

News

The Supreme Court requests the Center's response to a PIL regarding guidelines for prosecuting physicians for medical malpractice.



The plea argued that the absence of a regulatory structure permits enquiry committees to be influenced by other doctors in medical negligence cases.

The Supreme Court recently sought the Union government's answer on a public interest litigation calling for a statutory framework to oversee criminal prosecution in cases of alleged medical negligence [***Sameeksha Foundation-A Crusade Against Medical Negligence Versus Union Of India And Anr.***].

A Bench of Justices Vikram Nath and Sandeep Mehta issued notice on the petition which said that despite clear directions issued by the Supreme Court in *Jacob Mathew v. State of Punjab* (2005), neither the Centre nor any State government has framed the required statutory rules or executive instructions even after two decades.

The plea, filed by NGO Sameeksha Foundation, said that the 2005 judgment had mandated the government to formulate guidelines after consulting the Medical Council of India (now the National Medical Commission), to ensure that doctors are not prosecuted without an independent medical opinion and that arrests are not made routinely.

According to the plea, an RTI application filed in April 2025 elicited a response from the National Medical Commission stating that no guidelines have been framed yet and that the process was still underway.

The petitioner argued this exhibited a “alarming indifference” to the Court’s 2005 directives, creating a vacuum leaving patients without deterrence and doctors without procedural safeguards.

It was submitted that according to the 2005 ruling, before prosecuting a doctor for rashness or negligence, investigating officers must first obtain an independent medical opinion from a competent government doctor. But in practice, no doctor agrees to give any opinion in the matter of another doctor for obvious reasons, the plea contended.

The petitioner also highlighted worry regarding inquiry committees created in negligence cases, claiming that most such committees feature only doctors, leading to biased outcomes.

This “doctors judging doctors” system is inadequate and leaves families of victims without remedy, it was contended.

The Parliamentary Standing Committee on Health and Family Welfare had, as far back as 2013, noted widespread public distrust in these internal inquiry mechanisms and recommended that medical negligence inquiries should involve a broader panel including patient representatives, retired judges, civil servants and independent experts, the plea added.

Despite the Standing Committee's recommendations and repeated parliamentary questions over the years, there has been no significant reform in the way criminal negligence cases are investigated, it was pointed out.

Referring to figures released by the Business Standard in April 2024, the petitioner argued that India witnesses roughly 5.2 million medical malpractice cases every year. Yet, according to National Crime Records Bureau figures, just 1,019 occurrences of death by medical negligence were registered between 2017 and 2022.

Such low numbers, according to the petitioner, are unbelievable in a nation of more than 1.4 billion people and demonstrate a systemic failure in the reporting and prosecution of medical negligence cases.

The matter will heard next once the Centre files its response.

The petitioner was represented by Senior counsel Shadan Farasat along with counsel Devansh Srivastava