

^/OUT-TODAY

ITEM NO.2

COURT NO.3

SECTION PIL

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (C) NO(s). 265 OF 2006

ASHOKA KUMAR THAKUR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

WITH

Writ Petition (C) No.269 of 2006 - (For prel. Hearing)
(With application for ex-parte stay)

Date: 31/05/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

(VACATION BENCH)

For Petitioner(s)Petitioner-In-Person
In WP(C) 265/06

In WP(C) 269/06Mr. V.K. Tankha, Sr.Adv.
Mr. Nikhil Majithia,Adv.
Ms. Pooja Dhar,Adv.
Mr. Siddarth Chauhan,Adv.
Mr. Harsh Pathak,Adv.
Mr. Prashant Kumar,Adv.

In IA...../06Dr. L.M. Singhvi, Sr.Adv.
In WP(C) 265/06Mr. Sushil Kr. Jain,Adv.
Mr. Pradeep Agarwal,Adv.
Mr. Puneet Jain,Adv.
Mr. Rajesh Agarwal,Adv.

For Respondent(s)Mr. Gopal Subramaniam, A.S.G.
Ms. Sushma Suri,Adv.
Mr. D.S. Mahra,Adv.

Contd....2/-

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

I.A. NO..../2006 IN WRIT PETITION (C) NO.265 OF 2006

Upon mention, the matter is taken on board.

An application has been filed by the Resident Doctors Association,
Maulana Azad Medical College and Resident Doctors Association, All India
Institute of Medical Sciences.

Issue notice.

The response to this application shall be filed within the time

allowed to the Central Government to respond to the writ petitions.

WRIT PETITION (C) NOS.265 AND 269 OF 2006

While issuing notice on 29.05.2006, we had formulated the basic issues which arise for consideration. It goes without saying that if any connected or ancillary issue or issues is/are to be examined or require to be examined, that shall be done. If any additional points are necessary to be adjudicated, it is always open to the concerned persons to make application to be impleaded in the writ petitions or file separate petition. It also needs no reiteration that ultimately the policy, which is yet to be implemented, is in-fact implemented, the same shall be subject to the result of the writ petitions. Additionally, we find that the protests, strikes, demonstrations etc. necessarily

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relate to expression of view, stand or concern by the concerned Doctors, students and others. There cannot be two channels for adjudication. Since the issues are being examined by this Court, if the strikes etc. are permitted to be continued, they practically yield no result except causing inconvenience to the general public. As was noted by this Court in Paschim Banga Khet Mazdoor Samity and Ors. Vs. State of West Bengal and Anr. (1996 (4) SCC 37), a person's right to get treated is in-separable from Article 21 of the Constitution of India. Keeping that aspect in view, we had required the persons who were on strike, demonstration etc. to call them off to avoid inconvenience to the patients. The damage done to a patient is sometimes irretrievable, but the grievances of the persons who are resorting to strikes etc. can be remedied in appropriate proceedings and the issues are being examined by this Court. In that background, making the position clear that if any action is taken by the Government in respect of the impugned policy, the same shall be subject to the outcome of the present proceedings and/or any proceeding which may be filed relating to the issues, we direct that all protests, strikes and demonstrations or any such form of dissent relating to the issues being examined and/or connected and/or incidental and/or relatable thereto shall be called off forthwith. The medical services shall be restored forthwith. The Doctors cannot be insensitive to the plight of patients.

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Let the learned Additional Solicitor General file a status report by tomorrow, 01.06.2006. These matters shall be listed tomorrow, i.e 01.06.2006. It goes without saying that notwithstanding the pendency of these petitions, it is open to anyone who feels that he has something to suggest about the issues involved, he can make a proper representation to the Central Government, which we are sure, shall be duly considered. It is also open to him to approach this Court to be impleaded in these proceedings or file a separate petition, as noted above.

In case, the strikes etc. are called off, as directed, we are very sure the Government shall appropriately consider the feelings of the Doctors or the students and shall not take any punitive action for whatever has been done till the strikes etc. are called off.

If, in the meantime, the services of any Doctor has been terminated for participating in the strikes etc., the Government shall permit them to join forthwith. In these cases, the concerned Doctors are granted

three days time to join back. Mr. Gopal Subramaniam, learned Additional Solicitor General stated that if, within a period of three days, the concerned Doctor joins back, the order of termination shall be recalled.

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Our order shall be communicated by learned Additional Solicitor General to all the States and Union Territories through the concerned Chief Secretaries so that the same can be given effect to throughout the country.

A copy of our order shall be handed over to learned Additional Solicitor General today.

(Neena Verma) (Vijay Aggarwal)
Court Master Court Master