DMC/DC/F.14/Comp.2731/2/2024/­ ­­­­24th July, 2024

**O R D E R**

The Delhi Medical Council through its Disciplinary Committee examined a complaint of Dr. Kunal Saha, President, People for Better Treatment, 6725.Longshore Street Dublin, Ohio 43017, alleging professional misconduct on the part of the doctors of Safdarjung Hospital, Ansari Nagar, New Delhi-110029.

The Order of the Disciplinary Committee dated 12th June, 2024 is reproduced herein-below:-

The Disciplinary Committee of the Delhi Medical Council examined a complaint of Dr. Kunal Saha, President, People for Better Treatment, 6725.Longshore Street Dublin, Ohio 43017 (referred hereinafter as the complainant), alleging professional misconduct on the part of the doctors of Safdarjung Hospital, Ansari Nagar, New Delhi-11009 (referred hereinafter as the said Hospital).

The Disciplinary Committee perused the complaint, written statement of Dr. Joyutpal Biswas, Ex-General Secretary, Resident Doctors Association, Safdarjung Hospital, Dr. Parkash Thakur, Ex-President Resident Doctors Association, Safdarjung Hospital, written statement of Dr. Sunil Gupta, Medical Superintendent, Safdarjung Hospital, written arguments of Dr. Kunal Saha, and other documents on record.

The following were heard:-

1) Dr. Kunal Saha Complainant

2) Dr. Prakash Thakur Ex-President, Resident Doctors Association, Safdarjung Hospital

3) Dr. Joyutpal Biswas Ex-General Secretary, Resident Doctors Association, Safdarjung Hospital

4) Dr. Surabhi Yadav Professor, Department of Bio-Chemistry, Safdarjung Hospital

5) Dr. Mohit Gupta Professor, ENT Safdarjung Hospital

6) Dr. Yogesh Gautam Senior Medical Officer, Safdarjung Hospital

The complainant Dr. Kunal Shaha participated in the proceedings of the Disciplinary Committee through video conferencing.

It is alleged by the complainant Dr. Kunal Shaha that the doctors at Safdarjung Hospital in New Delhi went on a strike in the month of January, 2019 bringing endless miseries and death for the hapless patients, as widely reported by the media. On behalf of their charitable organization (PBT), he is filing this formal complaint against the striking doctors at the Safdarjung Hospital and request the Delhi Medical Council to take immediate and exemplary disciplinary action, by cancellation of their medical registration as per the provisions in the MCI Code of Ethics and Regulations, 2002 and as directed by the Hon’ble Supreme Court in response to their PIL (SC W.P. No.253/2012; People for Better Treatment vs. Secretary, Indian Medical Association & Ors.). Ironically, this Order dated 14th November,20l4 against “doctors’ strike” passed by the Hon’ble Apex Court is also posted on the website of the Delhi Medical Council, seemingly to educate the Indian doctors and to deter doctors from participating in any illegal and immoral “doctors' strike”. It is also pertinent to mention that the doctors at the same Safdarjung Hospitals went on a similar “doctors’ strike” causing tremendous pain and suffering for the innocent patients back in 2010 when they lodged a similar complaint with the Delhi Medical Council vide complaint No.DMC/DC/F.14/Comp.777/2/ 2010, this Medical Council passed a final order categorically holding “Delhi Medical Council is of the view that under no circumstances doctors should resort to strike as the same put patient care under serious jeopardy and such actions are also in violation of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations,2002A”. ln fact, the Delhi Medical Council felt so strongly against “doctors’ strike” that they also transmitted the said Order to the Directorate of Health Services, Govt. of NCT of Delhi as well as the Director General Health Services, Govt. of India for circulation and compliance with your anti-strike stance by doctors in all hospitals in Delhi and rest of India. There can be no argument that the hospital authority or the doctors at the Safdarjung Hospital gave any heed to the stringent directions and order passed by the Delhi Medical Council nine years ago as vulnerable patients continued to suffer and die as a result of doctors’ strike last month. The authority and the doctors at the Safdarjung Hospital have made a total mockery of medical regulatory system, as empowered by the Delhi Medical Council by repeatedly joining “doctors’ strike: in brazen disregard to all ethical, moral and legal boundaries. The authority and the doctors at the Safdarjung Hospitals have also got involved in brazenly contemptuous act by candid violation of the Order passed by the Hon’ble Supreme Court in W.P. No.253/2012, as mentioned above. Needless to say, that there are the immoral and unlawful activities by the doctors at Safdarjung Hospital is self-evident from the “doctors’ strike”. In view of the discussion above, he requests the Delhi Medical Council to please investigate and take immediate exemplary disciplinary action against the striking doctors as well as the authority at the Safdarjung Hospital who were involved with the reported “doctors’ strike” last month by suspension/cancellation of medical registration of the errant medicos.

Dr. Joyutpal Biswas, Ex-General Secretary, Resident Doctors Association, Safdarjung Hospital in his written statement averred that the complaint is regarding a Resident Doctors’ strike at Safdarjung Hospital in January, 2019. The then resident doctors were compelled to go on a strike to protest against the violence at workplace. It is to be noted that the Safdarjung Hospital authorities were duly intimated regarding the strike by the resident doctors and that faculty members as well as ad-hoc residents were present on duty at all the workstations. Hence, there is no question of hampering patient care services in the hospital or causing unnecessary suffering or death to any patient. It is, hence, an earnest appeal to kindly quash these allegations against the then resident doctors.

Dr. Prakash Thakur Ex-President, Resident Doctor Association, Safdarjung Hospital in his written statement averred that the Resident doctors of Vardhman Mahavir Medical College and Safdarjung Hospital were compelled to go on strike to protest against a resident doctor on duty being mercilessly beaten by patient and his relatives and the concerned doctor sustained severe injuries including nasal bone fracture on 13.01.2019. Further, the doctors also have raised issue of lack of adequate security, action against the culprits beside other concern. He also maintained the during the strike medical services at Safdarjung Hospital were not disrupted and patient treatment was not compromised, as per the contingency plan device by the hospital authorities of Safdarjung Hospital all medical officer/permanent faculty were deployed in emergency for OPD services. Subsequently when the Government Authorities gave an assurance to strengthen the security in emergency and agree to also look into other concerns of the resident doctors, the strike was called off. He further asserted that the decision to call strike was collective decision of all 1500 resident doctors and not his individual decision.

Dr. Sunil Gupta, Medical Superintendent, Safdarjung Hospital in his written statement averred that in response to a strike action by doctors at the Safdarjung Hospital, the Delhi Medical Council issued a statement, in December 2010, that it was “……of the view that under no circumstances doctors should resort to strike as the same puts patient care in serious jeopardy and such actions are also in violation of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002”. Although statements such as this are justified responses of medical councils whenever they are confronted with the increasingly difficult issue of striking doctors, these statements are not effective in stopping doctors from repeatedly engaging in strike action. The statement by the medical Council was for instance, followed by many strikes, amongst which was the well publicised nationwide strike initiated by the Indian Medical Association in June 2012. It is not difficult to see why strike action by doctors will continue in India despite opposition by the medical councils. The usual reasons why doctors go on strike pertain to their work conditions, patient overload and violence against doctors. The Indian Medical Association has reported that 75 percent of doctors face verbal or physical abuse in hospital premises and fear of violence was the most common cause for stress for 43 percent doctors (Times of India, 4th May, 2015). When confronted with such violent incidents by public, the doctors resort to peaceful strikes. In fact, an article in the November, 2016 issue of Indian Journal of Medical Ethics published that as the strike action by doctors cannot be completely avoided, certain rigorous conditions must be met for the strike action to be justified. It is suggested that any strike by doctors may be deemed to be reasonable and perhaps justified if it is for a just cause and backed by right intentions. The doctors’ strike at Safdarjung Hospital is done by the resident doctors only. The faculty doctors continue to work in shifts to maintain emergency services and provide care to indoor patients. Having stated above, the Safdarjung Hospital administration sincerely regrets any inconvenience caused to patients by such doctors strikes and is ever-committed to preventing doctors strike incidents as far as possible.

Dr. Kunal Saha in his written arguments submitted that there is absolutely no dispute of any underlying facts of his complaint by the Safdarjung Hospital. The primary complaint in the instant case emerged from the fact that innocent patients suffered/died due to a “doctor’s strike” at the Safdarjung Hospital in January, 2019. The statement of defence from the Safdarjung Hospital has not denied anywhere this basic allegation that doctors in their hospital went on a "strike" as alleged although they have also claimed that "faculty doctors" continued to provide medical care. Unfortunately, Safdarjung Hospital did not conduct any investigation or made any attempt to find out the doctors who actually participated in this unlawful strike and as a result, they did not take any punitive or disciplinary action against any of the striking doctors. As presented with their original complaint, Safdarjung Hospital has candidly admitted that they were also well aware that "doctors' strike” is against the law and that DMC had already passed an order in 2010 clearly holding that in view of the provisions of Medical Council of India (MCI) Code of Ethics & Regulations, 2002, "under no circumstances arrogance and disdain to the rule of law, Safdarjung Hospital has openly acknowledged this unlawful status of "doctors' strike” as declared by DMC by putting it at the very top of their response. Safdarjung Hospital has made several absolutely outrageous and stunning assertions in order to extend support for "doctors' strike". For example, they have openly stated that strike by doctors “cannot be completely avoided” and that some strike “may be deemed to be reasonable and perhaps justified" (para 3, Response from Safdarjung Hospital). It is truly unfathomable that even in the face of existing categorical medical regulations (under MCI code of Ethics & Regulations, 2002) that strike by doctors may be deemed as professional misconduct and even after the Hon'ble Supreme Court of India declared that doctors should not resort to "strike" under any condition, leaders at the Safdarjung Hospital had no hesitation to claim that strike by doctors may be “reasonable" and perhaps even "justified". Safdarjung Hospital has also made a baseless claim in support of doctors' strike that an alleged study by the IMA has shown that 75% of doctors have faced verbal or physical abuse solely on an anecdotal newspaper story without ever producing any scientific evidence. In this regard, he further submits that their charitable organization (PBT) has also done an extensive research about this outlandish claim that 75% of doctors in India have been abused and failed to find any supportive scientific evidence. They also made several requests to the IMA seeking to verify the alleged study but unfortunately, IMA has never provided any response to their repeated written requests. As discussed in his original complaint, the Hon'ble Apex Court previously passed categorical observations against “doctors' strike” in response to their two separate PILs in 2005 and 2012. They recently moved a new “Contempt" petition against IMA as they called another nation-wide “doctors' strike” earlier in 2019 (SC Contempt Civil No. 872/2019; People for Better Treatment vs. Secretary, IMA &Anr.). The Hon'ble Supreme Court has already admitted this matter and issued notice vide an order dated 2nd December, 2019 in this unprecedented contempt case against "doctors' strike. Perhaps the most lamentable views without minimal sense of compassion expressed by the Safdarjung Hospital authority toward the hapless patients was noted in the last paragraph of their "statement of defence” as the hospital has stated, “Safdarjung Hospital administration sincerely regrets any inconvenience caused to patients by such doctors' strikes...". It is truly pathetic to find the hospital authority showing regrets only for "inconvenience" to the hapless patients many of whom suffered serious injuries or deaths due to the doctors' strike. Such comments without any remorse or empathy by the hospital authority toward the ailing citizens can only undermine already strained doctor-patient relationship in India. Finally, it must be emphasized most emphatically that the previous order passed almost a decade ago in 2010 by this DMC categorically directed the Safdarjung Hospital authority that doctors should not allowed to go on “strike” for any reason and strict disciplinary action as per MCI Code of Ethics & Regulations, 2002 must be taken against any doctor resorting to "doctors' strike". Unfortunately, Safdarjung Hospital has turned this strict and unequivocal warning issued by DMC against intervals for one reason or another. In fact, even after the instant complaint was lodged against “doctors' strike" held by Safdarjung Hospital doctors in January 2019 (in protest of alleged attack on a doctor) and while the present complaint was still under investigation, doctors at Safdarjung Hospital went on another massive strike paralyzing hospital services in August, 2019, as widely reported by the media, bringing endless pain and misery to countless vulnerable patients most of whom hail from the poor socioeconomic status and have no choice to attend expensive private hospital. It is most respectfully submitted that considering the critical points raised above and considering the prevailing medical laws as held by the Hon’ble Supreme Court of India and as stipulated under the provisions of MCI Code of Ethics & Regulations, 2002, Safdarjung Hospital authority must conduct a transparent and thorough investigation to identify the doctors who were associated with the doctors strike in January, 2019 (or other subsequent doctors strike) and to take exemplary disciplinary action against these striking doctors by cancellation/suspension of their medical registration for the ends of justice.

In view of the above, the Disciplinary Committee makes the following observations:-

1. It is not disputed that Resident Doctors of Safdarjung Hospital went on strike on 13.01.2019 and 14.01.2019 to protest against violence committed against a resident doctor who was allegedly beaten by patient and his relatives on 13.01.2019 in emergency room of Safdarjung Hospital and sustained severe injuries. In addition to this incident which triggered the strike, there were other issues including deployment of adequate security, action against culprits etc.
2. To deal with disruption of services following assault on a Junior Resident the Hospital administration planned an urgent contingency plan on 13.01.2019, itself the contents of which are reproduced hereinbelow:-

‘Urgent

Subject:- Contingency plan for Safdarjung Hospital due to Strike by Resident Doctors.’

Due to disruption of services following assault on a JR in the emergency at 7.30am today the following contingency plan is being invoked with immediate effect:

1. Leave of all kinds of doctors’ stand cancelled with immediate effect.
2. All medical officers to report to Officer i/c casualty for deployment in the emergency.
3. All emergency services shall function normally. No emergency patient to be refused treatment/admission if needed.
4. All OPDs will function with faculty.
5. All elective surgeries stand cancelled.
6. HOD’s to arrange for duties in emergency and wards by faculty.
7. Absent report of residents not reporting for duty to be sent to OIC Academic by 10.00am every day.
8. Subsequently on 14.01.2019 a high level meeting was convened by Addl. Secretary (H) Ministry of Health & Family Welfare in consultation with senior officials of Ministry of Health & Family Welfare, Directorate General of Health Services, Hospital Authorities of Safdarjung Hospital and office bears of the RDA and all resident doctors of Safdarjung Hospital to resolve the issue and redress the grievances of Resident Doctors and Additional Secretary Ministry of Health & Family Welfare appealed to the resident doctors that since their major demands of strengthening security at emergency block have been taken care of and other demands are also perused in a time bound manner with concerned agencies, they should call off their strike and resume work in the interest of patient care service and humanity. RDA agreed to call off the strike.
9. It is apparent that resident doctors resorted to strike to raise their concern about difficult working conditions, however, the hospital authorities showed reasonable alacrity in devising a contingency plan which mitigated the disruptions of medical services and the Govt. Authorities also acted promptly to resolve the issue so that the strike was called off.
10. It has also been submitted by the Medical Superintendent of Safdarjung Hospital that a grievance redressal mechanism has been put in place in Safdarjung Hospital for Resident Doctors. Implementing a grievance redressal mechanism in Safdarjung Hospital is indeed a positive step towards addressing the concerns of doctors regarding their working conditions. Such a mechanism can provide a structured framework for doctors to voice their grievances and seek resolution through dialogue and consultations.
11. It’s important to recognize that effective communication and resolution of issues can help prevent situations where doctors feel compelled to resort to strike actions. By providing a platform for open dialogue and addressing concerns in a timely manner, the grievance redressal mechanism can contribute to a more harmonious work environment where conflicts are resolved through constructive means rather than disruptive actions.

However, it's also crucial for hospital authorities to ensure that the grievance redressal mechanism is accessible, transparent, and responsive to the needs of the doctors. This may require regular evaluation and refinement of the process based on feedback from stakeholders.

Ultimately, the success of the grievance redressal mechanism in Safdarjung Hospital will depend on the commitment of both hospital authorities and doctors to engage in meaningful dialogue and work towards mutually acceptable solutions. If implemented effectively, it can indeed help in mitigating conflicts and fostering a culture of collaboration and respect within the hospital community.

1. Fostering a culture of open communication and constructive dialogue between hospital authorities and doctors is crucial for the smooth functioning of any healthcare facility. Implementing a system that allows doctors to voice their concerns and grievances in a safe and supportive environment can lead to better working relationships and ultimately improve patient care.

Here are some steps that hospital authorities can take to achieve this:

1. Establishing Communication Channels: Create formal channels such as regular meetings, suggestion boxes, or online platforms where doctors can express their concerns and suggestions.
2. Transparent Policies and Procedures: Ensure that hospital policies and procedures are clearly communicated to all staff members. Transparency helps in understanding the reasoning behind decisions and reduces misunderstandings.
3. Conflict Resolution Mechanisms: Develop effective mechanisms for resolving conflicts and disagreements through dialogue and mediation. This could involve appointing a neutral mediator or forming a committee to address grievances.
4. Regular Feedback Sessions: Conduct regular feedback sessions where doctors can provide input on various aspects of hospital operations, including patient care, resource allocation, and working conditions.
5. Training in Communications Skills: Provide training to both hospital administrators and doctors in effective communication and conflict resolution skills. This can help in fostering a culture of respectful communication and understanding.
6. Timely Response: Ensure that concerns raised by doctors are addressed in a timely manner. Delays in resolving issues can lead to frustration and undermine trust in the system.
7. Follow-up and Evaluation: Follow up on the implementation of solutions and periodically evaluate the effectiveness of the communication and conflict resolution processes. Adjustments can be made based on feedback and outcomes.

By implementing these measures, hospital authorities can create a supportive and collaborative environment where doctors feel valued and their concerns are taken seriously, ultimately leading to improved patient care and staff satisfaction.

It is further recommended that copy of this order be sent to Secretary, Health & Family Welfare, Government of India and Secretary, Health & Family Welfare Govt. of NCT of Delhi with a request that the guidelines suggested hereinabove, may be forwarded to all the hospitals functioning in the NCT of Delhi for its implementation, to prevent doctors strike in future.

Matter stands disposed.

 Sd/: Sd/:

(Dr. Maneesh Singhal), (Dr. Alok Bhandari)

Chairman, Delhi Medical Association,

Disciplinary Committee Member,

 Disciplinary Committee,

Sd/:

(Dr. Sunil Kumar Satrawal)

Expert Member,

Disciplinary Committee

The Order of the Disciplinary Committee dated 12th June, 2024 was confirmed by the Delhi Medical Council in its meeting held on 24th June, 2024.

 By the Order & in the name

 of Delhi Medical Council

 (Dr. Girish Tyagi)

 Secretary

Copy to:-

1. Dr. Kunal Saha, President, People for Better Treatment, 6725.Longshore Street Dublin, Ohio 43017 (**through E-mail**).
2. Dr. Prakash Thakur, EX-President, Resident Doctors Association, (Safdarjung Hospital), House No.-79, Gali No.-3, Phase-4, Saraswati Vihar Rohta Road, Meerut, Uttar Pradesh-250002.
3. Dr., Joyutpal Biswas, Ex-Secretary, Resident Doctors Association, (Safdarjung Hospital), O-53, 2nd Floor (Back Side), Sriniwas Puri, Delhi-110065.
4. Medical Superintendent, Safdarjung Hospital, Ansari Nagar, New Delhi-110029.
5. Secretary, Ministry of Health & Family Welfare, Govt. of India, Nirman Bhawan, Maulana Azad Road, New Delhi-110011-**for information & necessary action.**
6. Pr. Secretary, Department of Health & Family Welfare, Govt. of NCT of Delhi, 09th Wing, A-Wing, Delhi Secretariat, I.P. Estate, New Delhi-110002-**for information & necessary action.**

 (Dr. Girish Tyagi)

 Secretary