



[2024:RJ-JD:32617]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 6221/2024

Medipulse Hospital, A Unit Of Jodhpur Health Care Pvt. Ltd.,
Having Its Address At E-4, M.i.a, Opp. Aiiims Campus, Basni,
Jodhpur 342005, Through Its Director Sh. Mayank Singhi, S/o
Sh. Shashikant Ji Singhi, Aged About 31 Years, Resident Of R-65,
Raj Angan, Nri Colony, Sector 24, Pratap Nagar, Sanganer,
Jaipur.

----Petitioner

Versus

1. Union Of India, Ministry Of Health And Family Welfare,
Central Government Health Scheme (Cghs), Through
Additional Secretary, Room No. 17 A, Nirman Bhawan,
Maulana Azad Road, New Delhi.
2. Director, Central Government Health Scheme (Cghs),
Room No. 17 A, Nirman Bhawan Maulana Azad Road, New
Delhi.
3. Additional Director, Central Government Health Scheme
(Cghs), Office Of Additional Director, Kendriya Sadan
Parisar, B Block, Ground Floor, Sector 10, Vidhyadhar
Nagar, Jaipur.
4. Manish Solanki S/o Shri Pukhraj Solanki, R/o 31, Puneet
Nagar, Behind District Hospital, Mandore.

----Respondents

For Petitioner(s) : Mr. RN Mathur, Sr. Advocate through
VC assisted by Mr. Falgun Buch
Mr. Vikas Balia, Sr. Advocate assisted
by Mr. Gopal Krishna Chhangani

For Respondent(s) : Mr. Mukesh Rajpurohit, DySG assisted
by Mr. Uttam Singh Rajpurohit

JUSTICE DINESH MEHTA**Order****06/08/2024**

1. The instant writ petition filed under Article 226 of the
Constitution of India impugns office memorandum dated
05.04.2024, whereby, the respondent No.3-Additional Director,
Central Government Health Scheme has de-empanelled, the





petitioner - Medipulse Hospital under the Central Government Health Scheme (in short 'CGHS').

2. The facts to be borne in mind for the purpose of challenge laid before this Court are, that the petitioner - Hospital was empanelled under the CGHS and an agreement dated 07.09.2019 came to be executed between the petitioner and the Central Government.

3. According to the terms of the CGHS, a Central Government employee can have his treatment at his/her own cost and later apply for reimbursement. And so far as retired employees are concerned, they can either apply for CGHS Card for cashless treatment at any empanelled hospital or bear the treatment cost and claim reimbursement later.

4. On 26.02.2024, a patient named Pukhraj Solanki, a retired Central Government employee, was admitted in the petitioner-Hospital. The son of Pukhraj Solanki had informed the hospital that his father is a retired employee and he had produced CGHS Card.

5. Be that as it may. Certain confusion/dispute arose between the family member of said patient and the petitioner - Hospital, due to which the patient wrote a complaint to the respondent no. 3 on 04.03.2024 and highlighted that the petitioner-Hospital has not taken due care and failed to provide facilities available to a pensioner. It was also alleged that the petitioner-Hospital has been pressurizing him for cash payment and copy of receipt showing payment of a sum of Rs.28,842/- has been placed on record.



6. In furtherance of the complaint so made, the respondent no.3 issued a notice dated 06.03.2024 to the petitioner-Hospital *inter-alia* eliciting its comments within a period of three days.

7. As per the submissions made by the petitioner, the Hospital never received the said show-cause notice, and straightway received the impugned order dated 05.04.2024, whereby petitioner-Hospital has been de-empanelled for a period of five years (w.e.f. 05.04.2024).

8. During the pendency of the proceedings, on 05.07.2024 this Court directed the petitioner to file a response to the order of suspension dated 05.04.2024 and the respondent – UOI was directed to take a decision, as this Court had prima-facie found the order of de-empanellment dated 05.04.2024 to be contrary to the principles of natural justice.

9. It will not be out of place to reproduce the order dated 05.07.2024 for ready reference.

"Consequent upon complaints received regarding not providing credit facility to eligible CGHS beneficiaries, Medipulse Hospital, Jodhpur has been de-empanelled under CGHS Jaipur for a period of 5 years w.e.f. 05.04.2024. The hospital shall no longer be a part of the list of CGHS empanelled hospitals/Diagnostic Centres for any purpose under CGHS.

The CGHS beneficiaries already admitted in the hospital prior to the issue of this order shall however be continued to be provided treatment at CGHS rate till completion of their treatment and their bills would be submitted to NHA portal."



10. In furtherance of the direction so issued by this Court, the petitioner-Hospital filed its reply/response on 08.07.2024. The respondent no.3 issued another show-cause notice dated 20.07.2024, which was later on withdrawn and another show-cause notice dated 23.07.2024 was issued to the petitioner-Hospital. In response to the notice dated 23.07.2024, the petitioner-Hospital has submitted a reply on 30.07.2024.

11. Mr. R.N. Mathur, learned Senior Counsel appearing for the petitioner-Hospital submitted that there is no provision under the CGHS or under the agreement executed with the petitioner providing for de-empanelling a hospital. It was argued that the order dated 05.04.2024 de-empanelling the petitioner-Hospital for a period of five years amounts to termination of the agreement and the same is *per se* illegal, arbitrary and against the principles of natural justice.

12. Learned Senior Counsel submitted that the notice, which is said to have been issued on 06.03.2024 was not received by the petitioner. It was argued that had the notice been issued and served, the respondent no.3 ought to have passed the order immediately on expiry of the period of three days or should have issued another notice. He contended that the order impugned dated 05.04.2024 despite being contrary to agreement and CGHS is liable to be quashed on the ground of non-adherence to the principles of natural justice.

13. Mr. Mukesh Rajpurohit, learned Dy. Solicitor General appearing for the respondent - Union of India submitted that the question as to whether the notice dated 06.03.2024 was served upon the petitioner-Hospital or not has lost its efficacy, as the



petitioner has been given an opportunity of post-decision hearing under the orders of this Court. He submitted that without being influenced by the order dated 05.04.2024, the respondents shall take an independent/dispassionate view of the matter.

14. Mr. Rajpurohit, submitted that as the respondent – UOI is in the process of taking decision pursuant to show-cause notice, no indulgence be granted and the petitioner-Hospital be asked to await the decision of the competent authority.

15. Heard learned counsel for the parties and perused the record.

16. It is to be noted that the petitioner has approached this Court calling the order dated 05.04.2024 in question, essentially on two counts; first violation of principles of natural justice and second, the CGHS or the agreement in question does not envisage any contingency like de-empanellment for a period of five years.

17. So far as the first issue regarding non-observance of the principles of natural justice is concerned, the same stand addressed as this Court has already directed the respondent No.3 to afford opportunity of hearing, having regard to the seriousness of the issue highlighted by the respondent - Union of India.

18. Adverting to the second ground, that there is no provision for de-empanellment that too for a period of five years, this Court is of the view that the petitioner has suffered this order for more than four months, without there being any serious lapse on its part. The respondent – UOI has failed to point out any statutory provision or stipulation in the agreement, which clothes the respondent no.3 with the power to de-empanel a hospital.

19. The writ petition is, therefore, allowed.





20. The order impugned dated 05.04.2024 de-empanelling the petitioner-Hospital for a period of five years is quashed and set aside.

21. The respondent – UOI shall forthwith allow the petitioner to function/carry on treatment under the CGHS in accordance with law.

22. So far as the proceedings against the petitioner initiated pursuant to show-cause notice dated 23.07.2024 are concerned, suffice it to observe that the respondent no.3 shall be free to take decision in accordance with law, after considering petitioner's reply/submissions.

23. Having regard to the backdrop facts and the fact that the petitioner-Hospital has been de-empanelled, the respondent no.3 is directed to provide a personal hearing to the petitioner so that it can explain its position to the authority concerned. It will be required of the respondent no.3 to intimate the date and time for appearance at least three days in advance.

24. The respondent no.3 shall pass an order without being influenced by any finding or observation made herein by this Court and pass a reasoned order under intimation to the petitioner-Hospital.

25. In case, any order prejudicial to the petitioner is passed, the petitioner shall be free to take appropriate remedy available to it under the law.

26. Stay application stands disposed of accordingly.

(DINESH MEHTA),J

321-raksha/-