

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3140 OF 2025

Navodaya Vidyalaya Samiti,]
B-15, Sector 62, Institutional Area,]
Noida 201 309.] .. Petitioner

Versus

1. Navodaya Vidyalaya Samiti]
NVS Retired Employees Association]
through its President Shri A. B. Bhardwaj,]
Office at E-3-601, Daffodils Society,]
Pimpri Chinchwad, Pune-410027]
having registration No.MAH/1326/2021]
2. Rajesh Kumar Gupta]
Flat No. 4B/502, Kalpataru Estate, Phase 2,]
Pimple Gurav Pimpri Chinchwad, Pune]
3. K. Sivaraman, Son of Late K.G. Nair]
Aged 61 years, Retired as Asstt. Commissioner]
(Admn) Navodaya Vidyalaya Samiti, Regional]
Office, Pune, Residing at 4-D-902,Phase-2,]
Kalpataru,Pimple Gaurav, Jawalkar Nagar,]
Pune 410 61]
4. Union of India through the Secretary,]
Ministry of Education, Shastri Bhavan,]
New Delhi 110 001.]..Respondents

Ms. Neeta Masurkar, Advocate for the Petitioner.

Mr. Rahul G. Walia with Mr. Vilas B. Tapkir, Advocates for Respondent Nos.1 and 3.

Mr. Aniruddha A. Garge, Advocate for Respondent No.4.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.**

DATE : 16TH SEPTEMBER 2025.

Per, Gautam A. Ankhad, J.

Navodaya Vidyalaya Samiti (for short, “**NVS**”), the petitioner, is aggrieved by order dated 10th May 2024 passed by the Central Administrative Tribunal (for short, Tribunal), by which, the

petitioner has been directed to implement and extend the Central Government Health Scheme (for short, “CGHS”) to its employees after their retirement. The petitioner is also aggrieved by the subsequent order of the Tribunal dated 5th December 2024 dismissing its application for extension of time for implementation of the 10th May 2024 order. The challenge to both the orders is on the ground of financial and policy constraints in implementing the Tribunal’s directions.

2. The brief facts leading to the filing of this Writ Petition are:

- (a) On 1st July 2014, at the 33rd meeting of the Executive Committee of the NVS, it was resolved to confirm the decisions taken earlier by the Finance Committee (at its 55th and 63rd meetings) regarding implementation and extension of the CGHS to the retired employees.
- (b) Since there was no progress, one Shri K. Sivaraman filed Original Application No. 2087 of 2019 under Section 19 of the Administrative Tribunals Act, 1985, seeking extension of medical facilities to retired employees of the NVS at par with serving employees. Respondent No. 1 also filed a similar application, i.e, Original Application No. 538 of 2022 before the Tribunal, seeking extension and implementation of the CGHS for retired employees of the NVS and for enforcement of the decisions recorded in the minutes of the 33rd, 55th and 63rd meetings of the Committees of the NVS.
- (c) On 26th August 2022, the NVS addressed a letter to the Under Secretary, Ministry of Education, Government of India, forwarding a proposal to extend

CGHS facilities to its employees, both serving and retired.

- (d) In the meanwhile, since common questions of law and fact were involved, both matters were clubbed and heard together. By a common order of 10th May 2024 (for short, “Impugned Judgment”) the Tribunal allowed the applications and directed the NVS to implement its approved agenda and extend the CGHS to the retired employees within a period of four months. The relevant extract of the Impugned Judgment reads as under :—

“15. I have considered the rival submissions and the documents on record. To my mind, this is not an adversarial litigation. Respondents are aware of the issue and have attempted to get it resolved. The minutes of the meetings of the Executive and the Finance Committee show that respondents were exploring various possibilities to formulate a scheme to grant medical facilities to retired employees. On one occasion, the highest executive committee of NVS had approved the agenda to extend medical facilities to retired employees also. On the part of the applicants, they are willing to contribute and subscribe to the CGHS scheme as per the rules.

16. In view of the law as laid down in Shiva Kant Jha (supra) and orders passed by the co-ordinate benches referred to above in detail, the Original Applicants are disposed of with a direction to respondents to implement their own approved agenda and to implement the same, work out the modalities and formulate the scheme and rules to extend CGHS scheme to the retired employees. This exercise be done by the respondents within 4 months from the date of receipt of a certified copy of this order. Pending MAs, if any, stand closed. No costs.”

- (e) It appears that the NVS took up the matter with the Ministry of Education and the Ministry of Finance for implementation of the Impugned Judgment. On 17th May 2024, the Department of Expenditure, Ministry of Finance rejected the proposal of NVS citing policy

constraints. It requested the Ministry of Education to suggest to the NVS to explore the feasibility for adopting group health insurance scheme from open market (at page 83/83A of the paperbook).

- (f) On 28th May 2024, the NVS by its letter forwarded a copy of the Tribunal's order to the Under Secretary (NVS), Department of School Education & Literacy, Ministry of Education, New Delhi, seeking urgent approval for extension of CGHS facilities to its employees, so as to enable compliance with the Tribunal's directions. On 21st August 2024, the Ministry of Education rejected the proposal on policy grounds. The NVS was requested to re-examine the proposal on the lines suggested by the Ministry of Finance and send a revised proposal of adopting a Group Health Insurance Scheme from the open market. The NVS was further directed to place the Ministry's communication of 17th May 2024 before the Tribunal by way of an affidavit.
- (g) Accordingly, the NVS initiated the process and approached several insurance companies providing group insurance schemes in line with the above directions. The NVS also filed Miscellaneous Application No. 1159 of 2024 seeking extension of time to explore a viable policy for implementing the Tribunal's order dated 10th May 2024. Along with it, Miscellaneous Application No. 1161 of 2024 was filed for condonation of delay in filing Miscellaneous Application No. 1159 of 2024. By a common order dated 5th December 2024, the Tribunal dismissed

both the Miscellaneous Applications on the ground that the Tribunal has become *functus officio* and the respondents have no cogent grounds in support of the applications. The said order is also under challenge in the present petition.

Submissions of the petitioner-NVS

3. Ms. Neeta Masurkar, learned counsel for the NVS relied upon the correspondence exchanged between the NVS and the Government and submitted that the Tribunal erred in directing extension of the CGHS facilities to all retired employees of the NVS. It was submitted that the Committees of the NVS cannot unilaterally adopt or extend any financial benefit without prior approval of the Ministry of Education and Ministry of Finance. These Ministries were not parties before the Tribunal in a matter, where financial implications are involved. The proposal to extend CGHS facilities to retired employees has been declined on account of policy constraints. Instead of CGHS, the NVS has explored the option of providing a Group Health Insurance Scheme through the open market and has already forwarded a revised proposal, which is presently under consideration. It was further submitted that the NVS, being an autonomous organization under Ministry of Education, its employees cannot claim parity with employees of other Central Government organizations. The Central Services (Medical Attendance) Rules (for short, “CS (MA) Rules”) do not apply to retired government officials. Hence, this writ petition impugning the Tribunal's judgment dated 10th May 2024 and the subsequent order dated 5th December 2024 ought to be allowed.

4. Mr. Aniruddha A. Garge, learned counsel for respondent no.4 adopted the submissions advanced on behalf of the NVS.

Submissions of the respondents

5. Mr. Rahul G. Walia, learned counsel for respondent nos. 1 and 3, submitted that several organizations under the Union of India have extended CGHS benefits to their retired employees, one such being the Kendriya Vidyalaya. He referred to the list of organizations mentioned at internal page 6 of the impugned order dated 10th May 2024. He contended that the Executive Committee of the NVS had only affirmed and approved the decision of its Finance Committee, and once the Original Applications were filed, the NVS itself had initiated steps towards implementation of the Tribunal's directions. Even thereafter, the NVS sought extension of time for such implementation. It is therefore impermissible for the NVS to now resile from its stand by placing reliance on subsequent communications with the Ministry of Education or the Ministry of Finance and citing policy constraints to deny respondent nos. 1 and 3 the benefits of the CGHS.

6. He further submitted that the objectives of the NVS and those of Kendriya Vidyalaya are identical, and there can be no justification for differential treatment in the applicability of the CGHS, particularly when both are under the administrative control of the Ministry of Education. Reliance was placed on the judgment of the Hon'ble Supreme Court in "*Shiva Kant Jha v. Union of India*" W.P. (Civil) No.694 of 2015, particularly paragraphs 13 to 15, in support of these submissions. Accordingly, he submitted that the present petition ought to be dismissed.

Analysis and Reasons

7. The short question that arises for our consideration is whether the retired employees of the NVS are entitled to claim the

benefits of CGHS, similar to what the Government provides to some other educational institutions.

8. We have heard learned counsel for the parties and perused the record. We are unable to accept the submissions advanced on behalf of the NVS. We find no perversity or infirmity in the impugned orders of the Tribunal. The order is well reasoned and based on the judgment of the Hon'ble Supreme Court in "*Shiva Kant Jha*" (*supra*) and the orders passed by the co-ordinate benches of the Tribunal.

9. The NVS is an autonomous organization under the Department of Education and Literacy, Ministry of Education, Government of India. It is fully funded and administered by the Government of India. The Education Minister is the Chairman of the Executive Committee of the NVS. The NVS controls and manages schools named, Jawahar Navodaya Vidyalaya all over India. These schools predominantly in rural areas, were established to impart good quality education to children, irrespective of their socio-economic backgrounds. There is no doubt that the NVS is a "State" within the meaning of Article 12 of the Constitution of India as per the ratio in the judgment of the Hon'ble Supreme Court in "*Ajay Hasia v. Khalid Mujib Sehravardi*" (1981) 1 SCC 722. The NVS is, therefore, enjoined with a duty to act fairly and reasonably. It is bound to fulfill the constitutional scheme contained in Articles 14 and 21 thereof.

10. It is well-settled that the right to health and medical care is an integral facet of Article 21 of the Constitution of India. It is the constitutional obligation of the State to ensure measures that safeguards the health of its employees, both during service and upon retirement. The serving employees of the NVS are covered

under the CS (MA) Rules, where the reimbursement of expenses is restricted to the maximum admissible limits as per CGHS rates. Since the CS (MA) Rules are not applicable to the retired employees, they face considerable hardship in meeting medical expenses during the advance stages of their life. The need for medical facilities becomes even more pressing post-retirement, when the employee no longer possesses an earning capacity. Having dedicated their productive years in service of the NVS, the employees are entitled to live with dignity post-retirement. Extending the CGHS to retired employees would not only fulfill the State's constitutional mandate but also uphold their dignity and secure their quality of life. In *“Consumer Education & Research Centre v. Union of India”* (1995) 3 SCC 42, the Supreme Court categorically held that the right to health and medical care is a fundamental right of workers under Article 21, read with Articles 39(e), 41 and 43. The relevant portion reads as under:

“24. Therefore, it must be held that the right to health and medical care is a fundamental right under Article 21 read with Articles 39(e), 41 and 43 of the Constitution and make the life of the workman meaningful and purposeful with dignity of person. Right to life includes protection of the health and strength of the worker and is a minimum requirement to enable a person to live with human dignity. The State, be it Union or State Government or an industry, public or private, is enjoined to take all such actions which will promote health, strength and vigour of the workman during the period of employment and leisure and health even after retirement as basic essentials to live the life with health and happiness. The health and strength of the worker is an integral facet of right to life. Denial thereof denudes the workman the finer facets of life violating Article 21. The right to human dignity, development of personality, social protection, right to rest and leisure are fundamental human rights to a workman assured by the Charter of Human Rights, in the Preamble and Articles 38 and 39 of the Constitution. Facilities for medical care and health to prevent sickness ensures stable manpower for economic development and would generate devotion to duty and dedication to give the workers' best physically as well as mentally in production of goods or services. Health of the worker enables him to enjoy the fruits of his labour, keeping him physically fit and mentally alert for leading a successful life, economically, socially and culturally. Medical facilities to protect the health of the

workers are, therefore, the fundamental and human rights to the workmen.

25. *Therefore, we hold that right to health, medical aid to protect the health and vigour of a worker while in service or post-retirement is a fundamental right under Article 21, read with Articles 39(e), 41, 43, 48-A and all related articles and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of person."*

11. Similarly, in "*State of Punjab v. Mohinder Singh Chawla*" (1997) 2 SCC 83, it was reiterated that the right to health is an essential part of the right to life, and the Government has a constitutional obligation to provide health facilities. We may also refer to "*Navtej Singh Johar v. Union of India*" (2018) 10 SCC 1, wherein the Hon'ble Supreme Court held as under:

"483. *The right to health is understood to be indispensable to a life of dignity and well-being, and includes, for instance, the right to emergency medical care and the right to the maintenance and improvement of public health.*

484. *It would be useful to refer to judgments of this Court which have recognised the right to health:*

484.1. *In Bandhua Mukti Morcha v. Union of India, a three-Judge Bench identified the right to health within the right to life and dignity. In doing so, this Court drew on the Directive Principles of State Policy : (SCC p. 183, para 10)*

"10. ... *It is the fundamental right of every one in this country ... to live with human dignity, free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity and no State— neither the Central Government nor any State Government—has the right to take any action which will deprive a person of the enjoyment of these basic essentials."*

12. It is an admitted position that retired employees of several Government organizations, including the Kendriya Vidyalaya

Sangathan functioning under the aegis of the Ministry of Education, have been extended the benefit of the CGHS. In the usual course, matters of equation of posts and the claim of similar benefits being complex matters are generally left to the executive and expert bodies. However, this is a matter which pertains to a parity between employees under the same Ministry, but under different organizations essentially carrying out the same function of imparting education to children all across India. Such employees cannot be left remediless, if they are unjustly treated by arbitrary State action or inaction. Any attempt to differentiate between the employees of the NVS and those of other organizations under the Ministry of Education, such as the Kendriya Vidyalaya Sangathan, would amount to discrimination and fall foul of Article 14 of the Constitution of India. The right to health of the retired employees of the NVS cannot be denied on the mere *ipse dixit* of the NVS. Notably, no explanation has been offered as to how the benefit stands extended to retired employees of other Central Government organizations but is being withheld from those of the NVS. We therefore find the submissions advanced on behalf of the NVS wholly lacking in merit.

13. In our view, the members of respondent no.1 cannot be treated differently and not granted post-retiral benefits as are available to the employees of Kendriya Vidyalaya. There is no real reason, rationale or basis for this differentiation and denial of similar retiral facilities to the employees of the NVS shall amount to discrimination. The NVS being a State cannot avoid its constitutional obligations and discriminate its employees due to financial constraints. Furthermore, the records clearly indicate that there was no serious objection by the NVS before the Tribunal. This is also evident from Miscellaneous Application No.

1159 of 2024 filed by the NVS wherein it expressly sought extension of time to implement the Tribunal's order dated 10th May 2024. The NVS in its letter of 28th May 2024 expressly calls upon the Ministry of Education to implement the Tribunal's Order of 10th May 2024, the relevant portions of which read as under :

- "2. The O.A. has been disposed off by the Hon'ble Court of in view of the law as laid down in Shiva Kant Jha (supra) and orders passed by the co-ordinate benches referred to above in the Order dated 10.05.2024 of the Hobbie CAT.*
- 3. As per the rules laid down by the Hon'ble Apex court Government employees are entitled to get the benefits of medical benefits whether during service or after retirement. The question regarding applicability of the term 'Government Employee' for the employees of Navodaya Vidyalaya Samiti has neither raised before the Hon'ble CAT nor discussed in the case. However, Hon'ble CAT has very categorically ordered to work out the modalities and formulate the scheme and rules to extend CGHS Scheme to the retired employees of NVS.*
- 4. NVS has already worked out the modalities and submitted exhaustive proposal to the Ministry of Education for extension of CGHS Scheme to the serving and retired employees of NVS vide this office letter dated 26.08.2022 and the queries of the Ministry of Education Ministry of Finance were replied vide letter dated 03.05.2023, 02.06.2023 and 05.07.2023. Further, vide this office letter dated 12.04.2024, a copy of the 155th report of the Parliamentary Standing Committee on Health and Family Welfare whereunder it has been recommended to include the employees of NVS as CGHS beneficiaries was forwarded to the MoE with a request to consider extending of CGHS facilities to the serving & retired employees of NVS:*
- 5. In view of the Hon'ble CAT order dated 10.05.2024, it is requested to approve the proposal of NVS for extension of CGHS facilities to the serving & retired employees of NVS on top priority so that the same can be implemented within 04 months period as directed by the Hon'ble CAT in the aforesaid case so as to avoid any contempt of the court."*

14. It is, therefore, evident that the NVS in fact sought to enforce and implement the impugned judgment directing it to extend the benefits of the CGHS to its retired employees. This is consistent with its contemporaneous stand of internally agreeing and accepting the proposal to extend the benefits to the retired employees. In our view, the Tribunal's orders have attained finality once the Miscellaneous Applications were filed seeking

extension of time to implement the Impugned Judgment. It is not open to the NVS to approbate and reprobate. Having already taken steps towards implementation, the NVS cannot now resile from its stand by raising the specious plea of policy or financial constraints. The so-called constraints are an after-thought and an attempt to overreach the judicial order by an administrative action. This cannot be done.

15. For the aforesaid reasons, we do not find any merits in Writ Petition No.3140 of 2025 which is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]