

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MC (W.A.) No. 123 of 2025

*Ref: Writ Appeal Filing No. WA/3176/2025
MC Filing No. MC(WA)/3178/2025*

State of Manipur; & Ors.

Applicants

Vs.

Nepram Sonykumar

Respondent

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

(ORDER)

(Order of the Court was made by M. Sundar, CJ)

12.01.2026

[1] Captioned Miscellaneous Case (MC) has been filed with a Condonation of Delay (CoD) prayer *qua* 458 days delay in filing the captioned State appeal being writ appeal (WA) *vide* Filing No. WA/3176/2025 (along with a MC for stay being Filing No. MC(WA)3178/2025) assailing 'order dated 16.08.2024 made in W.P. (C) No. 594 of 2023 by an Hon'ble Single Bench' ('impugned order' for the sake of convenience).

[2] Mr. Th. Sukumar, learned State counsel, adverting to CoD MC petition, more particularly paragraph 5.1 thereat submitted that the delay in filing the State appeal is neither willful nor wanton but only owing to time consumed at various stages of taking a decision regarding

filing the appeal. Learned State counsel adverted to adumbration of calendrical sequence of events set out in paragraph 5.1 but it will suffice to write that it is only a narrative of time consumed *qua* various stages of bureaucratic procedures.

[3] Issue notice

[4] Mr. I. Denning, learned counsel present in Court accepts notice for respondent (writ petitioner before Hon'ble Single Bench) and learned counsel submits that delay not being wanton or willful is immaterial as it is a clear case of what has been repeatedly described by Hon'ble Courts as 'file pushing' and learned counsel also pointed out that the main matter pertains to reimbursement of medical claim *qua* treatment of young twin children of a serving Judicial Officer.

[5] Be that as it may, Mr. Th. Sukumar, learned State counsel as well as Mr. I. Denning learned counsel for 'writ petitioner' (to be noted, 'respondent' is being referred to as 'writ petitioner' for convenience) agreed to have the main WA (writ appeal) heard out today, here and now.

[6] In the light of the nature of the main matter, considering other facts and circumstances of the case and owing to the fair stand taken by both side in agreeing to have the main WA heard out today, delay is condoned, CoD prayer is acceded to. To put it differently, captioned MC is ordered as prayed for. There shall be no order as to costs.

[7] As regards the main WA, writ petitioner approached this Court in and by way of W.P. (C) No. 594 of 2023 assailing an order dated 05.07.2022 made by Director of Health Services, Manipur (2nd respondent before the Hon'ble Single Bench and '2nd Respondent' shall be referred to as 'R-2' and it is further to be noted that other respondents shall also be referred to by similar abbreviations) wherein and whereby R-2 informed learned District and Sessions Judge, Imphal East, that ex-post facto approval for sanction for treatment of writ petitioner's twin children for respiratory distress at 'Mothers Care Children Hospital & Research Centre, Imphal' (hereinafter 'said hospital' for convenience) cannot be acceded to as said hospital is not in the list of empaneled hospitals *qua* Government of Manipur.

[8] After full contest, Honble Single Bench in and by the impugned order, acceded to the prayer of writ petitioner and directed the State to release the admissible expenses (medical reimbursement) as per law within a period of three months and had also made it clear that interest @ 9% per annum will be payable if there is delay.

[9] Notwithstanding myriad grounds, very many averments in the WA, learned State Counsel predicated his campaign against the impugned order on the primary ground that there was no reference by the treating doctor concerned and there was no certification by the Medical Board that the treatment in said hospital is imperative.

[10] It was also argued by learned State counsel that in the impugned order, a parallel had been drawn with regard to another case of staff of Superintendent of Police, Senapati District, Manipur, having taken treatment in the same said hospital but the facts are different as that was a case of exceptional certification and referral from a Government Hospital.

[11] In response to the above submissions of learned State counsel, learned counsel for writ petitioner advertent to the impugned order of R-2 being order dated 05.07.2022 bearing Reference No. P/6/2019(Return)-DHS, submitted that the solitary reason giving there is that the said hospital is not included in the list of empaneled hospitals *qua* Manipur Government.

[12] This Court carefully considered the rival submissions.

[13] At the outset, this Court reminds itself of the ratio laid down by Hon'ble Supreme Court in the celebrated and oft quoted case law, i.e., **Mohinder Singh Gill and Anr. Vs. The Chief Election Commissioner, New Delhi and others** reported in **(1978) 1 SCC 405**. **Mohinder Singh Gill** pertains to reelection in a parliamentary constituency as regards a General Election. The parliamentary constituency concerned is 13-Ferozepore Parliamentary Constituency. Though re-election was held, the candidate concerned did not participate and the question as to whether personal hearing was given arose. In this factual backdrop, a Constitution Bench of Hon'ble

Supreme Court declared the law that in judicial review, action has to be judged by reasons stated while making the order and supplementary reasons in the shape of affidavits have to be excluded. To put it differently, **Mohinder Singh Gill** principle is to the effect that an impugned order should sustain itself from the basis of contents therein and it cannot be improved by way of affidavits or submissions in the hearing. To be noted, we are respectfully referring to **Mohinder Singh Gill** principle as 'declaration of law' rather than ratio as **Mohinder Singh Gill** was rendered by a Constitution Bench of Hon'ble Supreme Court.

[14] Reverting to the case on hand, the sole ground on which the claim of writ petitioner for ex-post facto approval of reimbursement of medical expenses in respect of treatment of his young twin children for respiratory disease in said hospital was negated is that the said hospital is not in the list of empaneled hospitals in the Manipur Government list. Therefore, we have no hesitation in writing that the State counsel now cannot improve the impugned order by stating that prior clearance from Medical Board has not been obtained.

[15] As regards distinction between the case of staff of Superintendent of Police and the case on hand, fact remains that treatment taken in the same said hospital by another Government official, namely, staff of Superintendent of Police was approved whereas a request by writ petitioner who is a serving Judicial Officer has been

negatived. As already alluded to *supra*, it is evident from the sole ground *qua* impugned order of R-2 that said hospital is not empaneled in the list of Manipur Government. The fact remains that said hospital though not listed in the list of empaneled hospitals of the Manipur Government has given treatment to family of another Government official and reimbursement has been approved. This is the bottom line. Even on an extreme demurer, even if the facts and circumstances of the case of staff of Superintendent of Police and writ petitioner are different, Hon'ble Supreme Court in **Shiva Kant Jha Vs. Union of India** reported in **(2018) 16 SCC 187** has made it clear that medical reimbursement cannot be negatived on the sole ground that particular hospital is not empaneled and the real test is factum of treatment. In the case on hand, that the twin children were given treatment in the said hospital is not in dispute. This means that the factum of treatment has not been put in issue at all and said hospital has not been empaneled in the State Government list is the only ground.

[16] Reverting to **Shiva Kant Jha** case, it is one where an individual who is a beneficiary *qua* CGHS (Central Government Health Scheme) being a retired Government employee submitted two sets of medical bills for treatment for heart ailment in Fortis Escorts Hospital, New Delhi and Jaslok Hospital, Mumbai for cerebral stroke and paralytic attack. These claims were disallowed by CGHS and the mater travelled

to Hon'ble Supreme Court. It is in this context that Hon'ble Supreme Court made it clear that it is settled legal position that a Government employee during his lifetime or after his retirement is entitled to get the benefit of medical facilities and no fetters can be placed on his rights. It was also made clear that the real test is factum of treatment and the right to medical claim cannot be denied merely because the name of hospital is not included in the Government list. This has been articulated by Hon'ble Supreme Court in paragraph 17 of **Shiva Kant Jha** which reads as follows:

'17. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of

treatment is supported by records duly certified by doctors/hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.'

(Underlining made by this Court for ease of reference and for emphasis)

[17] Reverting to the impugned order of R-2 which was assailed by writ petitioner before Hon'ble Single Bench, as already alluded to *supra*, the solitary ground on which the ex-post facto claim of writ petitioner was negated was that the said hospital (Mother Care Children Hospital and Research Centre) has not been included in the list of empaneled hospitals *qua* Manipur Government. This ground does not find favour with this Court being sustained as it is clearly flattened and floored by **Shiva Kant Jha** principle. Therefore, there is no difficulty in writing that the impugned order of R-2 deserves to be interfered with and this Division Bench is of the considered view that Hon'ble Single Bench rightly interfered with the impugned order of R-2 and directed reimbursement.

[18] This Court, for the sake of convenience and clarity deems it appropriate to scan and reproduce the impugned order of R-2 and a scanned reproduction of impugned order as placed before us is as follows:

47
Annexure - A/1

GOVERNMENT OF MANIPUR
MEDICAL DIRECTORATE

No. P/6/2019(Return)-DHS: 144

Imphal, the 29th July, 2022

To

District & Sessions Judge,
Imphal East.

Subject:- Request for recommendation of the State Medical Board, Manipur as ex-Pati Facts approval and reimbursement for medical expenses in respect of Shri Nephram Sonkumar, Civil Judge Sr. Dibr/Imphal West.

Sir,

In inviting reference to your letter No. D/IFA/30/2020/81-81 dated 11/11/2020, I have the honour to state that as the State Medical Board held on 21/04/2022, examined the relevant documents in respect of 1st Baby of Preeti Garumayum S/o Nephram Sonkumar, CJSO, Imphal West for treatment at Mother's Care Children Hospital & Research Centre for "Pneum (1st baby twin)/AGA with Multiple Blood CS positive Serology RDS/Small PFO. PDA". The Board did not approve the ex-pati facts sanction as Mother's Care Children Hospital & Research Centre is not included in the list of empanelled hospital under Manipur Government.

The enclosed original documents are retained herewith.

Enclosed : As above.

TRUE COPY

Yours faithfully,

(Dr. K. Ganga Singh)

Director of Health Services, Manipur.

Sd/-, Government Advocate
(High Court), Manipur

Copy to:

1. 1st Baby of Preeti Garumayum S/o Nephram Sonkumar, CJSO, Imphal West.

Comm. of A/-court
High Court of Manipur
Imphal (Manipur)

[19] This court finds that Hon'ble Single Bench *vide* paragraph 7 of the impugned order has respectfully followed **Shiva Kant Jha** principle. We also find that the same paragraph 17 which has been extracted and reproduced *supra* has been respectfully referred to by the Hon'ble Single Bench also.

[20] At the risk of repetition, as the factum of treatment is not an issue and as the Hon'ble single Bench in the impugned order has directed release of admissible expenses as per law, we find no reason to interfere *qua* the impugned order of Hon'ble Single Bench.

[21] Ergo, the sequitur is, captioned State writ appeal being Filing No. *WA/3176/2025* is dismissed and MC thereat for stay being Filing No. *MC(WA)/3178/2025* perish and the same are dismissed.

[22] As it would be evident from the narrative thus far, as the main WA was taken up in the admission stage itself with the consent of both sides when the matter was listed for CoD MC hearing, Registry shall now assign a number to the writ appeal as well as the MC for stay thereat and thereafter furnish copies to the parties concerned. This shall be done by the Registry by tomorrow, *i.e.*, 13.01.2026. As already alluded to *supra*, captioned State writ appeal being Filing No. *WA/3176/2025* and MC thereat bearing Filing No. *MC(WA)/3178/2025* fail and the same are dismissed. To be noted CoD MC being MC (W.A.) No. 123 of 2025 has been allowed as already alluded to *supra* overturn (paragraph 6) in this order. There shall be no order as to costs.

JUDGE

Sandeep

CHIEF JUSTICE