraduate teaching in the science of modern medicine and other allied sciences, including physical and biological sciences;*
- (b) Provide facilities for research in the various branches of such sciences;*
- (c) Provide for the teaching of humanities in the undergraduate course;*
- (d) Conduct experiments in new methods of medical education both undergraduate and postgraduate, in order to arrive at satisfactory standards of such education;*
- (e) Prescribe courses and curricula for both undergraduate and postgraduate studies;*
- (f) xxxxxxxxxxxx*
- (g) Train teachers for the different medical colleges in India.*
- (h) Hold examinations and grant such degree, diplomas and other academic distinctions and titles in the undergraduate and postgraduate medical education as may be laid down in regulations;*
- (i) Institute, and appoint persons, to professorships, readerships, lectureships and post of any description in accordance with regulations;”*

25. In ***A.I.I.M.S. Students Union v. A.I.I.M.S. and others***, AIR 2001 SC 3262, the Apex Court, while describing AIIMS, has opined thus:-

“Delhi, the National Capital of the country is also the seat of the All India Institute of Medical Sciences, better known as ‘AIIMS’ an autonomous premier institution of national importance, AIIMS- ‘an institution of excellence’.”

26. On 1st April, 2009, this Court directed the AIIMS to produce copies of the relevant documents regarding the aforesaid strikes. It is relevant to reproduce the same –

“We have perused the affidavit filed by the AIIMS. In para 5 of the affidavit, it is stated that the AIIMS is bound to take appropriate action in accordance with law against the erring medicos, in relation to the incidents of strikes and disruption of the patient care services etc., which took place in the past and might be attempted in future.

However, learned counsel for the AIIMS is unable to explain as to why no action has been taken in respect of the strikers who took part in the strike which was held in July, 2006, after the order of the Supreme Court and subsequent strikes thereafter. The AIIMS is directed to produce copies of the relevant reports in respect of strikes by HOD or other competent authority within two weeks....”

27. On 22nd April, 2009, the document was tendered by the counsel for the AIIMS which showed the note of the Chief Administrative Officer, AIIMS signed by the Director of AIIMS that no faculty members of AIIMS was on strike from 5th July, 2006 to 7th July, 2006.

28. On 6th May, 2009, this Court directed the AIIMS to put the documents regarding the strikes on affidavit. On 20th July, 2009, the AIIMS filed an affidavit stating, inter alia, as follows: -

“6. That details of the medicos who went on strike from 05.07.2006 to 7.7.2006 appears to have not been called for and as such is not available. However, it appears that there

was strike at AIIMS from 5.7.2006 to 7.7.2006 as per the available news report on the internet.....”

29. On a perusal of the same, it is manifest that though the strike is admitted, yet no information of doctors who went on strike is available. The petitioner has annexed certain newspaper reports to highlight that certain doctors had gone on strike and had given statement in support of the strikes. In essence, the same have been placed reliance upon to show that stand or plea regarding the non-availability of records is untenable. Emphasis is laid on how the patients have suffered and how the same has been reflected by the patients themselves.

30. We have referred to the objects and reasons and the provisions of the Act and the decision in A.I.I.M.S. Students Union (supra) only to highlight the significant, meaningful and pregnant role played by A.I.I.M.S. in the field of medical education and carrying on of research and delivering of sophisticated latest treatment facilities to the patients.

31. From the aforesaid, the institutional serviceability and utility is accentuated. The present controversy has to be adjudged in that backdrop. In this regard, we may refer to certain citations relating to ‘Doctors’, or for that matter, “Professionals” going on strike. We would also like to refer to certain decisions which pertain to paralyzing or mummifying the sacred right of an individual when there is any kind of strike or ‘bandh’.

32. This Court in ***Court on its own Motion v. All India Institute of Medical Sciences***, 2002 7 AD (Delhi) 530 has further opined thus:-

*“The impact of a strike in a hospital is totally different from that in the case of a factory or trading establishment. Ailing patients cannot be left waiting or un-attended. Hospital activity is not the same as the lifeless functioning of machines in a factory, or movement of trading material or other forms of commerce. Almost all the activities in relation to hospital are such as require constant and incessant attending and care and, therefore, unlike a factory or trading establishment, the patients cannot be permitted to be deserted by striking staff. Unlike financial losses, the loss of life or limb cannot be recouped. Reference may be made to the judgment of Single Judge of Bombay High Court in ***Baratiya Arogya Nidhi Sheth Kantilal C. Parikh General Hospital v. Bombay Labour Union***, 2001 LLR 587 (Bom).”*

33. In the said decision, the following directions were issued:-

“There shall be the following Code of Conduct applicable to all employees of AIIMS:-

(i) No employee of staff or faculty member will cease work for any reason whatsoever or disrupt the work, or aid, or abet such disruption or cessation;

(ii) No use of loud speakers or shouting of slogans, demonstrations, Dharna within the campus.

(iii) No gate meetings or protest meetings of any kind whatsoever are to be held within the radius of 500 Mtrs. from the boundary of the Institute;

(iv) No interference in any official work.

(v) No resort to any disruptive activity.

(vi) All Trade Union activities will be carried outside the campus;

(vii) Any violation will result into disciplinary and other actions;”

34. In ***Bharat Kumar K. Palicha v. State of Kerala***, (1997) 2 KLT 287 (FB), while dealing with the issue pertaining to calling for a ‘bandh’, the Full Bench has expressed thus –

“No political party or organisation can claim that it is entitled to paralyse the industry and commerce in the entire State or nation and is entitled to prevent the citizens not in sympathy with its viewpoint, from exercising their fundamental rights or from performing their duties for their own benefit or for the benefit of the State or the nation. Such a claim would be unreasonable and could not be accepted as a legitimate exercise of a fundamental right by a political party or those comprising it. The claim for relief by the petitioners in these original petitions will have to be considered in this background.”

The said decision was approved by the Apex Court in ***Communist Party of India (M) v. Bharat Kumar and others***, (1998) 1 SCC 201.

35. The Apex Court in ***Coimbatore District Central Cooperative Bank Vs. Coimbatore District Central Cooperative Bank Employees Assn. and another***, (2007) 4 SCC 699 expressed the view that persisting with illegal strike, unlawfully threatening others and preventing others from rejoining and receiving any pay warrants punishment.

36. In ***Dr. P.G. Najpandey Vs. State of M.P. and Others***, AIR 2008 MP 55, in paragraphs 11 and 12, it has been held as under:

“11. It should be borne in mind that in the name of demonstration or protestation, the life in a civilized society cannot be paralyzed, in the name of legitimate exercise of ones right to protest the fundamental right of others cannot be scuttled. In a democratic polity the fundamental right of each citizen is sacrosanct. The collective cannot destroy the same. No one, however big he may be should foster a misgiving that he can create a tremor in the fundamental rights of others and tremble the spine of the members of the society at large by forming a group or a political party. The

splendor of right to move the glory to live with dignity by carrying out a lawful profession or calling cannot be abridged in the name of mass protest or mass demonstration. The collective protest cannot be allowed to take the shape of collective passion to project a fractured mind thereby creating a dent in the concept of 'Rule of law' and bringing in a concavity in the constitutional philosophy which sings the song of highly cherished fundamental rights of millions of people. Be it noted the rights of others cannot be crucified at the fanciful pedestal of a group or a party and by no stretch of imagination it can be guillotined in a cavalier fashion from any pupil. The law of this country does not so countenance.

12. The great society gets further nurtured and fostered by the high ideals of Rule of Law'. The essentiality of 'Rule of Law' cannot be allowed to be sent to the sky in a huge balloon to burst. The serenity of body polity cannot be permitted to be destroyed in the name of political pulse making a citizen 'A traveler betwixt the life and death'. The law should be allowed to reign supreme with the splendid vision, in its glorious resplendence."

37. In this context, we may refer with profit to the decision in ***Destruction of Public and Private Properties, In Re vs. State of Andhra Pradesh and others, (2009) 5 SCC 212***, wherein the Apex Court decried the mass destruction due to protests and how the liability has to be fixed. True, the same has been rendered in a different context but we are referring to the same to show how protest can be totally unconstitutional and damaging to the society.

38. In this context, we may also refer with profit to a passage from Lord Denning as it finds place in his book 'What next in the Law' which has been reproduced in ***Comptroller and Auditor-General of India v. K.S. Jagannathan, (1986) 2 SCC 679***:

"2. Recourse to law – In order to ensure this recourse, it is

important that the law itself should provide adequate and efficient remedies for abuse or misuse of power from whatever quarter it may come. No matter who it is – who is guilty of the abuse or misuse. Be it government, national or local. Be it trade unions. Be it the press. Be it management. Be it labour. Whoever it be, no matter how powerful, the law should provide a remedy for the abuse or misuse of power, else the oppressed will get to the point when they will stand it no longer. They will find their own remedy. There will be anarchy.”

39. In this regard, we may fruitfully refer to the order dated 24th September, 2009 passed in Writ Petition No. 9821/2009 by a Division Bench of the High Court of Madhya Pradesh which is as follows:

“17. Regard being had to the aforesaid facets, we, as advised at present, observe that the Professors, the Lecturers, the Teachers and the non-teaching staff may have a right in law to agitate their grievance in a Court of Law. They may be entitled to the revised pay-scale as they claim. But the sixty-four thousand million dollar question is whether the mode and method adopted by them is justified? Can the Professors, Lecturers, Teachers and non-teaching staff paralyze the education system in a State, as a consequence of which the students are deprived of teaching, lose their time, cannot undertake examination and envision only darkness in future? When a student takes admission in a college or university it is expected that he shall be imparted education. In the days of yore, Chankya commanded that the parents deserve punishment if they do not send their children for getting education. The same was the philosophy in the ancient Greece. But today how does want conceive that the teachers will be on the streets to get their monetary claim by paralyzing the system of education? How can one conceive that they would stand in circles and block the road to create an impediment in the day-to-day movement of the life of the citizen? How can one accept that students would suffer because of the teachers no holding examination and doing their duties? Strike is definitely not the way and by no stretch of imagination it can be said that it is their fundamental or legal right.”

40. In view of the aforesaid analysis and considering the spate of
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events, the significance attached to health within the concept of Article 21 of the Constitution of India, the role attributed to the professionals, the significance attached to All India Institute of Medical Sciences by a special piece of legislation and the observations made by the Apex Court in *AIIMS Students Union* (supra), the directions contained by this Court on earlier occasion, the ancient sayings of the eminent thinkers in the field, taking note of the pronouncements pertaining to 'bandh', strike, protest, demonstration and the fundamental rights of a citizen of a country governed by high ideals of Rule of Law, we proceed to record our conclusions and directions in seriatim as follows:

- (a) The doctors, residents, interns, para medical staff or any other person connected with AIIMS could not have gone on strike after the exoneration by the Apex Court and, therefore, their said action is declared illegal.
- (b) The authorities of the AIIMS cannot get away by taking a specious plea or a mercurial stand that though there was a strike, yet they are not aware who were actually involved in the strike.
- (c) It is obligatory on the part of the authorities of the AIIMS to see that no one involved in the institution shows any kind of deviancy by taking recourse to strikes, protests or demonstrations and he who engages himself in such activity would be liable for disciplinary proceeding and also for the contempt of this Court.
- (d) No authority, however high or low, can propagate for espousing a cause by way of strike or demonstration and no one can coerce the

willing workers and the doctors to attend the patients.

- (e) The President of AIIMS shall constitute a high powered committee to conduct an enquiry to find out who were the persons participated in the earlier strikes and thereafter on such identification proceed against them as per law.
- (f) The authorities of the AIIMS shall also, after identifying the participants, shall intimate the authorities under the Medical Council Act, 1956 and the Delhi Medical Council Act, 1997 so that the said authorities can take appropriate action.
- (g) All concerned with AIIMS must dedicate and devote themselves for its excellence keeping in mind that health of the citizens is the wealth of the nation and the same cannot be allowed to be jeopardized.

41. The writ petition is accordingly disposed of without any order as to costs.

CHIEF JUSTICE

SANJIV KHANNA, J.

FEBRUARY 21, 2010

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