Sunday, Oct 11, 2020

To

Shri Anil Deshmukh, Home Minister, Government of Maharashtra;
Shri Amit Deshmukh, Minister of Medical Education, Government of Maharashtra
Shri Uday Samant, Minister of Higher Education and Technical Education, Government of Maharashtra
Shri K C Padvi, Minister of Tribal Development, Government of Maharashtra
Shri Dhananjay Munde, Minister of Social Justice and Special Assistance, Government of Maharashtra

Subject: Request Maharashtra Government, to file review petition in Supreme Court in CRIMINAL APPEAL Nos.660-662 OF 2020 [Arising Out of Special Leave Petition (Crl.) Nos.3083-3085 of 2020] ANKITA KAILASH KHANDELWAL AND ORS.VERSUS STATE OF MAHARASHTRA AND OTHERS

Dear Honorable Ministers,

It is indeed deeply disappointing that the three doctors accused in the Dr. Payal Tadvi 'suicide' case, centred on caste-based discriminatory practices have secured relief from the Supreme Court on 8th October 2020 on all the three conditions - not leave Mumbai, revoking of their license by MMC, and not enter their college premises - placed on them while securing bail in the High Court of Bombay on 9th August 2019. After this bail order the licenses for two of the three doctors, Ankita Khandelwal and Bhakti Mehare, were revoked by the MMC only on 10th January, 2020 leaving Hema Ahuja out who is not registered with the MMC.

As you are well aware, the first two bail conditions were relaxed by the Bombay High Court on 21st February 2020. The two accused doctors got back their licenses on 16th March 2020. They then went on to ask for a transfer of college so that they could finish the last ten months of their postgraduate programme. Since the MMC does not allow transfer of institutions for PG students, your offices opposed this plea. As civil society we appreciated the fact that the Maharashtra Government opposed the relaxation of the bail conditions in the Bombay High Court.

It is public knowledge that three doctors are implicated in the suicide case - they tried to destroy evidence by entering Dr. Tadvi's hostel room on finding her missing on the evening of 22nd May 2020, tampered with her phone, deleting messages, and one even absconded subsequently to be traced. It is also understood, by now, from Dr. Tadvi's family and colleagues (who are now witnesses) in the case that the harassment from the three doctors has a longer history of taunting and targeting Dr Payal Tadvi on her tribal identity, of ridiculing her because she secured admission through reservation processes that are Constitutionally mandated, and of sustained harassment in proximal work spaces.

Dr. Ganesh Shinde, Head of Department, Gynaecology had already submitted in the Mumbai High Court that:

> "*On 28th February, 2019, he had called a meeting of the staff members, the faculty members, nurses and other persons who are witnesses in the present case. There is a grave hostility towards the applicants. It is submitted that their presence in the BYL Nair Charity Hospital may change the facet of the trial and that possibility of the witnesses being won over cannot be ruled out*"

We note that the charge-sheet contained statements from nearly 180 witnesses (colleagues, staff members, and seniors at the hospital), and not all witnesses have recorded statements under 164, thus given the past behaviour of the three doctors the possibility of them exercising undue influence on the witnesses cannot be ruled out, if they re-enter the BYL Nair Hospital and the Topiwala National Medical College (TNMC) premises.

Hence their coming back to the college allegedly to "finish their postgraduate education and to serve the nation in pandemic times" is merely their accession to dominant caste entitlement. This argument by the three doctors appears flawed. The reason being, they already have their licenses since March 25th, 2020, following which they could have easily served the nation during the pandemic. Their haste to enter the BLR Nair Hospital and the TNMC premises to complete their education is unreasonable.

Their re-entry in the college carries imminent risks to the 100 plus witnesses from BYL Nair Hospital of intimidation, adversely influencing them, and thus tampering the evidence, once again. Other students, especially from the marginalized communities like Dr Payal Tadvi herself, also risk facing anxiety, fear, and even other deeper harms - psychological and social - when they sense that there is no meaningful and substantive action taken against the perpetrators despite loss of a valuable life.

It is a reasonable expectation of the students to not allow the three accused doctors to re-enter the TNMC until the court case is concluded and certainly will be in the interest of safeguarding all students. All the concerned authorities and offices - the college, Directorate of Medical Education and Research, Maharashtra University of Health Sciences, and concerned ministries of the Government of Maharashtra ought to acknowledge that the loss of Dr Payal Tadvi, itself is a result of failure of current mechanisms and processes to protect students from life threatening identity-based discriminatory practices in medical colleges and teaching hospitals.

Medical education is not merely about attending classes and acquiring a degree. The resident doctors are responsible for the public hospitals which are accessed by the most marginalized members of our society. Currently the anti-ragging cell of the College has already held them responsible for ragging which is a vindication and acknowledgment of their crime of harassment.

They have also been charged with sections of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Allowing them back into the college could also jeopardize the interest of patients, given the above details of functioning of the three accused doctors in this case.

Hence in our understanding the Supreme Court's order relaxing all their critical conditions of bail is extremely disappointing and endorses the entitlement of the dominant caste students. Therefore, this order needs to be urgently challenged.

We are deeply concerned that the suspension of the three doctors suggested by the Anti-Ragging Committee of the Topiwala National Medical College and the BYL Nair Hospital, Mumbai has not yet been implemented. No action under it has been taken by the College or the State Government. This is a grave lapse which needs to be rectified as soon as possible. We also know that the mandatory enquiry that the MMC needed to do as per the Sections 10 and 22 of the MMC Act 1965 has not been conducted over these past more than 14 months since the incident took place.

The state government needs to do more and expeditiously in this case to demonstrate its commitment to fulfil constitutional mandates of safeguarding rights of thousands of students and families such as Dr. Payal Tadvi's, from marginalized communities subjected to caste-based discriminations in the medical education system. A substantive intervention by the state is needed to give confidence to not only these communities but to the people at large that justice will prevail regardless of.

In view of all this, we the undersigned, urge you to ensure the following expeditiously:

1. **State of Maharashtra** to immediately file a review petition in the Supreme Court against the aforementioned order, and appoint a Senior Criminal Lawyer to defend the review petition in the Supreme Court;
2. **MUHS, BYL Nair Hospital and the Topiwala National Medical College (TNMC),** Mumbai to expeditiously implement the recommendations of the Anti-ragging Committee and suspend the accused doctors from college report;
3. **State of Maharashtra** to ensure speedy justice delivery to Dr Payal Tadvi and her family.
4. **Maharashtra Medical Council (MMC)** to restore the suspension of the two accused doctors who are registered with it as per the Maharashtra Council Act, 1965 and expedite the inquiry against them without any further delay;
5. **State of Maharashtra** to seek explanation from all the concerned offices, such as, MMC, MUHS, and the BYL Nair Hospital and TNMC, Mumbai for not taking required actions in response to the suicide of Dr Payal Tadvi which have seriously obstructed delivery of justice; and if needed seek concerned office bearers to resign to enable justice delivery.

We ask for immediate intervention and response to these matters in the interest of justice to Dr Tadvi and her family, as also innumerable students from SC/ST/NT/DNT community who continue to face caste-based and identity-based discrimination in various educational institutions including medical colleges and teaching hospitals.

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Dr Amita Pitre, **Vidhayak Trust, Pune**