



2026:KER:50052

W.P.(C). No.3703 of 2026

: 1 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

WEDNESDAY, THE 8TH DAY OF JULY 2026 / 17TH ASHADHA, 1948

WP(C) NO. 3703 OF 2026

PETITIONER/S:

BY ADV SHRI.SYAM J SAM

RESPONDENT/S:

- 1 THE STATE MEDICAL OFFICER
EMPLOYEES STATE INSURANCE CORPORATION, REGIONAL
OFFICE, PANCHDEEP BHAVAN, NORTH SWARAJ ROUND,
THRISSUR., PIN - 680020
- 2 THE REGIONAL DIRECTOR
EMPLOYEES STATE INSURANCE CORPORATION, PANCHDEEP
BHAVAN, ASRAMAM, KOLLAM, KERALA,, PIN - 691002
- 3 INSURANCE MEDICAL OFFICER
EMPLOYEES STATE INSURANCE CORPORATION, MINERVA RD,
CHANDAMUKKU, CHENTHARA, KOTTARAKKARA, KERALA,
PIN - 691506
- 4 DISTRICT GRIEVANCE REDRESSAL COMMITTEE
FIRST FLOOR OF CIVIL STATION, ECHAMUKU,
KUNNUMPURAM, KAKKANAD, KERALA, PIN - 682030



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- 5 THE DIRECTOR, AMRITA GROUP OF MEDICAL SCIENCES AND
RESEARCH CENTRE KOCHI
AMRITA LANE, AIMS PONEKKARA P.O., KOCHI, KERALA,
PIN - 682041
- *6 THE STATE NODAL OFFICER, MEDISEP
DIRECTORATE OF INSURANCE, GOVERNMENT OF KERALA,
TRIVANDRUM,
- *7 THE DIVISIONAL MANAGER,
ORIENTAL INSURANCE COMPANY LTD.,
DIVISIONAL OFFICE-I, 2ND FLOOR, UNITY COMPLEX, S.N.
PARK ROAD, KANNUR
(ADDL R6 AND ADDL R7 ARE *IMPLEADED AS PER ORDER
DATED 6/2/26 IN IA 1/26 IN WPC 3703/2026)

BY ADV GOVERNMENT PLEADER

OTHER PRESENT:

SC T.V.AJAYAKUMAR
SC K.S.SANTHI
SC GEORGE A CHERIYAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08.07.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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VIJU ABRAHAM, J.

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Dated this the 8th day of July, 2026

JUDGMENT

The petitioner has approached this Court seeking a direction for expeditious consideration of Ext.P6 application seeking reimbursement of the amount expended towards treatment undertaken by the petitioner.

2. The petitioner submits that he is covered under the MEDICEP Scheme and that, when he sought an oncology consultation for Acute Myeloid Leukaemia at one of the higher centres covered under the MEDICEP Scheme, no oncology centre covered under the Scheme had the requisite staff or equipment to treat the petitioner. Thereupon the petitioner was referred to Amrita Institute of Medical Sciences, as they were better equipped to deal with the petitioner's ailment. The petitioner underwent treatment there and the respondent Insurance Company has rejected the claim of the petitioner as per Ext.P7 stating that the hospital in which the petitioner underwent treatment is not an empanelled hospital. Aggrieved by the same, the petitioner has



approached the 4th respondent – the District Grievance Redressal Committee by submitting Ext.P8. The petitioner relying on Ext.P9 judgment in W.P.(C)No.21799 of 2024, submits that the claim raised by him cannot be rejected solely for the reason that the hospital where he underwent treatment is not an empanelled hospital.

3. A detailed counter affidavit has been filed by the additional 6th respondent, wherein in paragraph 9 it is admitted that the treatment undergone by the petitioner is covered under the Catastrophic Package of MEDISEP Scheme, for which an amount of Rs. 9.46 Lakhs and Rs.17 Lakhs are admissible. But it is submitted that the petitioner underwent treatment at a non-empanelled hospital, and therefore he is ineligible to avail the benefits from the MEDISEP corpus fund. The learned Government Pleader further submits that, the authorities before admitting a claim, have to be satisfied as to whether the petitioner has in fact undergone treatment in the said hospital.

4. I have heard the rival contentions on both sides.

5. Admittedly, the claim has been rejected for the sole reason that the hospital in which the petitioner underwent treatment is not an empanelled hospital. Sufficient reasons have been stated by the



petitioner in the writ petition for choosing the said hospital that the hospital which is empanelled was not equipped to treat the petitioner's ailment and thereupon was referred to Amrita Institute of Medical Sciences, which is more equipped to treat his ailment. The Apex Court in ***Shiv Kant Jha Vs. Union of India [(2018) 16 SCC 187]***, has considered a similar issue and held in paragraph 17 as follows:

"17..... 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 of 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 officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach



this Court"

The Apex Court has held that, the right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order and the real test must be the factum of treatment and that 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 and once, it is established, the claim cannot be denied on technical grounds. Following the said judgment of the Apex Court, by Ext.P9, a similar claim was directed to be considered.

6. The only reason for denial of the claim of the petitioner is that the petitioner has undergone treatment in a non-empanelled hospital. Going by the Apex Court judgment in **Shiv Kant Jha's** case cited Supra, that cannot be a reason for rejecting a valid claim and following the same, in Ext.P9, directions were issued to honour the claim of the petitioner therein. It is further to be noted that in the counter affidavit filed by the additional 6th respondent it is admitted that the treatment undergone by the petitioner is covered by the MEDICEP Scheme and the amounts are also admissible. If that be so, as already held, the claim of the petitioner cannot be



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rejected solely for the reason that the petitioner underwent treatment is a non-empanelled hospital.

Taking into consideration the above facts and circumstances, I dispose of the writ petition with a direction to the 4th respondent to consider the claim of the petitioner and verify whether the petitioner has undergone the said treatment as contended by him. After verifying the documents obtained in support of the claim of the petitioner, if it is found that the petitioner has undergone the treatment as stated in the claim, the claim of the petitioner shall be admitted, since I have already held that the claim of the petitioner cannot be rejected for the reason that the petitioner has not undergone a treatment in an empanelled hospital. A decision in this regard shall be taken by the 4th respondent and the admissible amounts are disbursed within a period of one month from the date of receipt of a copy of this judgment, after affording an opportunity of being heard to the petitioner.

Sd/-
VIJU ABRAHAM
JUDGE

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APPENDIX OF WP(C) NO. 3703 OF 2026

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF THE DIAGNOSIS OF THE PETITIONER AT THE DISTRICT POLICE HOSPITAL KOLLAM
Exhibit P2	THE TRUE COPY OF THE DECLARATION OF THE FIFTH RESPONDENT DATED 16/04/2025
Exhibit P3	THE TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER DATED 19/11/2024
Exhibit P4	THE TRUE COPY OF THE REJECTION LETTER BY THE ADDITIONAL CHIEF SECRETARY OF THE STATE POLICE CHIEF, TRIVANDRUM DATED 18/12/2024
Exhibit P5	THE TRUE COPY OF THE ESSENTIALITY CERTIFICATE AND ACCOMPANYING DECLARATION
Exhibit P6	THE TRUE COPY OF THE APPLICATION FOR REIMBURSEMENT DATED 16/04/2025 AND 05/11/2024
Exhibit P7	THE TRUE COPY OF THE REJECTION BY THE FOURTH RESPONDENT DATED 25/06/2025
Exhibit P8	THE TRUE COPY OF THE TICKET OF THE GRIEVANCE RAISED BY THE PETITIONER
Exhibit P9	THE TRUE COPY OF THE JUDGMENT IN WP(C) 21799/2024 DATED 19/12/2024