



**237-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-19232-2024

Date of decision: 05.05.2026

Bhagirath Khichi

....Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Daljeet Singh Virk, Advocate
for the petitioner.

Mr. Puneet Jindal, Senior Advocate with
Ms. Malvi Aggarwal, Advocate and
Mr. Ashish Yadav, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to decide the legal notice dated 03.07.2024 (Annexure P-4) and to pay medical reimbursement of bills and consider new bills which have also been rejected vide memo No.Ch.47/GE-355 dated 16.11.2023 (Annexure P-2) by the respondents.

2. Learned senior counsel representing the respondents, at the outset, submits that all admissible charges in terms of the policy dated 14.07.2020 which is applicable to the respondent-Nigam have been made and in case the hospital has charged any other amount under consultation fees and other heads beyond the package rate, the hospital is liable to return the same to the petitioner.

2.2 Further, there is no denial to the fact that the petitioner got



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admitted in the Fortis Memorial Research Institute, Gurugram, as he was suffering from serious conditions of bone marrow cancer. The petitioner has taken the treatment in an emergency situation in order to preserve his life. As such, the case of the petitioner is squarely covered by the law laid down by the Hon'ble Supreme Court in 'Shiv Kant Jha Vs. Union of India' Writ Petition (Civil) No.694 of 2015 and the judgment passed by this Court in 'Parveen Kumar Vs. State of Haryana and others' CWP No.30214 of 2022 decided on 26.09.2024.

3. The claim for medical reimbursement ought not to be dismissed merely because the claimant underwent treatment 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 claimant in an emergency, on the advice of a doctor based on his medical record, in order to save his life, 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.

4. 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...”



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5. Further, as regards the issue of taking treatment from a non-empanelled hospital, which was necessitated at that moment to save the life of the petitioner, who was diagnosed with a serious condition of bone marrow cancer, the test of essentiality and emergency stands satisfied in the facts of the present case.

6. Accordingly, the present civil writ petition is allowed. The respondents are directed to release the entire amount incurred on the treatment of the petitioner. However, the respondents shall be at liberty to have the bills examined and in case it is found that the private hospital has inflated the bill by adding consultation charges or other charges already included in the package rate, they may take appropriate action in accordance with law including recovery of the excess amount by approaching the Director General, Health Services, Haryana. The Director General, Health Services, Haryana shall also be at liberty to pass appropriate orders, including cancellation of the licence of any super-speciality hospital, in accordance with law, if found in violation of the applicable policy.

(HARPREET SINGH BRAR)
JUDGE

05.05.2026
Neha

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