

232 CWP-29626-2022 (O&M)

INDIAN MEDICAL ASSOCIATION PUNJAB AND OTHERS
V/S
STATE OF PUNJAB AND OTHERS

Present: Mr. Adityajit Singh Chadha, Advocate
for the petitioners.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Brijeshwar Singh Kanwar,
Sr. Panel Counsel for respondent No.2-SHA.

Mr. Amandeep Singh Talwar, Mr. Bomi
Patel and Mr. Varun Gupta, Advocates
for respondent No.3.

Mr. S.P. Jain, Addl. Solicitor General of India with
Ms. Gurmeet Kaur Gill, Sr. Panel Counsel for
Respondent No.4- Union of India.

CM-12636-CWP-2024

This is an application for directing the respondents to release the outstanding dues/claims of the petitioner-hospitals.

At the very outset, learned counsel for the petitioners-applicants seeks withdrawal of the present application.

Disposed of as withdrawn.

MAIN CASE

The petitioners, who are hospitals/medical institutions registered under the Ayushman Bharat Scheme, have *inter alia* approached this Court for seeking release of their pending dues.

Learned counsel for the petitioners refers to paragraph No.14 of the reply filed on behalf of the State-Health Agency, which is extracted as under:

“14. *That the Empanelled Hospitals are admitting the Patients under the aforesaid scheme and duly raising the claims of the medical expenses with the State Health Agency (SHA) i.e., Respondent no.2. That as per the record available with the State Health Agency (SHA) of the petitioners*

Hospitals, the claims raised by the Petitioners till the filling of present writ petition are as follows: -

SR. NO.	HOSPITALID	DISTRICT NAME	HOSPITAL NAME	CLAIMPAIDAMT.(RS.)		
				30TH DEC 2021 TO 5TH MARCH 2022	6TH MARCH 2022 TO 18TH DEC 2022.	30TH DEC 2021 TO 18TH DEC 2022
1	HOSP3P10675	BATHINDA	DELHIHEARTINS TITUTE&MULTISPECIALITY HOSPITAL	17,881,528	17,516,605	35,398,133
2	HOSP3P10941	MANSA	KULWANTNURSI NGHOMEANDEN DOSCOPIC SURGICALCENTRE	1,187,245	682,990	1,870,235
3	HOSP3P11108	BATHINDA	VIJAYKIDSSUPER SPECIALITYHOSPITAL	1,488,570	785,700	2,274,270
4	HOSP3P11175	BATHINDA	RAMAHOSPITAL	79,600		79,600
5	HOSP3P11538	SRIMUKTSAR SAHIB	USHABANSALNURSINGHOMEPVT LTD	2,324,500	888,500	3,213,000
6	HOSP3P11982	BATHINDA	GUPTAHOSPITAL BATHINDA	1,842,171	282,550	2,124,721
7	HOSP3P12199	SANGRUR	DRRAJIVSINGLA HOSPITAL	1,084,300	747,100	1,831,400
8	HOSP3P13265	MANSA	RAIKHYNURSING HOMEANDSURGICAL CENTRE	1,415,700	1,327,140	2,742,840
9	HOSP3P13791	AMRITSAR	NOVAMEDICITY HOSPITAL	344,605	374,512	719,117
10	HOSP3P14339	BATHINDA	BADYALMULTISPECIALITYHOSPITALANDTRAUMACENTRE	1,165,829	291,390	1,457,219
11	HOSP3P15671	BARNALA	LIFELINEMULTISPECIALITYHOSPITAL	230,200	105,000	335,200
12	HOSP3P18661	PATHANKOT	SKRHOSPITALS&TRAUMACENTRE PVT.LTD.	530,250	685,500	1,215,750
13	HOSP3P20997	AMRITSAR	NULIFEHOSPITAL	1,454,555	412,300	1,866,855
14	HOSP3P24067	SRIMUKTSAR SAHIB	SANDHUHOSPITAL	1,068,458	519,750	1,588,208
15	HOSP3P24138	LUDHIANA	PANCHAMHOSPITAL	294,975	110,400	405,375
16	HOSP3P24411	LUDHIANA	AROGYAHOSPITAL	764,770	454,960	1,219,730
17	HOSP3P25377	BATHINDA	APEXHOSPITALRAMPURA	566,100	524,600	1,090,700
18	HOSP3P25606	KAPURTHALA	AMANPREETHOSPITAL&SCANNINGCENTER	431,800	80,400	512,200

19	HOSP3P27412	BATHINDA	SIDHUNURSING HOME	572,900	314,900	887,800
20	HOSP3P28713	HOSHIARPUR	AMANHOSPITAL	1,137,185		1,137,185
21	HOSP3P34001	JALANDHAR	HPORTHOCAREHOSPITAL	2,197,065	2,438,365	4,635,430
22	HOSP3P36649	PATIALA	MEHARHOSPITAL	6,275,975	3,464,920	9,740,895
23	HOSP3P51801	JALANDHAR	AMARHOSPITAL	508,500	233,600	742,100
24	HOSP3P53909	MOGA	DELHIHEARTINSTITUTE & MULTISPECIALITYHOSPITAL	6,764,660	4,585,444	11,350,104
25	HOSP3P56191	GURDASPUR	R.P.ARORAMEDICITY	502,640	221,100	723,740
26	HOSP3P57094	MOGA	GARGHOSPITAL	913,020	2,597,400	3,510,420
27	HOSP3P57787	GURDASPUR	JCNANDAHOSPITAL	404,400		404,400
28	HOSP3P58556	SRIMUKTSARSAHIB	NEWDELHIHOSPITAL & NURSINGHOME	3,512,100	4,242,450	7,754,550
29	HOSP3P58568	FEROZEPUR	ABHHEALTHCAREPVT LTD	5,541,100	6,363,190	11,904,290
30	HOSP3P58722	SRIMUKTSARSAHIB	NEWSHYAMNARAYANHOSPITAL	1,402,400	1,298,000	2,700,400
31	HOSP3P59662	JALANDHAR	GOELKIDNEYCARE	848,937	701,360	1,550,297
32	HOSP3P60565	JALANDHAR	SHAKUNTALADEVIVIGHOSPITAL	641,231	1,310,135	1,951,366
33	HOSP3P62005	JALANDHAR	SMTSAVITRIMEMORIALMIGLANIHOSPITAL	220,800		220,800
34	HOSP3P63429	MOGA	RAJEEVHOSPITAL	776,940	104,400	881,340
35	HOSP3P63880	LUDHIANA	SHRIGURUNANKHOSPITAL	1,829,115	609,930	2,439,045
36	HOSP3P65443	LUDHIANA	MAHALMULTISPECIALITYHOSPITAL	801,820	388,810	1,190,630
37	HOSP3P65844	BATHINDA	ASHIRWADHOSPITAL	68,900	206,750	275,650
38	HOSP3P66289	PATIALA	SIMRITANURSINGHOME	3,641,201	3,957,575	7,598,776
39	HOSP3P67729	MOGA	DRGOMTIPARSADTHAPARHOSPITAL	641,600	802,000	1,443,600
40	HOSP3P68582	FARIDKOT	KATARIAMEDICALCENTERPRIVATE LIMITED	995,900	283,800	1,279,700
41	HOSP3P69756	BATHINDA	PRAGMAHOSPITAL	3,278,555		3,278,555
42	HOSP3P70154	PATIALA	VARDHMANMAHAVEERHEALTHCARE	3,793,667	2,630,505	6,424,172
43	HOSP3P71432	BATHINDA	PUNJABCANCERCARE AND MULTISPECIALTY HOSPITAL	17,311,209	14,722,311	32,033,520
44	HOSP3P84011	FARIDKOT	BIKRAMJOINT & T	143,800		143,800

			RAUMACENTRE			
45	HOSP3P84050	BATHINDA	CHAHALHOSPITAL	253,480		253,480
46	HOSP3P89499	MALERKOTLA	SINGLAMULTISPECIALITYHOSPITAL	640,720		640,720
47	HOSP3P90638	SANGRUR	SINGLASURGICALHOSPITAL	315,300	246,000	561,300
48	HOSP3P92120	BARNALA	TATHGURHOSPITAL	1,325,500	1,106,200	2,431,700
49	HOSP3P92697	LUDHIANA	UROCAREKIDNEYSTONE&SURGICALCENTRE	75,000		75,000
50	HOSP3P93201	JALANDHAR	NEWRUBYHOSPITALPVT LTD	1,975,025	3,638,242	5,613,267
51	HOSP3P93605	PATHANKOT	MAXCAREHOSPITAL	663,080	56,250	719,330
52	HOSP3P98542	MANSA	MANAVHOSPITAL	616,208	311,240	927,448
53	HOSP3P99164	RUPNAGAR	PARMARHOSPITAL	933,255	1,136,685	2,069,940
54	HOSP3P100531	PATHANKOT	AAROGYATRAUMA&LIFECARECENTRE	25,000		25,000
55	HOSP3P100707	JALANDHAR	ANKURKIDNERSPECIALITYHOSPITAL	1,607,200	1,858,495	3,465,695
56	HOSP3P100708	MOGA	GOYALHOSPITAL.ADVANCEDTRAUMAAND SUPERSPECIALITYCENTRE	474,450		474,450
57	HOSP3P100818	PATIALA	ARORAHOSPITAL	2,442,100	621,500	3,063,600
58	HOSP3P100834	BATHINDA	MAHESHWARCHILDRENHOSPITAL& VACCINATIONCENTRE	1,831,400	1,929,600	3,761,000
59	HOSP3P100997	MOGA	AASTHAHOSPITAL	203,840	42,000	245,840
60	HOSP3P102483	BATHINDA	BAJAJCHILDRENHOSPITALANDSHISHUCARECENTREBATHINDA	302,500		302,500
61	HOSP3P102568	LUDHIANA	TANEJAHOSPITAL	66,200		66,200
62	HOSP3P106341	JALANDHAR	STARSSUPERSPECIALITY	226,830		226,830
63	HOSP3P106633	LUDHIANA	SUKHVEENHOSPITAL	955,190	2,539,874	3,495,064
64	HOSP3P107614	BATHINDA	DAYALKIDNEYHOSPITAL	571,450	1,301,025	1,872,475
65	HOSP3P107658	GURDASPUR	NEWMAHAJANHOSPITAL	215,100	289,000	504,100
66	HOSP3P108630	BATHINDA	BANSALHOSPITALCANCERCENTRE	6,532,220	7,855,094	14,387,314
67	HOSP3P108941	LUDHIANA	KARANSINGLASU	780,960	702,070	1,483,030

			RGICALANDGER ENAL HOSPITAL			
68	HOSP3P112305	PATIALA	JANAKSURGICAR EANDANKURADV ANCED UROLOGYCENTR E	2,188,200	161,500	2,349,700
69	HOSP3P113022	JALANDHAR	NEWHOPESTONE &FERTILITYCLIN IC	35,000	267,500	302,500
70	HOSP3P113183	SANGRUR	AGGARWALHOSP ITAL	908,900	810,500	1,719,400
71	HOSP3P114236	LUDHIANA	JEEWANAASTHA HOSPITAL	323,300	279,000	602,300
72	HOSP3P116576	PATIALA	DRANILJITCHILD CARE	2,069,000	559,000	2,628,000
73	HOSP3P119284	JALANDHAR	AIIMSSANJIVANI HOSPITAL	995,500	397,900	1,393,400
74	HOSP3P119605	PATIALA	DARSHNIDHIHEA LTHCARE	413,000	337,500	750,500
75	HOSP3P120727	FAZILKA	DRRAJANKAKAR SCHILDRENHOS PITAL	1,609,500	1,505,800	3,115,300
76	HOSP3P121281	JALANDHAR	KAMALMULTISP ECIALITYHOSPIT AL	1,039,700		1,039,700
77	HOSP3P122345	BATHINDA	DELHICILDCAR EANDDENTALHO SPITAL	506,700	834,000	1,340,700
78	HOSP3P122382	LUDHIANA	SAPLINGHOSPIT ALFORWOMENA NDCHILDREN	205,700		205,700
79	HOSP3P123172	LUDHIANA	SHAAHOSPITALL APROSCOPICAN DA.R.T. CENTRE	170,590	47,850	218,440
80	HOSP3P123239	PATIALA	VARDAANMULTI SPECIALITY&TRA UMA CENTRE	4,547,600	5,743,115	10,290,715
81	HOSP3P123248	BATHINDA	BOMBAYGASTRO &CANCERINSTIT UTE	2,182,150	1,295,050	3,477,200
82	HOSP3P124357	BATHINDA	RAJNURSINGHO ME	27,800		27,800
83	HOSP3P126879	MOGA	DEEPAKHEARTC ENTRE	5,310,255	3,420,120	8,730,375
84	HOSP3P132246	LUDHIANA	SINGLANURSING HOME	91,200		91,200
85	HOSP3P58209	BATHINDA	SANJVININEWB ORN&CHILLDCA RE HOSPITAL			
86	HOSP3P89977	MOGA	SOODHOSPITAL MOGA			
87	HOSP3P90917	MOGA	GARGNURSINGH OME			
88	HOSP3P111714	BATHINDA	CITYHOSPITAL			

			TOTAL	144,536,879	116,558,452	261,095,331
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It is pertinent to mention here that the majority of petitioners' Hospitals are working under the trust mode and duly raising medical claims with the State Health Agency (SHA). It is further submitted that for the time period 30 December 2021 to 18 December, 2022 (date of filing writ petition) majority hefty claims amounting to Rs. Twenty-six crore ten lakh ninety-five thousand three hundred and thirty-one (Rs. 261,095,331) has been paid to the petitioner hospitals and the pending claim amount is under active consideration and will be released after claim adjudication of the same."

It is contended that notwithstanding the bills to tune of more than Rs.500 crores pending with the respondents and the liability having been acknowledged by them in the above quoted paragraph, only an amount of Rs.26 crores approximately has been released.

Learned Addl. Solicitor General of India contends that as per the Ayushman Bharat Scheme, 60% of the medical bills are to be reimbursed by the Union of India and that an amount of Rs.355.48 crores upto financial year 2023-24 has already been released by the Union of India to the State Government and that the obligation to disburse the same is on the State Health Agencies including their own component of the dues to the extent of 40%. He contends that the State has not only not released its own share but has also misutilized the share already released by the Union of India.

The State Government has chosen to adopt the reply filed by the State Health Agency. It is thus established from a perusal of the reply and by the respondents themselves acknowledging the liability of more than Rs.500 crores upto 18.12.2022, they have, however, failed to offer any explanation as to why the undisputed payment in question has not been released in favour of the petitioners-hospitals.

What is surprising is that even though a sum of more than Rs.350 crores has been claimed to be released by the Union of India, however, even the said amount, which has been received by State of Punjab/State Health Agency from Union of India, has not been disbursed and they have unlawfully retained the amount.

Counsel for the respondents-State as well as State Health Agency contend that after the filing of instant reply, they have made further release of payments in favour of the petitioners, however, they have no information in this regard. Such an oral assertion made without any instructions on record does not inspire any confidence and still needs to be verified.

Let an affidavit be filed by the State Government of Punjab giving the details of the payments that have been made against bills since 30.12.2021 to 24.09.2024 alongwith the date on which such payment was released, within a period of two weeks from today.

The salaries of Kumar Rahul, IAS, Principal Secretary, Department of Health, Ms. Babita, Chief Executive Officer, Mr. Deepak, Director and Ms. Sharanjit Kaur, Deputy Director, State Health Agency, Department of Health and Family Welfare, Punjab shall remain attached till the next date of hearing.

This Court also tentatively records that there is no satisfactory explanation put forth before this Court as to why despite the funds having been received from the Government of India, the payments have not been released in favour of the petitioners-hospitals and as to under what circumstances, the State Government could have withheld the said amount once it had been received from the Government of India against verified bills and for further remittance to the empanelled hospitals.

Ordinarily any such action would have called for stern orders against the erring officials who misdirected the funds and diverted the same for unauthorized use, however, before proposing any action, it is deemed expedient to seek a detailed response from the State about the financial reimbursement received by the State of Punjab from the Union of India from December 2021 uptill now and how that money has been utilized. The affidavit shall also inform whether the amount received from Union of India towards Ayushman Bharat Payments could be used for the said purposes (for which the amount has been utilized) or not. Let the aforesaid affidavit be filed by the Principal Secretary, Health and Family Welfare or the Chief Executive Officer of the State Health Agency for and on behalf of the State.

Additionally, the Principal Secretary, Finance is directed to file an affidavit giving expenses incurred by the State under the following heads during the same period i.e. December 2021 till September 2024:

- (i) The expenses incurred for publishing advertisement in print and audio-video media including break-up about the States and languages where such advertisements have been published/played.
- (ii) The expenses incurred on renovation of the houses/offices of Class-I officers as well as Ministers/MLAs in Punjab.
- (iii) Expenses incurred in purchase of new vehicles alongwith their make for the Ministers/MLAs and Class-I officers in the State of Punjab.
- (iv) The litigation expenses paid for pursuing matters before the Hon'ble Supreme Court of India or Delhi High Court in defending/pursuing matters for the State of Punjab or for any other person or agency and instrumentality of State of Punjab or outside.

- (v) The expenditure incurred in various social welfare schemes such as free electricity, Atta Dal Scheme etc. as against the budgetary allocation for the same period.

The aforesaid information is being sought currently for examining as to whether the funds/grants received for any specific purpose are being misapplied or misutilized or not. The State, having received money for any specified purpose, is a custodian of said money only to release it to the actual beneficiaries and certainly cannot be permitted to retain the amount leaving the citizens litigating for their dues and misappropriate the said grants at the costs of the actual recipient.

Adjourned to 16.10.2024.

Let a copy of this order be given to the State Counsel under the signatures of the Court Secretary of this Court for compliance.

23.09.2024
rajender

(VINOD S. BHARDWAJ)
JUDGE