



2026:KER:73842

CR**IN THE HIGH COURT OF KERALA AT ERNAKULAM****PRESENT****THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN****&****THE HONOURABLE MR. JUSTICE BASANT BALAJI****THURSDAY, THE 24TH DAY OF SEPTEMBER 2026 / 2ND ASWINA, 1948****WA NO. 682 OF 2025****AGAINST THE JUDGMENT DATED 17.02.2025 IN WP(C) NO.21622 OF
2024 OF HIGH COURT OF KERALA****APPELLANTS/RESPONDENTS:**

- 1 FOOD CORPORATION OF INDIA, REPRESENTED BY ITS
EXECUTIVE DIRECTOR, 3 HADDOWS ROAD, CHENNAI,
PIN - 600006**
- 2 THE GENERAL MANAGER, KERALA, FOOD CORPORATION
OF INDIA, REGIONAL OFFICE, KESAVADASAPURAM,
THIRUVANANTHAPURAM, PIN - 695004**
- 3 THE DIVISIONAL MANAGER, FOOD CORPORATION OF
INDIA, DIVISIONAL OFFICE, THRISSUR,
PIN - 678371**

BY ADV SRI.JOSE KURIAKOSE - SC, FCI**RESPONDENT/PETITIONER:****GOVINDAN P., AGED 72 YEARS, ASST. GRADE I
DEPOT (RETD.) FCI, RESIDING AT PONDHIYEDATH
HOUSE, THALAKOTTUKARA P.O., TRICHUR DISTRICT,
PIN - 680501****BY ADV - SRI. P.M MOHAMMED SHIRAZ****THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
24.09.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



2026:KER:73842

WA 682/25

2

CR**JUDGMENT**Devan Ramachandran, J.

The Food Corporation of India (FCI) challenges the judgment of the learned Single Judge of this Court because, it has found that the respondent entitled to “Special Life Time Ceiling”, under Ext.P1 – FCI Post – Retirement Medical Scheme.

2. As per the admitted facts, the respondent retired from the services of the FCI as Assistant – Grade I; and was then enrolled as a member of the Post-Retirement Medical Scheme (PRMS). He says that he was paying regular subscription to the “PRMS”; and that, while so, he was diagnosed to be suffering from malignant “Papillary Urothelial Carcinoma”; thus requiring urgent medical attention and intervention. He submits that he had to undergo surgery from the “Aster Medicity Hospital” (Aster) – admitting that it is not a hospital empanelled under the Central Government Health Scheme (CGHS), on which the “PRMS” is



2026:KER:73842

WA 682/25

3

edified – and that the surgery was done on 26.12.2023, with a total cost incurred to a sum of Rs.3,64,126/-. He alleges that, when he applied for the reimbursement of the said amount under the “PRMS”, it was rejected, citing the reason that the surgery was done in a “Non-CGHS empanelled hospital.”

3. The respondent challenged the afore communication of the FCI, producing it as Ext.P5, through the writ petition; and the same has now been allowed.

4. The FCI is thus in appeal.

5. Sri.Jose Kuriakose – learned counsel for the appellants, submitted that, going by “PRMS”, the cost of any treatment would be reimbursed only if it is done at one of the empanelled hospitals and not otherwise. He then took us through the relevant portions of the “PRMS”, asserting that the “Additional Special Life Time Ceiling” will be eligible only if the treatment is done at a Government hospital; or an FCI empanelled hospital; or such other hospital of national repute, as may be



2026:KER:73842

WA 682/25

4

notified by the CMD of the FCI for this purpose. He argued that “Aster” is not one among these categories; and hence that his clients were fully justified in having issued Ext.P5.

6. Sri.Jose Kuriakose, thereafter, contended that the respondent did not have to go through an emergency surgery, but was, in fact, an elective one, as evident from his own correspondence with the FCI - namely Exts.P3 and P4, as also Ext.R1(a) produced by his client. He impressed upon us that, through Ext.R1(a), the respondent informed the FCI that he was consulting the “Amrita Hospital”, Kochi (‘Amrita’), which was one of the empanelled hospitals, and that he has been advised a surgery there; but then that he issued Ext.P3 letter on the same day – namely 01.12.2023 - saying that there would be delay for the surgery to be conducted by the said hospital, and hence that he intends to do it at the “Aster”. He then referred to Ext.P4, which is the subsequent letter of the respondent dated 13.01.2024, wherein, he reiterates the afore, and requesting that he be



2026:KER:73842

WA 682/25

5

allowed to undergo surgery at “Aster”.

7. Sri.Jose Kuriakose contended that the afore three documents, as also Ext.R1(b), would establish that there was no emergency for the surgery; and that the respondent could have continued his treatment at “Amrita”, as was advised by them, which is evident from their certificates, which are also part of Ext.R1(a). He predicated that, therefore, the learned Single Judge ought not to have allowed the writ petition; and prayed that this appeal be allowed.

8. Sri.P.M.Mohammed Shiraz – learned counsel for the respondent, in response, submitted that his client was going through a life-threatening disease and confronted a situation where he apprehended that the cancer would spread fast and wide. He submitted that, since his client was in a very precarious mental condition on account of the disease, he was searching for options to have the treatment at the earliest; and that though “Amrita” had initially told him that they would subject him to a



2026:KER:73842

WA 682/25

6

robotic surgery, the prospect of having to wait for several weeks for such, created panic; and that he, therefore, went to “Aster”, which offered it almost immediately. He explained that, when his client was going through a situation when he feared for his life, it is justified that he could not adopt reason or logical thinking, as now required by the FCI, to wait and assess the alternatives; but acted as any human being would do in the circumstances, by choosing that treatment which was expedient and effective.

9. Sri.P.M.Mohammed Shiraz relied upon the judgment of the Hon'ble Supreme Court in **Shiva Kant Jha v. Union of India** [(2018) 16 SCC 187], to show us that it renders it without doubt, that the ultimate decision as to how patients should be treated rests with their doctor; and that very little scope is left to the patient, or relatives, to take a decision on such matters. He further showed us that the emphatic declaration in the said judgment is that, taking treatment in a specialty hospital by itself would not deprive a person to claim reimbursement solely on the



2026:KER:73842

WA 682/25

7

ground of the same being not included in the Government order; and asserted that this is a fit case where his client deserves relief, as has been granted by the learned Single Judge.

10. We have evaluated the rival submissions on the edifice of the various materials on record, particularly the medical documents.

11. The factum of the respondent having being suffering from “Left distal ureteric urotheliac carcinoma”, is limpid from the certificate of “Amrita”, enclosed along with Ext.R1(a); and the fact that he was advised to undergo “Left Open Radical Nephro Ureterectomy + Unilateral PLND and Left Open Distal Ureterectomy + Reimplantation + Unilateral PLND, a radical surgery” (*sic*) by the said hospital, is clear therefrom.

12. The controversy is not that the respondent was suffering from a particular disease, or that he required a specific surgical procedure; but whether this could have been done by him at the ‘Aster’ because, it was not an empanelled hospital.



2026:KER:73842

WA 682/25

8

13. In Ext.P5, the only reason given by the FCI, to deny the reimbursement claimed by the respondent, is that the treatment was availed from a ‘non-CGHS empanelled private hospital’ (sic).

14. As rightly argued by Sri.P.M.Mohammed Shiraz – learned counsel for the respondent, in **Shiva Kant Jha** (supra), the Honourable Supreme Court has made it unmistakable that, when it comes to saving of lives, or undertaking lifesaving treatment or procedures, the choice of the doctor and the treating protocols are acme. The reasoning therein is that a patient in grave emergency cannot be forced to run from hospital to hospital, verifying whether it is an empanelled or non-empanelled hospital.

15. A similar factual scenario was presented before this Court in another matter, in which we delivered judgment – reported as **Union of India and Others v. K.J.Joseph** [2026 KHC 532]. This case was in relation with a person who was also suffering from carcinoma; and interestingly, his surgery was also



2026:KER:73842

WA 682/25

9

done in ‘Aster’. The contention therein was analogous, that, since the surgery was elective and not emergent, reimbursement is not possible. This Court, taking into account all the essential facts, found in favour of the petitioner; and our views were guided by the declarations in **Shiva Kant Jha** (supra), as available in paragraph 5, 7 and 8 thereof, extracted below for ease of reference:

5) *Per contra*, learned counsel for the respondent while refuting the claim of the petitioner submitted that the case of the petitioner has been dealt with in accordance with the Circulars and Office Memorandums issued by the Ministry of Health & Family Welfare from time to time. Learned counsel further submitted that the petitioner cannot be given any special treatment beyond the terms of the circulars which would amount to violation thereof and would lead to arbitrariness and discrimination *qua* a large number of such like beneficiaries.

7) Union of India-the respondent herein, while complying with the order passed by this Court dated 11.04.2016 filed an affidavit describing the in-house procedure to be followed in dealing with the claims under CGHS, the remedy/appeal available in dealing with the claims and also the nature of claims pending in respect of card holders. The detailed procedure which is followed for the purpose of medical reimbursement claims of CGHS beneficiaries have been set out in Circular dated 14.11.2011 and further supplemented by the Instructions dated 11.12.2012. The steps provided in the said



2026:KER:73842

WA 682/25

10

procedure are given hereinbelow.

**Procedure for Medical Reimbursement Claim
(MRC) in Central Government Health Scheme (CGHS)**

- a) The patient or beneficiary has to approach the in-charge of the wellness centre where he/she is registered.
- b) That after getting all the documents required for MRC from the beneficiary, CMO in-charge submits the same online to CMO (R&H) of the respective Zonal Office and also send one hard copy through official dak to the respective Zonal Office CMO (R&H) who process the MRC as per CGHS rates.
- c) The CMO (R&H) processes the MRC as per CGHS Rates. If CGHS rates are not available. reimbursement is considered at AllMS rates. And if also not available, the AIIMS rates are reimbursement is made as per actual rates.
- d) The CMO (R&H) gets the approval of Additional Director (AD) of the respective Zonal Office for the MRC. Then approved amount of MRC is sent as bill to the Pay & Accounts Office (PAO) CGHS Rajinder Nagar.
- e) Pay & Accounts Office credits the approved amount of MRC in the account of beneficiary through Electronic Clearing System (ECS).

The procedure of appeal/remedy in CGHS regarding MRC is given hereunder:-

- (a) If the beneficiary is not satisfied with the claim, he can request in writing to the Competent Authority in CGHS. The request is then forwarded to the higher authority by the respective Zonal Office for consideration.
- (b) If the higher authority considers it necessary to have the opinion of the



2026:KER:73842

WA 682/25

11

specialist of concerned speciality, a Special Technical Committee (STC) meeting is held.

(c) On the basis of the recommendation of the Special Technical Committee, the approval of the competent authority is taken and the approved amount is paid to the beneficiary by PAO.

8) Union of India, by filing an affidavit before this Court, submitted that most of the claims are reimbursed only through the CGHS sources as per the package rates of CGHS. However, there are few such cases received occasionally where reimbursement is done from two sources i.e. from CGHS and from the insurance companies. Such claims are first processed by insurance companies and then by the CGHS. The claim of CGHS is reimbursed as per the Office Memorandum dated 19.02.2009. It is further submitted that no such cases involving reimbursement from two sources is pending in CGHS.

16. As far as this case is concerned, there is no contest between the parties that the condition faced by the respondent was grave and even life-threatening. He initially consulted at the 'Amrita', whose doctors advised him to undergo surgery; but he says that he was asked to wait for some time, since there were other patients in the queue. He informed the FCI about this, both in Ext.R1(a) and Exts.P3 & P4, but this was not found credible by them, leading to Ext.P5. For this, they relied solely upon



2026:KER:73842

WA 682/25

12

Ext.R1(a), which is the letter of the respondent, wherein, he informs them that his surgery is proposed to be done at the ‘Amrita’, attaching the medical certificates along with.

17. Merely because the respondent informed the FCI through Ext.R1(a) in a particular manner; but then took treatment in ‘Aster’, as he had subsequently requested through Exts.P3 and P4, one cannot hold that his condition was not a life-threatening one, which required only an elective surgery. When we say this, we are fully aware of the submissions of Sri.Jose Kuriakose that Ext.R1(a) and P3 are dated the same, namely 01.12.2023; and that Ext.P3 was issued much later than Ext.R1(a).

18. We do not understand, even if the afore is true, how it could impact the request of the respondent because, as already said above, it is the nature of the disease and the urgency of the treatment which is vital, and not the inconsistency in communications that he may have committed. When the FCI does not impute that the respondent did not suffer from the disease, or



2026:KER:73842

WA 682/25

13

that he was not required to undergo a surgery as asserted, we are certain that the findings in **Shiva Kant Jha** (supra) would come to his aid fully. We notice that the learned Single Judge has also travelled on the same line.

19. Finally, as regards the reliance of the appellant on Ext.R1(b), to assert that the surgery suffered by the respondent is elective, we cannot offer any favour to it because, the respondent only says, in the said letter, that his case is highly complicated and requires second opinion before surgery. This does not mean, by any stretch of reasoning, that the surgery was not urgent. As explained by Sri.Mohammed Shiraz, the respondent may have been scared, and hence wanted second opinion before undergoing the surgery. This is normal human behaviour and response, in a situation where fear and apprehension clouds reasoning and mathematically perfect logical analysis.

20. That being said, we must record that our observations in this judgment and the grant of relief to the respondent is solely



2026:KER:73842

WA 682/25

14

in the peculiar circumstances presented. This is because, as has been declared by the Honourable Supreme Court in **Shiva Kant Jha** (supra), every case has to be examined on its own facts, and there cannot be a standardized assessment.

In the afore circumstances, we dismiss this Appeal, confirming the views, holdings and directions of the learned Single Judge.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

Sd/-

BASANT BALAJI

JUDGE

RR