

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8175 of 2022

Petitioner :- Dr. Anitha Misra And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy Home U.P. Civil Sectr. Lko. And Others

Counsel for Petitioner :- Ishan Baghel, Avinash Singh Vishen, Veena Vijayan Rajes

Counsel for Respondent :- G.A., Anil Kumar Pandey, Sanjeev Kumar Mishra

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Rejoinder affidavit has been filed today by Shri Ishan Baghel, learned counsel for the petitioners, which is kept on record.

Learned A.G.A. has produced before this Court instructions sent by Sub Inspector, Police Station-Kotwali Nagar, District Gonda wherein it has been stated that during course of the investigation the Chief Medical Superintendent of Gandhi Memorial and Associated Hospitals had constituted a Medical Board wherein experts were appointed from Department of C.C.M., Nephrology, Medicine Department and Gynecology who are working as teachers/consultants in such departments of King George's Medical University. The Board examined the report and the treatment papers of the deceased and found that no negligence was caused by Dr. Sudeep Srivastava and Dr. Anita Mishra during course of the treatment of the deceased. Therefore, final report has been prepared by the Investigating Officer, which has been submitted to the Circle Officer for onward submission to the court concerned.

Instructions are kept on record.

Learned counsel for the private respondent has pointed out the recommendations of the Ethical Committee constituted by the Uttar Pradesh Medical Council dated 29th August, 2023, which has been filed as Annexure No.RA 3 to the rejoinder affidavit filed by the petitioners.

Learned counsel for the private respondent has tried to point out the lacunae in the said report.

It has also been argued that the court is not bound to accept the

medical expert's opinion, as it is an expert of experts.

Since the final report has been prepared on the basis of two reports by two different committees, by the investigating officer, it would be appropriate that the private respondent file a protest petition as statutory remedy is available to him before the court concerned.

The writ petition is **disposed of**.

Interim order, if any, stands vacated.

Order Date :- 28.11.2023

ML/-