

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

123

CWP-13804-2022

Date of decision: 18.08.2022

**SRI GURU RAM DAS CHARITABLE HOSPITAL TRUST AND
ANR**

.....Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. A.P.S Sandhu, Advocate
for the petitioners.

Mr. H.S. Oberoi, Advocate
for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of Writ for setting aside the impugned order dated 29.06.2021 (Annexure P-10) passed by respondent No.4 whereby the petitioner No.2 has been penalized for an alleged discrepancy in raising the medical claim and further seeking setting aside of the order dated 16.05.2022 (Annexure P-16) passed by the respondents No.3 and 4 whereby the respondents have not considered the representation submitted by the petitioner against the penalty order and a direction has been given to the petitioner to deposit the penalty within a period of 05 days. A further challenge was raised to

the order dated 24.05.2022 whereby the empanelment of the petitioner No.2 under the Ayushman Scheme has been suspended.

2. Reply by way of affidavit of Tej Pratap Singh Phoolka, IAS, Chief Executive Officer, State Health Agency, Department of Health & Family Welfare, Punjab has been filed on behalf of the respondents No.2 & 3. The relevant extract of the aforesaid affidavit reads thus:

“8. That the above-mentioned Impugned Orders/Letters, as challenged by the Petitioner Hospital, were passed after following due legal procedure and after giving ample opportunities to the Petitioner Hospital to justify their stand. Hence, the above-mentioned Impugned Orders/Letters challenged by the Petitioner Hospital are good in law and are binding on the Petitioner Hospital, whereas they have an opportunity to file appeal against the said order before the chairman State health agency Punjab/ Hon'ble Health Minister Punjab which is referred in SAFU guidelines annexed above.”

3. Learned counsel appearing on behalf of the respondents No.2 and 3 further contends that the authorities are following the process contemplated in Clause VII of the Standard Operating Procedure (SOP) of the State Anti Fraud Unit. Clause VII of the said SOP reads thus:

“7. Process for Disciplinary Proceedings and De-Empanelment:

- i) De-empanelment process shall be initiated by SAFU Vertical after conducting proper disciplinary proceedings against empaneled hospital on establishment of default/fraud and issuance of such orders by the SAFU Committee.*
- ii) Hospital can contest the action of de-empanelment*

by SAFU Committee with DGRC, if hospital is aggrieved with actions of DGRC the former can approach the SGRC to review the de-empanelment.”

4. By making a reference to the aforesaid Clause and in light of the affidavit so sworn by the Chief Executive Officer on behalf of respondents No.2 & 3, learned counsel has contended that even in relation to the matters pertaining to suspension and/or imposition of penalty, the SOP qua de-empanelment is being followed and the remedy of appeal is followed. He further contends that aforesaid extension has been done only to enlarge the principles of fairness and to give complete opportunity to the person aggrieved to agitate his claims. He further contends that in the event of the appeal being filed by the petitioner against the said orders before the Chairman, State Health Agency and/or the Hon'ble Health Minister, Punjab, the same shall be decided in accordance with law.

5. Learned counsel appearing on behalf of the petitioner, however, prays that the petitioner's Hospital is ready and willing to deposit the penalty within a period of 10 days and that in the event of the petitioner depositing the penalty so levied against them, the order of suspension ought to be stayed.

6. Since the matter is being sent to the Appellate Authority to adjudicate the appeal, it would not be appropriate for this Court to pass any interim order. It is however observed that in the event the petitioner deposits the penalty so assessed subject to the outcome of the appeal an expeditious decision on the application qua cancellation of the

suspension of the empanelment order of the petitioner’s Hospital shall be taken by the appropriate authority expeditiously within a period of 30 days.

The petition is disposed off.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 18, 2022

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No