

ITEM NO.1

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Suo Moto Writ (Criminal) No.2 of 2024

IN RE: ALLEGED RAPE AND MURDER INCIDENT OF A TRAINEE DOCTOR IN
R.G. KAR MEDICAL COLLEGE AND HOSPITAL, KOLKATA AND
RELATED ISSUES

(With IA No.185574/2024-INTERVENTION APPLICATION and IA
No.190235/2024-INTERVENTION APPLICATION and IA No.194010/2024-
INTERVENTION APPLICATION and IA No.185851/2024-INTERVENTION
APPLICATION and IA No.194183/2024-INTERVENTION APPLICATION and IA
No.185161/2024-INTERVENTION APPLICATION and IA No.192100/2024-
INTERVENTION APPLICATION and IA No.187643/2024-INTERVENTION
APPLICATION and IA No.188278/2024-INTERVENTION APPLICATION and IA
No.192250/2024-INTERVENTION APPLICATION and IA No.185498/2024-
INTERVENTION APPLICATION and IA No.188323/2024-INTERVENTION
APPLICATION and IA No.187656/2024-INTERVENTION APPLICATION and IA
No.187814/2024-INTERVENTION APPLICATION and IA No.188500/2024-
INTERVENTION APPLICATION and IA
No.187964/2024-INTERVENTION/IMPLEADMENT and IA No.187639/2024-
INTERVENTION/IMPLEADMENT and IA
No.185169/2024-INTERVENTION/IMPLEADMENT and IA No.185545/2024-
INTERVENTION/IMPLEADMENT and IA
No.188328/2024-INTERVENTION/IMPLEADMENT and IA No.192908/2024-
INTERVENTION/IMPLEADMENT and IA
No.185565/2024-INTERVENTION/IMPLEADMENT and IA No.192097/2024-
MODIFICATION OF COURT ORDER and IA
No.190236/2024-CLARIFICATION/DIRECTION and IA No.187815/2024-
PERMISSION TO APPEAR AND ARGUE IN PERSON and IA No.194189/2024-
PERMISSION TO APPEAR AND ARGUE IN PERSON and IA No.187646/2024-
APPROPRIATE ORDERS/DIRECTIONS and IA No.192251/2024-APPROPRIATE
ORDERS/DIRECTIONS and IA No.192912/2024-APPROPRIATE
ORDERS/DIRECTIONS and IA No.187971/2024-PERMISSION TO FILE
APPLICATION FOR DIRECTION and IA No.187974/2024-PERMISSION TO FILE
APPLICATION FOR DIRECTION and IA No.187637/2024-PERMISSION TO FILE
ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 199834/2024 -

APPLICATION FOR PERMISSION, IA No.192912/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.200117/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.187646/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.192251/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.205856/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.199837/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.200162/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.190236/2024 - CLARIFICATION/DIRECTION, IA No.187814/2024 - INTERVENTION APPLICATION, IA No.188500/2024 - INTERVENTION APPLICATION, IA No.187656/2024 - INTERVENTION APPLICATION, IA No.205860/2024 - INTERVENTION APPLICATION, IA No.185498/2024 - INTERVENTION APPLICATION, IA No.188323/2024 - INTERVENTION APPLICATION, IA No.199127/2024 - INTERVENTION APPLICATION, IA No.200097/2024 - INTERVENTION APPLICATION, IA No.187643/2024 - INTERVENTION APPLICATION, IA No.188278/2024 - INTERVENTION APPLICATION, IA No.192250/2024 - INTERVENTION APPLICATION, IA No.198082/2024 - INTERVENTION APPLICATION, IA No.203944/2024 - INTERVENTION APPLICATION, IA No.192100/2024 - INTERVENTION APPLICATION, IA No.185851/2024 - INTERVENTION APPLICATION, IA No.195966/2024 - INTERVENTION APPLICATION, IA No.185574/2024 - INTERVENTION APPLICATION, IA No.190235/2024 - INTERVENTION APPLICATION, IA No.194010/2024 - INTERVENTION APPLICATION, IA No.199832/2024 - INTERVENTION APPLICATION, IA No.185565/2024 - INTERVENTION/IMPLEADMENT, IA No.199662/2024 - INTERVENTION/IMPLEADMENT, IA No.206035/2024 - INTERVENTION/IMPLEADMENT, IA No.185545/2024 - INTERVENTION/IMPLEADMENT, IA No.188328/2024 - INTERVENTION/IMPLEADMENT, IA No.192908/2024 - INTERVENTION/IMPLEADMENT, IA No.187639/2024 - INTERVENTION/IMPLEADMENT, IA No.198027/2024 - INTERVENTION/IMPLEADMENT, IA No.199836/2024 - INTERVENTION/IMPLEADMENT, IA No.202450/2024 - INTERVENTION/IMPLEADMENT, IA No.187964/2024 - INTERVENTION/IMPLEADMENT, IA No.200160/2024 - INTERVENTION/IMPLEADMENT, IA No.192097/2024 - MODIFICATION OF COURT ORDER, IA No.199128/2024 - PERMISSION TO APPEAR AND ARGUE IN PERSON, IA No.187815/2024 - PERMISSION TO APPEAR AND ARGUE IN PERSON, IA No.199839/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.203687/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.187637/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.197285/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.200098/2024 - PERMISSION TO FILE APPLICATION FOR DIRECTION, IA No.187974/2024 - PERMISSION TO FILE APPLICATION FOR DIRECTION and IA No.187971/2024 - PERMISSION TO FILE APPLICATION FOR DIRECTION)

WITH W.P.(Crl.) No.351/2024 (PIL-W)

Date : 17-09-2024 These matters were called on for hearing today.

CORAM :

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA**

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By Courts Motion

WPR 351/2024

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**UPON hearing the counsel the Court made the following
O R D E R**

- 1 A Status Report dated 17 September 2024 has been filed by Shri Satya Veer Singh, DIG/HoB/SC-I/CBI.
- 2 During the course of the hearing, we have heard counsel appearing on behalf of the parents of the deceased, the resident doctors and the original

petitioners before the High Court. We have explained to all the counsel that at this stage, it would not be in the interest of a fair and complete investigation to disclose the leads which are being pursued by the Central Bureau of Investigation or the line of the investigation since this may only lead to dislocation of the investigation or destruction of evidence. The counsel representing the parents of the deceased, resident doctors and other groups appearing in these proceedings have also agreed in their understanding that it would not be appropriate for any further disclosures to be placed in the public realm at this stage in regard to the on-going investigation by the CBI.

- 3 A letter dated 12 September 2024 addressed by the father of the deceased to the Investigating Officer of the CBI has been shared with the Court. The letter expresses the genuine concerns of the parents of the deceased and contains specific inputs on certain aspects on which investigation should be conducted by the CBI. Bearing in mind the genuine concern of the parents of the deceased, we are of the view that the inputs which have been furnished by the father of the deceased in his letter dated 12 September 2024 should be duly taken note of by the Investigating Officer so that appropriate modalities, if CBI deems it fit, are followed to explore the leads which have been indicated in the letter. Further, responding to the request of the father of the deceased, Mr Tushar Mehta, Solicitor General has assured the Court that CBI would maintain contact with the parents and would keep them informed hereafter so as to assuage their concerns in regard to the investigation.
- 4 Ms Indira Jaising, senior counsel appearing on behalf of the resident doctors submitted that there is definite material available with the resident doctors indicating the presence of persons at the scene of crime which they would wish to share with the CBI. She has however stated that it would not be appropriate in the interest of the investigation to reveal names at this stage,

but details would be handed over immediately to the Investigating Officer of the CBI. This may be done so that necessary investigation is carried out. A copy may be shared with the Solicitor General, who would, in turn, make it available to the Investigating Officer of the CBI in charge of the investigation.

- 5 Some of the concerns which have been expressed before this Court by the counsel appearing on behalf of the original petitioners may similarly be recorded in a form of communication and be handed over to the Solicitor General for onward transmission to the CBI so that necessary steps can be taken, if any valuable inputs or leads are made available in the course of the investigation.
- 6 Having perused the letter dated 12 September 2024 of the father of the deceased, at this stage, it may be material to note that many of the concerns which have been expressed in the letter form the subject matter of the active investigation which has been pursued by the CBI. However, nonetheless, a copy of the entirety of the communication would be made available to the CBI so that it can follow an appropriate line of investigation as required in the interest of justice.
- 7 During the course of the hearing, the Court has been apprised of the fact that the *Wikipedia* still continues to maintain on its website the name of the deceased. The provisions of Indian law are clear in this respect. In the interest of maintaining the dignity and privacy of the deceased, the governing principle is that the identity of the deceased in a case involving alleged rape and murder should not be disclosed. The *Wikipedia* shall therefore take steps to comply with the previous order and the injunction which has been issued in the present order forthwith.
- 8 An affidavit has been filed on behalf of the State of West Bengal by Shri Narayan Swaroop Nigam, Principal Secretary in the Department of Health and Family Welfare explaining the steps which have been taken specifically

for upgrading (i) duty rooms/rest rooms; (ii) toilet facilities; and (iii) availability of CCTV cameras in government medical colleges and hospitals across the State of West Bengal.

- 9 There are nine government medical colleges in Kolkata and twenty-eight in the State of West Bengal making a total of thirty-seven government medical colleges. Seventeen government hospitals in Kolkata are attached to medical colleges, while eighty-seven hospitals (besides the twenty-eight medical colleges and hospitals) exist in the State. The affidavit filed by the State government indicates that in order to upgrade the existing facilities, sanction has been granted for (i) construction of additional duty rooms/rest rooms for male and female doctors; (ii) setting up separate toilet facilities; and (iii) installation of additional CCTV cameras. Based on the budgetary provisions, it has been stated that work has commenced and directions have been issued to the executing agencies to complete the work within 7 to 14 days. The affidavit indicates that apart from 7,747 existing CCTV cameras, an additional 6,178 CCTV cameras would be installed in medical colleges and hospitals. Apart from 3,346 existing CCTV cameras, an additional 4,071 CCTV cameras would be installed in public hospitals. The position indicating the upgraded facilities to be provided by the State of West Bengal in the medical colleges and hospitals throughout the State is tabulated as follows:

Hospital type	Existing Facility of Duty Rooms/Rest Rooms			Additional Duty Rooms/Rest Rooms sanctioned			Addl. Duty Rooms/Rest Rooms already constructed/provided		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
MCH	732	444	1176	536	357	893	Work has started and directions have been issued to the executing agencies to complete the work in 7-14 days.		
Public Hospitals	871	406	1277	367	197	564			
	Existing Toilet Facilities			Additional Toilet facilities sanctioned			Additional Toilet facilities already constructed		

	Male	Female	Total	Male	Female	Total	Male	Female	Total
MCH	462	249	711	434	290	724	Work has started and directions have been issued to the executing agencies to complete the work in 7-14 days.		
Public Hospitals	1497	806	2303	392	111	503			
	Existing CCTV Cameras			Additional CCTV Cameras sanctioned			Already installed CCTV Cameras		
MCH	7747			6178			Installation work has already started. It will be completed in 7-14 days' time frame.		
Public Hospitals	3346			4071					

The position regarding the upgrading of facilities specifically at the RG Kar Medical College is tabulated thus in the affidavit of the State:

S.No.	Existing Facility of Duty Rooms/Rest Rooms			Additional Duty Rooms/Rest Rooms sanctioned			Additional Duty Rooms/Rest Rooms already constructed/provided		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
	Currently, common duty rooms are available for doctors		57	24	47	71	Joint inspection with hospital authorities, PWD & CISF has been held. New works have been taken up		
	Existing Facility Toilets			Additional Toilet facilities sanctioned			Additional Toilet facilities already constructed/provided		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
	43	26	69	36	46	82	Joint inspection with hospital authorities, PWD & CISF has been held. New works have been taken up.		
	Existing CCTV Cameras			Additional CCTV Cameras sanctioned			Already installed CCTV Cameras		

	217	415	All approvals given. 36 already installed and work is ongoing.
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- 10 What is of critical importance at the present point of time is that a participatory process should be followed by the State government so that the concerns of all the doctors, both senior and junior doctors, are duly taken into account. To facilitate this, we have suggested to the State of West Bengal that a team consisting of (i) the Collector and District Magistrate for each district; (ii) the Superintendent of Police; (iii) the Principal of each medical college and hospital or, as the case may be, the Superintendent; and (iv) a representative each of the senior and junior doctors must be associated with the process so that the work which is being carried out for the construction of duty rooms, setting up of toilet facilities and installation of CCTV cameras takes place with their inputs in view. This has been agreed to by the State of West Bengal. The Court has been assured that the entirety of the work shall be carried out within a period of two weeks from the date of this order.
- 11 Apart from the above steps, on the suggestion of the Court, it has been accepted by the State of West Bengal that necessary steps would be taken to ensure biometric facilities, particularly for controlling access to the duty and rest rooms, both for male and female doctors and to ensure that unauthorized persons are not entitled to enter critical areas of the hospitals. The affidavit of the State government indicates that 910 additional women security personnel are being trained at the Police Training Institute and would be deployed at the government medical colleges and hospitals.
- 12 On 13 September 2024, the Department of Health & Family Welfare of the Government of West Bengal has issued a government order proposing to engage an additional 1514 security personnel on a contractual basis in the government medical colleges and hospitals under a programme which is

called 'Rattirer Saathi - Helper at Night'. These personnel are proposed to be engaged by out sourcing through an agency nominated by the government for a period of one year. During the course of the hearing, serious reservations have been expressed by the counsel appearing on behalf of the senior and junior resident doctors bearing in mind the background that the offence in the present case is alleged to have been committed by a civic volunteer who was contractually recruited. The State government shall bearing in the above concerns take appropriate policy decision after consulting all stakeholders.

- 13 Apart from the above concern, the attention of the Court has been drawn to an order dated 19 August 2024 issued by the State government indicating that (i) women doctors shall not be employed at night; and (ii) women doctors shall not be employed on any shift exceeding twelve hours. We find justification in the reservations which have been expressed particularly on behalf of the senior and junior doctors as well as by the different organizations representing the doctors. The basic purpose must be to ensure conditions of safety and security for all doctors, men and women. The women doctors do not demand any special concessions, but require the State to create conditions in which their safety at all times, during the day and night, is observed. We are in agreement with the submission of the counsel for the doctors that imposing a condition that women doctors will not be employed at night would pose a serious impediment in the furtherance of their careers in medicine. As we have already noted above, the women doctors expect to be provided similar conditions of work and safety that should extend across the board to male as well as female doctors. Moreover, it would be inappropriate, as the women doctors have submitted before this Court, if women are given special concessions in regard to the hours of duty. The hours of duty should be reasonable for all doctors across the spectrum and it would be inappropriate to target women by subjecting them to conditions which do not apply to their male counterparts. The State of West

Bengal has assured the Court that any such conditions which cast a cloud on the basic constitutional premise of gender equality shall not be enforced hereafter.

- 14 On behalf of the West Bengal Junior Doctors' Front, an application has been placed before the Court seeking specific directions. The application for directions is taken on the record. The application, *inter alia*, contains the following prayers:

- “(b) Direct the State Government to establish and fix administrative responsibility and liability including but not limited to, action under the West Bengal (Classification, Control and Appeal) Rules 1971 for those who were responsible for the failure in safety and security of all hospitals, and for the cover-up of the incident dated 09.08.2024 followed by an incident of vandalism which took place in the early hours of 15.08.2024 at the R.G. Kar Medical College and Hospital, under the Department of Health, Government of West Bengal;
- (c) Direct to facilitate meaningful dialogue between the administration of the State of West Bengal and the junior resident doctors which is to be live-streamed;
- (d) Direct the installation of the CCTVs in all the medical hospitals and colleges within the territory of State of West Bengal;
- (e) Direct the State of West Bengal to provide rest room and toilets, both separately for males and females, in each department of the every medical hospital and colleges;
- (f) Direct the formation of a monitoring committee consisting of personnel from administration, academics, junior doctors, nurses and other healthcare staff, in each hospital to monitor the safety issues;
- (g) Direct the formation of a confidential grievance redressal system in every hospital in which complaints can be made in confidence to redress the grievance of

students and doctors;

- (h) Direct the formation of the Internal Complaint Committees in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, with the names of the members displayed on all notice board and sensitization of the administration, Health Department or Police;
- (i) Direct the setting up of a Counselling Centre to be formed in every hospital and college with qualified professionals from the Psychiatric and Psychology Departments which will address the stress faced by the students and doctors under conditions of strict confidentiality.”

15 Prayer (b) which has been set out above is specifically the subject matter of the investigation which is being carried out by the CBI. As regards prayer (b), a meeting took place on 16 September 2024 between the Chief Minister of the State and about forty representatives of the West Bengal Junior Doctors’ Front. A copy of the minutes of the meeting has been placed on the record. Senior counsel states that though prayer (b) contains a specific request for live streaming of the meeting that was not insisted upon and broad terms of settlement have been arrived at in the course of the meeting. Prayers (d) and (e) relating to the installation of CCTV cameras, rest rooms and toilet facilities have been dealt with in the earlier part of this order.

16 We find merit in the request which has been made by the Junior Doctors’ Front in terms of prayers (f) to (i) and direct that the State government should consider the request and take steps, if not already taken. More specifically the steps which need to be taken by the State government are for:

- (i) The formation of a broad based Monitoring Committee in each hospital consisting of the administration, academics, doctors, nurses and other health care staff to deal with safety issues;

- (ii) The formulation of a confidential Grievance Redressal system in every hospital for the redressal of grievances of students, doctors and other staff;
- (iii) The formation of Internal Complaints Committees in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; and
- (iv) The setting up of counselling centers in every hospital with qualified professionals, particularly from the Psychiatric and Psychology departments to deal with the issues of stress faced by doctors in the course of their duties.

Each of these aspects would merit serious consideration. We impress upon and direct the State of West Bengal to take remedial action, if not already done, within a period of three days from the date of this order.

- 17 Ms Indira Jaising, senior counsel appearing on behalf of the West Bengal Junior Doctors' Front has stated that with the above confidence building measures which are to be followed by the State of West Bengal, the junior doctors would have no difficulty in resuming work. It has been stated that the only concern of the junior doctors was that necessary facilities for ensuring their safety at the work place should be duly observed. We accept the assurance which has been tendered by the State of West Bengal.
- 18 Ms Jaising has informed the Court that in view of the minutes which were recorded before the Chief Minister in the meeting held on 16 September 2024 and the directions which have been issued in this order, the junior doctors would evolve a broad consensus in their General Body to facilitate the return of the doctors to work and also to ensure compliance of the earlier direction of this Court.
- 19 Ms Indira Jaising, senior counsel has requested the Court to record an

assurance that no punitive or adverse action shall be taken against the doctors who return to work, particularly having regard to the fact that the concerns of the doctors were over the lack of safety and security and, as a matter of fact, there is an ongoing investigation to determine as to whether there were any financial irregularities in regard to the work at the public hospital. Mr Kapil Sibal, senior counsel appearing on behalf of the State of West Bengal states that an assurance to that effect was held out by the Chief Minister to the West Bengal Junior Doctors' Front which is now reiterated before this Court that no adverse or punitive action shall be taken against the doctors who return to work.

20 List the Petition on 27 September 2024.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar