

# Reviewing Through a Medical Lens: The Supreme Court's Landmark Judgments in 2020

Last year was a year as unprecedented as recent memory serves. The nation-wide lockdown, the physical distancing rules and the restrictions on movement have all been a curveball. It forced various institutions to revise their working methodology. For most, it meant transitioning to an online medium from the offline. The Indian courts were no different. Courts across the country relied on virtual hearings for its functioning. In this article, we aim to review 2020 with some important judgments passed by the Indian courts that warrant the attention of medical practitioners.

## Medical Professionals Should Not Be Dragged Into Criminal Proceedings Unless Negligence Of A High Order Is Shown- Supreme Court

***Date of Judgment: 6th February 2020***

Facts of the case: A pregnant woman was advised a caesarean operation and she gave birth to a male child. The doctors opined that she needed a blood transfusion and her family members offered to donate the blood. The blood was tested and transfused to the patient. The patient died the next morning. The deceased's brother filed an FIR with the police alleging that the doctors did not attend to the patient for 12 hours.

Judgment: The Supreme Court relied on its landmark judgment of *Jacob Mathew vs. State of Punjab & Anr.* (2005) (another interesting case that should be read) that had stated *medical professionals are placed on a pedestal different from ordinary mortals in criminal law*. It had laid down certain guidelines to be followed in the future and two of those guidelines were

quoted by the Supreme Court in the present case. They are:

- For criminal negligence, it must be established that the doctor did something or failed to do something which any medical professional normally would have done or not done, under similar circumstances.
- Before pursuing a case of criminal negligence, the investigating officer should obtain an independent and competent medical opinion regarding the facts of the case.

In the present case, no opinion of an independent doctor was obtained and the post-mortem did not show that the deceased died due to the transfusion of the blood. Thus, the Supreme Court reversed the judgment of the Punjab and Haryana High Court, which had found the doctors guilty and restored the order of the lower court which had discharged the doctors. (1)

### **NEET will be the only entrance examination for all medical colleges – Supreme Court**

***Date of Judgment: 29th April 2020***

In a significant move, the constitutional bench of the Supreme Court ruled that admission to all medical colleges in the country in the graduate and post-graduate professional courses of medical as well as dental science will be held based on the uniform examination of the National Eligibility cum Entrance Test (NEET). It upheld the importance of conducting a uniform entrance test to promote merit, prevent exploitation and regulate fair practices, stating that *the quality of medical education is imperative to subserve the national interest, and the merit cannot be compromised.*

This verdict mandates unaided minority or private institutions to also admit students based on NEET. These institutions had demanded the right to hold a separate entrance exam which will be over and above NEET. Some had claimed that they have a fundamental right to include students of their own religion.

The constitutional bench of the Supreme court dismissed this view. It stated that a common entrance test does not take away the rights of the unaided minority institutions or private institutions as enshrined in the Constitution of India. (2)

## Can homoeopathy Cure Covid-19: Supreme Court modifies Kerala High Court judgment in the issue of prescribing homoeopathic medicine while treating covid-19 disease

***Date of judgment: 15th December 2020***

Facts of the case: In August 2020, the Kerala High Court had ruled that AYUSH practitioners are not supposed to prescribe any medicine claiming it to be curative of covid-19 disease. It directed that covid-19 affected patients should not be treated by anyone other than the government or those authorised by the government. However, it had not prohibited qualified medical AYUSH practitioners to prescribe immunity booster mixture or tablets. It stated that *these tablets shall be given only as immunity boosters and not as a cure for covid*. It had also directed that any doctor found violating this can be charged under the provisions of the Disaster Management Act, 2005. A petition against this decision was filed in the Supreme Court. This petition claimed that the homoeopathic immunity boosters can control the spread of covid and the decision to take action against homoeopathic practitioners doing so was harsh.

Court held: The Supreme Court found the Kerala HC to be erroneous in stating that homoeopathic medical practitioners can only prescribe immunity boosters. It quoted the advisory issued by the Ministry of AYUSH which permits homoeopathy to be used as preventive, prophylactic, symptom management of COVID-19 like illnesses and add on interventions to conventional care. It also dismissed the Kerala HC's view of taking appropriate action against homoeopathic medical practitioners. However, the Supreme Court upheld the Kerala HC

judgment in stating that homoeopathic medicines cannot be claimed to cure covid-19. It stated that any therapy, including allopathy, cannot make such a claim. (3)

### **The Proper Treatment of Covid19 Patients and Dignified Handling of Dead Bodies in the Hospitals**

In June 2020, the Supreme Court took suo-moto (an action that is taken by the court on its own accord without any parties filing a case) cognizance of the conditions of covid-dedicated hospitals in the country. This was based on media reports and programmes aired on several channels presenting horrific scenes that indicated the pathetic condition of the patients admitted in the hospital and the deplorable condition of the wards. The Supreme Court also issued guidelines to set-up committees to assess the preparedness of the hospitals. It also directed multiple states to file responses stating their efforts to guarantee accessible healthcare to people. In December 2020, the Supreme Court asked the Centre to consider providing a break to doctors who have been consistently serving at the frontline during the pandemic. It stated *"They are doctors, not paupers! They haven't been given any break for the last few months. Continuous work affects mental health."* The case is still on-going and the proceedings are regularly updated on the Supreme Court website.