



WP(C) NO. 380 OF 2023

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2026:KER:8298

## IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

FRIDAY, THE 30<sup>TH</sup> DAY OF JANUARY 2026 / 10TH MAGHA, 1947WP(C) NO. 380 OF 2023PETITIONER:

YUSUFF A.M., AGED 52 YEARS,  
 S/O MOHAMMED, HSST ENGLISH, GOVERNMENT HIGHER SECONDARY  
 SCHOOL, ALAMELLUR, PALAKKAD - 678 601, RESIDING AT ACHIPRA  
 HOUSE, BHEEMANAD P.O, ALANALLUR (VIA), PALAKKAD.

BY ADVS.  
 SRI. P. NANDAKUMAR  
 SMT. AMRUTHA SANJEEV  
 SHRI. VIVEK VIJAYAKUMAR

RESPONDENTS:

- 1 STATE OF KERALA,  
 REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,  
 GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,  
 THIRUVANANTHAPURAM, PIN - 695001.
- 2 THE SECRETARY TO GOVERNMENT  
 HEALTH AND FAMILY WELFARE DEPARTMENT, GOVERNMENT  
 SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001.
- 3 THE DIRECTOR OF HIGHER SECONDARY EDUCATION  
 DIRECTORATE OF HIGHER SECONDARY EDUCATION, HOUSING BOARD  
 BUILDINGS, THIRUVANANTHAPURAM, PIN - 695001.
- 4 THE DIRECTOR OF HEALTH SERVICES  
 DIRECTORATE OF HEALTH SERVICES, GENERAL HOSPITAL JUNCTION,  
 THIRUVANANTHAPURAM, PIN - 695035.

BY SRI. SMT SYLAJA S L, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30.01.2026,  
 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**'C.R.'****JUDGMENT**

The petitioner, working as a teacher in the Government Higher Secondary School, Alamellur, in Palakkad District, has approached this Court pointing out the predicament faced by him with reference to the refusal on the part of the Government in reimbursing the treatment charges expended for the treatment of his daughter, who was diagnosed with a rare disease – Adolescent Idiopathic Scoliosis- Type 6.

2. Heard Smt.Amrutha Sanjeev, the learned counsel for the petitioner, as well as Smt. Sylaja S.L., the learned Government Pleader.

3. As already noticed, the petitioner's daughter was suffering from a rare disease. The afore disease is stated to be one that progresses rapidly, and if not treated in the appropriate stage, would lead to a situation where the patient would have to lead the balance of her life with the assistance of others. It is in such circumstances that the petitioner submitted Ext.P4 before the



Government, pointing out that treatment for the afore disease was not available in Kerala and therefore, upon enquiry, he came to know that there is treatment available in a hospital at Coimbatore and hence, seeking sanction for carrying out the afore treatment through the said hospital with the hope that the Government would reimburse the charges. The application filed as above was forwarded to the Government. In the meantime, treatment was also carried out by the petitioner in the year 2015 since, as noticed earlier, the petitioner or his daughter was not in a position to wait till the Government took a decision in the matter. The petitioner again submitted Ext.P7 dated 30.06.2017, repeating that there is no treatment facility available in the Government hospitals in Kerala, and the treatment is being carried out through a hospital at Coimbatore. Ultimately, by Ext.P9, the Government informed the 3<sup>rd</sup> respondent, as under:

"I am to invite your attention to the reference cited and to inform you that Government have tentatively decided to accord ex post facto sanction for the Scoliosis correction, infection at fusion site treatment of Kumari Shimna A D/o Sri. Yusuff. A.M Higher Secondary School Teacher (English) GHSS, Aliparamba, Malappuram at Ganga Medical Centre,



Coimbature as a special case in relaxation of existing KGSMA Rules. In the above circumstances, I am to forward herewith the application for medical reimbursement along with original bills and connected documents for retransmitting the same with the verification report of the Director of Health Services regarding the admissible amount at Government rate as per clause of the Circular No.107/2014/Fin dated 18.12.2014."

4. Even thereafter, by Ext.P11, the application filed by the petitioner came to be returned to him, since according to the Government, the treatment was carried out through a non-empanelled private hospital, outside Kerala. A Circular dated 12.06.2020 was also relied upon, as per which, taking into account the financial issues faced by the Government, a decision was taken not to provide reimbursement facilities where treatment was carried out in private hospitals. Through Ext.P14, a subsequent request made by the petitioner also came to be rejected for the very same reasons.

5. I have considered the submissions made across the Bar as well as the connected records.



## 6. In **Daily Rated Casual Labour v. Union of India**

**[(1988) 1 SCC 122]**, the Apex Court held that "the Government should be a model employer".

7. In **Shiva Kant Jha v. Union of India [AIR 2018 SC 1975]**, the Apex Court, considering the claim for reimbursement for medical expenses which was denied on account of the treatment being carried out in a non-empanelled hospital under the Central Government Health Scheme (CGHS), has held as under:-

"13. It is a settled position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services or Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the



ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the official of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court."

To be read along with, is the observation made by the Apex Court

in **State of Punjab v. Mohinder Singh Chawla [(1997) 2 SCC**

**83]** as under: -

"4. .... It is now settled law that right to health is integral to the right to life. Government has a constitutional obligation to provide health facilities. If the government servant has suffered an ailment which requires treatment at a specialised approved hospital and on reference whereat the government servant had undergone such treatment therein, it is but the duty of the State to bear the expenditure incurred by the government servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee. The High Court was, therefore,



right in giving direction to reimburse the expenses incurred towards room rent by the respondent during his stay in the hospital as an in-patient."

8. Similarly, a Division Bench of this Court in OP (CAT) No.50 of 2024 by judgment dated 06.08.2024, has found that treatment extended through non-empanelled hospitals requires to be reimbursed, taking note of the urgency pointed out therein and not to be rejected on pure technicalities.

9. It is with reference to the afore that the claim made by the petitioner requires to be appreciated in the case at hand.

10. This Court notices that the petitioner's daughter, as noticed earlier, is suffering from a very rare disease which requires immediate attention, but for which the daughter would have to lead her remaining life with care from others. In such circumstances, the petitioner sought prior approval from the Government by submitting Ext.P4, further pointing out that treatment facility was not available in Kerala, especially in Government Hospitals. This Court also notices the certificate at Ext.P2 issued by the District Medical Officer, Palakkad, that the facility for treating the afore disease was not available locally. In



such circumstances, I am of the opinion that the petitioner, a father, cannot be faulted for carrying out the treatment through a hospital at Coimbatore.

11. This Court also notices that in Ext.P9, the case of the petitioner and his daughter was considered sympathetically as a special case, deciding to extend the reimbursement facility with respect to a circular dated 18.12.2014. This Court further notices the communication at Ext.P10 dated 05.12.2019, as per which, the eligible reimbursement was worked out and quantified.

12. On the basis of all the above, I am of the opinion that the orders passed on the applications made by the petitioner as above through Exts.P11 and P14 require to be *set aside*. The petitioner's request for reimbursement as regards the treatment of his daughter ought to have been sympathetically considered, especially in the light of the decision taken through Ext.P9. This is especially so when there was no facility for carrying out the treatment within the State of Kerala or at least in the Government hospitals in Kerala.



In the light of all the above, I am of the opinion that the petitioner is entitled to succeed. Therefore, this writ petition would stand allowed, setting aside the orders at Exts.P11 and P14. There will be a direction to the competent among the respondents to act on the basis of Ext.P9 and effect reimbursement of the amount quantified by Ext.P10, as expeditiously as possible, at any rate, within a period of six weeks from the date of receipt of a copy of this judgment.

Sd/-

**HARISANKAR V. MENON**

AP

**JUDGE**

APPENDIX OF WP(C) NO. 380 OF 2023**PETITIONER'S EXHIBITS:**

**EXHIBIT P1** TRUE COPY OF REPRESENTATION DATED 20.05.2015 SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE MINISTER FOR HEALTH AND FAMILY WELFARE.

**EXHIBIT P2** TRUE COPY OF CERTIFICATE ISSUED BY THE DISTRICT MEDICAL OFFICER (HEALTH), PALAKKAD DATED 23.05.2015.

**EXHIBIT P3** TRUE COPY OF LETTER DATED 04.07.2015 ISSUED BY THE 2ND RESPONDENT.

**EXHIBIT P4** TRUE COPY OF LETTER DATED 12.08.2015 SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE MINISTER FOR HEALTH AND FAMILY WELFARE.

**EXHIBIT P5** TRUE COPY OF LETTER DATED 15.09.2015 ISSUED BY THE 2ND RESPONDENT.

**EXHIBIT P6** TRUE COPY OF LETTER DATED 02.05.2016 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT.

**EXHIBIT P7** TRUE COPY OF REPRESENTATION DATED 30.06.2017 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

**EXHIBIT P8** TRUE COPY OF THE RELEVANT PAGE OF THE CLAIM FORM DATED 05.12.2015 SUBMITTED BY THE PETITIONER.

**EXHIBIT P8 (A)** TRUE COPY OF THE RELEVANT PAGE OF THE CLAIM FORM DATED 02.11.2016 SUBMITTED BY THE PETITIONER.

**EXHIBIT P8 (B)** TRUE COPY OF THE RELEVANT PAGE OF THE CLAIM FORM DATED 10.01.2018 SUBMITTED BY THE PETITIONER.

**EXHIBIT P9** TRUE COPY OF LETTER DATED 10.12.2018 ISSUED BY THE 1ST RESPONDENT.

**EXHIBIT P10** TRUE COPY OF LETTER DATED 05.12.2019 ISSUED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT.



**EXHIBIT P11** TRUE COPY OF LETTER DATED 27.10.2020 ISSUED BY THE 1ST RESPONDENT.

**EXHIBIT P12** TRUE COPY OF CIRCULAR NO. 34/2020/FIN DATED 12.06.2020 ISSUED BY THE DEPARTMENT OF FINANCE.

**EXHIBIT P13** TRUE COPY OF REPRESENTATION DATED 15.02.2021 SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE MINISTER FOR HEALTH AND FAMILY WELFARE.

**EXHIBIT P14** TRUE COPY OF LETTER DATED 07.04.2022 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT.