

CWP-7215-2025

2025:PHHC:124328



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-7215-2025

Date of Decision: **10.09 2025**

Harpal Singh

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Abhishek Sirohi, Advocate for Dr. Pankaj Nanhera,
Advocate for the petitioner.

Mr. Arun Kumar Singla, Asst. AG, Haryana.

Mr. Prince Singh, Advocate for respondents No.3 to 5.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India with the following prayers:-

- i) "For issuance of a writ in the nature of nature of certiorari to quash the office order dated 26.06.2023 (Annexure P-1) issued by respondent No.1 (i.e. Additional Chief Secretary, Government of Haryana, Agricultural and the reply dated 28.06.2024 (Annexure P-4) by the respondent-Corporation and Farmers Welfare Department to the extent that the petitioner was only sanctioned Rs.38,084/- for the gall bladder surgery despite the fact that the petitioner submitted bills amounting to Rs.5,85,341/- (i.e. Rs.4,85,090/- for bypass cardiac surgery and Rs.59,590/- and Rs.40,661,-/ for gallbladder surgery) whereby this action of respondents is in violation of the policy dated



06.05.2005 (Annexure P-5) for reimbursement of medical reimbursement of medical expense and as per the law rendered by the **Hon'ble Supreme Court of India in Shiva Kant Jha Versus Union of India, 2018(2) SCT 529** in the interest of justice.

ii) Issuance of a writ in the nature of mandamus for directing the respondents to reimburse the petitioner for the medical expenses incurred by him amounting to Rs.5,85,341/- (i.e. Rs.4,85,090/- for bypass cardiac surgery and Rs.59,590/- and Rs.40,661/- for gallbladder surgery) for the surgeries that the petitioner underwent to save his life as this action of the respondents is violative of the policy dated 06.05.2005 (Annexure P-5) for reimbursement of medical expense and as per the law rendered by the Hon'ble Supreme Court of India in **Shiva Kant Jha's case (supra)** and is also violative of Article 21 of the Constitution of India, 1950, in the interest of justice.

iii) Issuance of a direction to the respondents to release half the amount i.e.Rs.2,92,670/- on account of medical reimbursement to the petitioner during the pendency of the civil writ petition as the petitioner is a senior citizen and is harbouring under economic and health related issues, in the interest of justice.”

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is a senior citizen and has retired as Manager from Haryana State Warehousing Corporation. In the month of February, 2022, the petitioner underwent a bypass surgery in emergent condition, which was conducted at



Dayanand Medical College and Hospital Unit-Hero DMC Heart Institute Ludhiana, for which, petitioner had incurred an amount of Rs.4,85,090/-. Thereafter, the petitioner has submitted his entire medical record including the bills to respondent No.4 for reimbursement of medical expenses. Further, the petitioner while recovering from the bypass surgery had to undergo another surgery of his gallbladder in June, 2022, for which, the petitioner submitted his two bills for the surgery amounting to Rs.59,590/- and Rs.40,661/- to the respondent No.4 on 28.09.2022. Learned counsel further contends that vide order dated 26.06.2023 respondent No.1-Additional Chief Secretary, sanctioned amount of Rs.38,084/-, as is discernible from Annexure P-1. Feeling aggrieved thereof, the petitioner made a representation by citing judgment of the Hon'ble Apex Court passed in **Shiva Kant Jha's case (supra)** requesting the respondents to reconsider the claim of the petitioner sympathetically in the view of the law laid down by the Hon'ble Apex Court for reimbursement of medical expenses incurred on the surgeries.

3. Learned counsel for the petitioner further contends that feeling aggrieved by the inaction of the respondent in not disbursing the amount spent on surgeries, served legal notice on 11.04.2024 to respondent No.4 (Annexure P-3). Learned counsel further relies upon the judgment passed in **Shiva Kant Jha's case (supra)** and submits that the claim of the petitioner cannot be denied on the ground that he has not taken the treatment from an empanelled hospital. As such, the petitioner is entitled to full reimbursement of the medical expenses incurred by him.



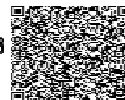
4. Learned counsel for respondents No.3 and 5 filed reply on behalf of respondents No.3 to 5 and copy thereof supplied to opposite side. Registry is directed to do the needful.

5. On the other hand, learned counsel for the respondent(s) submits that out of total claim submitted by the petitioner amount of Rs.3,07,370/- has been reimbursed in terms of the policy dated 06.05.2005 and with regard to the remaining amount, the petitioner is not entitled as having no vested right and it has to be considered strictly only in terms of the applicable policy and prays for dismissal of the writ petition.

6. In rebuttal, learned counsel for the petitioner relies upon the judgment of Hon'ble Supreme Court in *Shiva Kant Jha's case (supra)*, wherein it was held that during the treatment from the non-empanelled hospital, if based on genuine reasons, the medical reimbursement of the amount spent on the treatment is required to be released. Further, learned counsel submits that claim of petitioner in admitting the patient in hospital in emergency cannot be denied on the ground that the hospital is not empanelled, as at that point of time the preservation of the human life was of the paramount consideration.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. It is not in dispute that the petitioner had underwent bypass surgery in the month of February, 2022 and further it is not the case of respondent that the claim of the petitioner is based upon irrelevant/bogus medical record. The controversy involved in the present case is of non-



payment of differential medical reimbursement because the petitioner had remained admitted in hospital which is not empanelled. The condition of the petitioner was serious and it was the case of emergency. The claim for medical reimbursement ought not to be dismissed merely because the petitioner underwent treatment and admitted in a non-empanelled. In such cases, the test of essentiality and emergency comes into play, which dictates that if the medical procedure was undergone by the petitioner in an emergency, on the advice of a doctor based on medical record, the reimbursement for the same must be made. Not only is the preservation of human life instinctive, but it also forms a part of Article 21 of the Constitution of India, and therefore, it shall always retain the highest priority.

9. Moreover, the State bears an obligation to ensure the availability of timely medical care to those in need. As such, it cannot expect the citizens to refrain from availing timely care, merely for the reason of non-empanelment of the hospital. Such conduct on the part of the State does not satisfy the criteria of fairness and reasonableness and therefore, amounts to a violation of the fundamental rights enshrined in Article 21 of the Constitution of India. Reliance in this regard can be placed on the judgments rendered by a two Judge bench of the Hon'ble Supreme Court in *Surjit Singh vs. State of Punjab and others(1996) 2 SCC 336*, whereby, speaking through Justice M.M. Punchhi, the following was opined:

“8. The policy, providing recognition for treatment of open heart surgery in the Escorts, specifically came to be examined by a Division



Bench of the Punjab and Haryana High Court at Chandigarh in C.W.P. No. 13493 of 1992 titled as Sadhu R. Pall v. State of Punjab through Secretary, Health and Family Welfare Punjab, Civil Secretariat, Chandigarh and others, 1994(1) SCT 552 (P&H). decided on 6.10.1993, wherein the claim of the then writ petitioner to medical reimbursement was accepted when in order to save his life he had got himself operated upon in the Escorts, and the plea of the State that he could be paid rates as prevalent in the AIIMS was rejected. Special Leave Petition No. 22024 of 1995 against the said decision was dismissed by this Court on 2.2.1994. The other judgments of the High Court following the decision in Sadhu R. Pall's case are :

- (1) C.W.P. No. 18562 of 1992 decided on 10.5.95 titled K.L. Kohli v. State of Punjab and others, 1995(4) SCT 280 (P&H);*
- (2) C.W.P. No. 260 of 1995, decided on 30.5.1995 titled Ravi Mohan Duggal v. State of Punjab and others (DB)*
- (3) C.W.P. No. 5669 of 1994 decided on 4.9.94 titled Prem Singh Gill v. State of Punjab and others;*
- (4) 1995(4) SCT 816 (P&H) : 1995 (III) Punjab Law Report 529 titled Tarlok Chander v. State of Punjab etc. (SB); and*
- (5) 1996(2) SCT 148 (P&H) : 1995 (III), Punjab Law Reporter 682 titled Mrs. Surya Pandit v. State of Punjab and others (SB)*

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10. It is otherwise important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India , fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self-preservation has a species in the right of self defence in criminal law...



11. The appellant therefore had the right to take steps in self preservation. He did not have to stand in queue before the Medical Board, the manning and assembling of which, bare-facedly, makes its meetings difficult to happen. The appellant also did not have to stand in queue in the Government hospital of AIIMS and could go elsewhere to an alternate hospital as per policy. When the State itself has brought the Escorts on the recognised list, it is futile for it to contend that the appellant could in no event have gone to the Escorts and his claim cannot on that basis be allowed, on suppositions. We think to the contrary...”

10. In the matter at hand, the petitioner underwent bypass surgery procedure, which was necessary at that moment in order to save his life, as also depicted by his medical record. Therefore, the test of essentiality and emergency stands satisfied to the extent of bypass surgery. However, with regard to subsequent gallbladder surgery was not necessary at that point of time and the test thereof, essentiality and emergency is not satisfied, as the same was not conducted in an emergency.

11. Accordingly, the present petition is partly allowed. The respondents are directed to make remaining payment incurred for the bypass surgery undergone by petitioner within a period of four months from the date of receiving a certified copy of this order. However, regarding the reimbursement of amount incurred on subsequent surgery of gall bladder by petitioner, the respondent(s)-competent authority shall pay the amount in terms of their applicable policy, if not made, till date.

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12. Pending miscellaneous application(s), if any, shall also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

September 10, 2025

P.C

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No