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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12359/2015**
SANDEEP KUMAR KASHYAP Petitioner
Through: **Mr. Saurabh Jhamb, Adv.**

Versus

UNION OF INDIA AND ANR Respondents
Through: **Mr. Anil Soni & Mr. Naginder**
Benipal, Advs. for R-1.
Mr. R.M. Aggarwal & Mr. Sidharth
Aggarwal, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER
% **05.01.2016**

1. The petition was filed with the grievance that the respondent no.2 Max Super Speciality Hospital, Patparganj, New Delhi to which the father of the petitioner, a Central Government Health Scheme (CGHS) beneficiary was admitted was not in an emergency providing cashless treatment to the father of the petitioner and insisting upon the petitioner making advance deposit of the charges for treatment.
2. The petition came up before this Court first on 30th December, 2015 when while issuing notice of the petition, it was directed that the petitioner's father be provided treatment in the light of Annexure-C to the petition.
3. Annexure-C to the petition is the format of the Agreement between the respondent no.1 CGHS and its affiliate hospitals.
4. Today it is informed by the counsel for the respondent no.2 Hospital that the petitioner's father had in fact been given the requisite treatment

since even prior to the service of the notice of the writ petition and without waiting for the petitioner or any other family member to make an advance deposit. It is further stated that the father of the petitioner has inspite thereof died on 3rd January, 2016 at 1616 hours. It is further stated that the costs of the treatment of approximately Rs.4,00,000/- has been debited by the respondent no.2 Hospital to the respondent no.1 CGHS but payment has not been received as yet.

5. The counsel for the respondent no.1 CGHS states that as per the prevalent instructions, since the treatment for which the father of the petitioner is stated to have been admitted in an emergency was not for a disease with which he was earlier suffering from, he was not entitled to a cashless treatment in a hospital affiliated to the respondent no.1 CGHS. It is further stated that the said disease was not also in the Agreement entered into by the respondent no.1 CGHS with the respondent no.2 Hospital. It is yet further contended that the respondent no.1 CGHS has a Grievance Cell and the petitioner ought to have approached the said Grievance Cell or obtained prior permission before admitting his father to the respondent no.2 Hospital.

6. Be that as it may, the cause of action with which the petition was filed no longer survives. Though the counsel for the petitioner states that the matter be considered in the larger perspective but the fora therefor is by way of a Public Interest Litigation (PIL) in accordance with Rules framed therefor and not in this private lis. It is not deemed appropriate to keep this petition pending. The petition is disposed of in the following manner.

7. The respondent no.1 CGHS to consider the case sympathetically and to on or before 15th February, 2016 take a decision in this respect and if

finds that the payment is due to the respondent no.2 Hospital to make the said payment by the said date. The petitioner to appear before the Grievance Cell of the respondent no.1 CGHS at Sector-12, R.K. Puram, Delhi on 8th January, 2016 at 1500 hours and on all subsequent dates on which he may be called along with all the original documents to give the requisite representations / clarifications in this regard. The respondent no.2 Hospital is also directed to furnish all the clarifications which may be required by the respondent no.1 CGHS in reaching a decision.

8. If the respondent no.1 CGHS is of the view that the father of the petitioner was not entitled to cashless treatment facility at the respondent no.2 Hospital or that any part of the charges of the respondent no.2 Hospital and debited to respondent no.1 CGHS are not reimbursable by respondent no.1 CGHS, the respondent no.1 CGHS to by the said date i.e. 15th February, 2016 furnish to the petitioner as well as to the respondent no.2 Hospital reasons in detail in writing therefor.

9. Needless to state that if the said charges or any part thereof are not credited by the respondent no.1 CGHS to respondent no.2 Hospital, the petitioner, without prejudice to his rights and contentions to challenge the said decision of the respondent no.1 CGHS, shall be liable for payment thereof to the respondent no.2 Hospital.

10. The petition is disposed of.

No costs.

Dasti under signature of the Court Master.

RAJIV SAHAI ENDLAW, J

JANUARY 05, 2016/‘gsr’..

W.P.(C) 12359/2015

Page 3 of 3