



# MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Terminus (VT), Mumbai - 400 001  
Tel : 2207 8962, 2205 0791 Fax : 2207 8962 Website : <http://mshrc.maharashtra.gov.in>

SHRC/SRB/1/2018/59

Date: 22/1/2018

To,

<b>The Chief Secretary</b> Government of Maharashtra Mantralaya, Mumbai	<b>The Principal Secretary</b> Health Services, G.T. Hospital, Mumbai	<b>The Principal Secretary</b> Medical Education and Drugs, G.T.Hospital, Mumbai
<b>The Registrar</b> Maharashtra Medical Council 189, A Anand Complex, 1 <sup>st</sup> Floor, Sane Guruji Marg, Arthur Road Naka Chinchpokli (W), Mumbai 400 011	<b>The Director of Health Services</b> Aarogya Bhavan, 1 <sup>st</sup> floor St. George's Hospital Compound, Near CSMT Railway, Mumbai 400 001	<b>Dr. Sandeep Mohanrao Yadav &amp; others</b> Datta Pathology Laboratory, Super Marcket Shaniwar Peth Near Mohite Hospital, Karad 415 110

## Sub:- Case No. 1373/2016 and Suo Motu 21/2016

I am enclosing herewith the order dated **22<sup>nd</sup> January 2018** passed by the Maharashtra State Human Rights Commission in Case No. **1373/2016 and Suo Motu 21/2016**

You are requested to take appropriate action as per the recommendation and report back Action Taken Report to the Commission within the stipulated time limit mentioned in the order.



(Anshu Sinha, IAS.)  
Secretary  
MSHRC, Mumbai.

Encl: Order Copy ( 4 pages)



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SHRC/SRB/ 12018/ 59  
Date: 22/1/2018

## Case No. – 1373/2016 and Suo Motu 21/2016

Name of the complainant : **Dr. Sandeep Mohanrao Yadav & Ors.**  
Datta Pathology Laboratory  
Super Market, Shaniwar Peth  
Near Mohite Hospital, Karad 415 110

Vs.

Name of the Respondent : **The Principal Secretary**  
Health Services  
G.T. Hospital, Mumbai

**The Principal Secretary**  
Medical Education & Drugs  
G T Hospital, Mumbai

**The Director**  
Directorate of Medical Education and Research  
Govt. Dental College & Hospital Building  
St. Georges Hospital Compound, Mumbai – 400 001

**The Director of Health Services**  
Aarogya Bhavan, 1<sup>st</sup> Floor,  
St. George's Hospital Compound  
Near CST Railway, Mumbai – 400 001.

**The Registrar**  
Maharashtra Medical Council  
189 – A, Anand Complex  
1<sup>st</sup> Floor, Sane Guruji Marg,  
Arthur Road Naka, Chinchpokli (W)  
Mumbai – 400 011.

Date : **22<sup>nd</sup> January 2018**

Coram : **Justice S. R. Bannurmath, Chairperson**

## **O R D E R**

This complaint is filed on behalf of Maharashtra Association of practicing pathologists and microbiologists.

The allegations are that thousands of illegal pathology laboratories are working in the State. It is stated that these laboratories which are required to collect test samples of blood, urine sputum etc and give a report to help physicians or



doctors to diagnose the ailment of the patients. According to complainants though as per Indian Medical Council Act and Medical Council of India, to ensure, to protect health and safety of the public, it is mandatory to follow the Rules and Regulations, however, it is alleged that because of laxity or apathy on the part of concerned supervisory Authorities, thousands of illegal laboratories have been functioning. It is alleged that though the pathological reports are required to be certified by qualified / registered pathologists, the same are given by the technicians with disclaimer like "strictly for the use of medical practitioners and pathologists". "These are not medical diagnostic results". It is stated, many a times registered medical practitioners unknowingly and many times knowingly (in collusion with these laboratories) ask the patients to get pathological reports from particular laboratories (illegal) only, which results in wrong diagnosis and wrong treatment also. Thus, it is stated that such ill legal unqualified laboratories are playing with the health of the innocent patients and making huge amount of money. It is stated that though the Central Government and various Courts have issued number of directions, orders prohibiting laboratories run by laboratory technicians, same are not implemented. It is stated that inspite of repeated communications and representations the MCI and the State Government has not taken any strict action, thereby jeopardizing the health of innocent persons and this act is violative of human rights.

On perusal of the complaint and accompanying documents, the Commission called for the report from the Principal Secretary, Medical Education and Drugs, Director of Medical Educations of Health Services, Director of Health Services and reports are filed. It was stated that as per provisions of the concerned law and various pronouncements, the State is taking action seriously in order to protect health of the citizens by following all norms.

The matter was heard on number of occasions wherein the complainants and various officers representing the Respondents appeared and put forth their respective arguments / submissions.

The Commission has gone through all the records, including various directions / Government Resolutions issued by the Centre as well as State, various



pronouncements of Hon'ble High Courts and Hon'ble Supreme Court, the Commission is of the view that measures provided for protecting the health and especially illegal functioning of certain unauthorized laboratories by unqualified persons, the requirement of certification by qualified pathologists registered and recognized only by the Authority under Indian Medical Council Act, 1956, are there but what is lacking is strict implementation. The Hon'ble Courts have time and again held that

(a) Laboratory technicians not being trained, qualified / recognized pathologists, cannot run any laboratory independently;

(b) They cannot directly give any report to any patients or individuals, without any authentication by the pathologists registered with medical council

(c) Private / individual technicians cannot run the same laboratories independently without engaging a pathologist registered with Medical Council

(d) That laboratory report can be countersigned only by a registered medical practitioner with a postgraduate qualification in pathology and not by persons holding Diploma in Medical Laboratory Technology (DMLT).

It is to be noted that the above said directions / points have been the outcome of detailed considerations by the Hon'ble Courts, which requires to be implemented by the State in strictly and in letter and spirit.

Incidentally, it is brought to the notice of the Commission that though the Medical Education and Drugs Department, State of Maharashtra by Govt. Resolution No. MMP-0516/C.R21/Rules dated 24.05.2016 after considering various pronouncements of Hon'ble High Court of Judicature at Bombay had in fact issued proper directions, surprisingly within two days i.e. 26.05.2016 by another Govt. Resolution has stayed the Govt. Resolution dated 24.05.2016 until further orders only on the ground that enough or sufficient number of registered qualified pathologists are not available and hence persons with DMLT can be authorized to carry out work of registered pathologists.

This is a strange and unacceptable reasoning. Because of failure of enough trained pathologists, the State cannot authorize the less qualified or at least below par technicians / diploma holders, which will amount to playing with life of citizens.

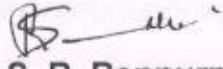
The records produced by the complainants also clearly show that there are hundreds of illegal laboratories conducting tests through unqualified technicians and not only charging huge sum from innocent patients but also playing with their life. Such large do not have properly qualified supervisory pathologists. Thus, even an error like diagnosing wrong blood group would cost life of a patient.

Taking into consideration all these aspects the Commission is of the view that unless State implementation is not carried out as per various pronouncements of the Courts and even the norms setting by the MCI and the law prevalent, the same will be amounting to serious violation of basic human rights viz. right to health.

As such the Commission makes following recommendations:

- A) The State shall immediately withdraw the Govt. Resolution dated 26.05.2016 and implement the Govt. Resolution dated 24.05.2016 in letter and spirit.
- B) The State shall implement the directions issued by various Courts referred to above in respect of running of pathological laboratories immediately and report compliance in eight weeks from the date of receipt of order.



  
(Justice S. R. Bannurmath)  
Chairperson, SHRC