



Reportable

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

D.B. Special Appeal Writ No. 1090/2022
CNR: RJHC010842022022 | URN: SAW / 2426U / 2022



1. Chairman cum Managing Director, Jodhpur Vidhuyat Vitran Nigam Limited, Sector 7, New Power House Road, Industrial Area, Jodhpur.
2. Executive Engineer, Jodhpur Vidhuyat Vitran Nigam Limited, Sector 7, New Power House Road, Industrial Area, Jodhpur.
3. Assistant Engineer, Csd, C-1st, Jodhpur Vidhuyat Vitran Nigam Limited, Sector 7, New Power House Road, Industrial Area, Jodhpur.

----Appellants

Versus

Jagdish Chandra Bissa S/o Sh. Punam Chand, Aged About 63 Years, R/o Achlaaton Ka Bas, Brahampuri, Navchokiyan, Jodhpur, Rajasthan.

----Respondent

For Appellant(s)	:	Mr. Vinay Kothari, Mr. Mehul Kothari, Mr. Ayush Goyal, Mr. Bhavyadeep Singh
For Respondent(s)	:	Mr. N.S. Rajpurohit, Ms. Aditi Sharma, Mr. Radheshyam Mankad

**HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE VINIT KUMAR MATHUR**

Judgment

Date : 16/09/2026

Sanjay K. Agrawal, CJ:

1. This writ appeal is directed against the impugned order dated 14.09.2022 passed by the learned Single Judge, by which the



writ petition filed by the writ petitioner (respondent herein) has been allowed and the appellants have been directed to reimburse the remaining amount of claim raised by the respondent, within the specified time period.

2. Learned counsel for the appellants would submit that the learned Single Judge is absolutely unjustified in directing reimbursement of entire amount of more than three stents, which is not to be allowed as per Appendix IX of the Rajasthan Civil Services (Medical Attendance) Rules, 2013 and as such, the writ appeal deserves to be allowed.
3. Learned counsel for the respondent (writ petitioner) would submit that the learned Single Judge has rightly allowed the writ petition and directed for reimbursement of the complete amount of claim as raised by the writ petitioner within a period of three weeks. In case, a patient is treated in a government hospital, it is the duty of the government hospital to provide all the equipment and if a consumable item is not available then the beneficiary is left with no option other than to purchase the same from the open market. On the aforesaid ground, the appeal may be dismissed.
4. We have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
5. The Division Bench of this Court in **State of Rajasthan & Ors. vs. Smt. Mohan Kanwar Bhansali**¹ has observed in para 6 as under:

"6. The contention overlooks the fact that as per the Rules and the Schemes framed by the Government if

¹ D.B. Special Appeal (Writ) No.246/2019, dated 07.03.2019





a patient under the scheme is admitted at a government hospital it is the duty of the government hospital to provide all equipment. If at the government hospital a consumable item is not available, then the government has to ensure that the same is available at the government authorized medical store. If it is not available then the beneficiary is left with no option other than to purchase from the open market."

6. The Supreme Court in the matter of **Consumer Education & Research Centre and others v. Union of India and others**² has held that right to health and medical care to protect his health and vigour while in service or post-retirement is a fundamental right of a worker under Article 21 of the Constitution of India, and observed as under: -

"22. The expression 'life' assured in Article 21 of the Constitution does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to livelihood, better standard of life, hygienic conditions in the workplace and leisure. In *Olga Tellis v. Bombay Municipal Corpn.*³ this Court held that no person can live without the means of living i.e. means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content of meaningfulness but it would make life impossible to live, leave aside what makes life liveable. The right to life with human dignity encompasses within its fold, some of the finer facets of human civilisation which makes life worth living. The expanded connotation of life would mean the tradition and cultural heritage of the persons concerned. In *State of H.P. v. Umed Ram Sharma*⁴ this Court held that the right to life includes the quality of life as understood in its richness and fullness by the ambit of the Constitution. Access to road was held to be an access to life itself in that State.

23. and 24. xxxxxxxx

25. Therefore, we hold that right to health, medical aid to protect the health and vigour of a worker while in service or post-retirement is a fundamental right under Article 21, read with Articles 39(e), 41, 43, 48-A and all

2 (1995) 3 SCC 42

3 (1985) 3 SCC 545

4 (1986) 2 SCC 68



related articles and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of person."

7. Likewise, in the matter of **Surjit Singh v. State of Punjab and others**⁵, their Lordships of the Supreme Court has held that self-preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, and observed as under: -

"11. It is otherwise important to bear in mind that self-preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self-preservation has a species in the right of self-defence in criminal law. Centuries ago thinkers of this great land conceived of such right and recognised it. Attention can usefully be drawn to Verses 17 18, 20 and 22 in Chapter 16 of the Garuda Purana (A dialogue suggested between the Divine and Garuda, the bird) in the words of the Divine:

*17 Vinaa dehena kasyaapi canpurushaartho na vidyate
Tasmaaddeham dhanam rakshetpunyakarmaani saadhayet*

Without the body how can one obtain the objects of human life? Therefore protecting the body which is the wealth, one should perform the deeds of merit.

*18 Rakshayetsarvadaatmaanamaatmaa sarvasya
bhaajanam Rakshane yatnamaatishthejje vanbhaadraani
pashyati*

One should protect his body which is responsible for everything. He who protects himself by all efforts, will see many auspicious occasions in life.

*20 Sharirarakshanopaayaah kriyante sarvadaa budhaih
Necchanti cha punastyaagamapi kushthaadiroginah*

The wise always undertake the protective measures for the body. Even the persons suffering from leprosy and other diseases do not wish to get rid of the body.

*22 Aatmaiva yadi naatmaanamahitebhyo nivaarayet
Konsyo hitakarastasmaadaatmaanam taarayishyati*

If one does not prevent what is unpleasant to himself, who else will do it? Therefore one should do what is good to himself."

⁵ (1996) 2 SCC 336





8. Recently, the Supreme Court in the matter of **In Re: The Proper Treatment of Covid 19 Patients and Dignified**

Handling of Dead Bodies in the Hospitals etc.⁶ has held that right to health is a fundamental right guaranteed under Article 21 of the Constitution of India. Right to health includes affordable treatment.

9. Following the principles of law laid down by their Lordships of the Supreme Court in the afore-cited cases, it is quite vivid that right to health is a fundamental right under Article 21 of the Constitution of India as held by the Supreme Court in Surjit Singh (supra) and consequently, the provisions relating to reimbursement of medical treatment have to be construed liberally.

10. Admittedly and indisputably, in the instant case, the writ petitioner suffered from serious cardiac ailment. He was admitted to Mathura Das Mathur Hospital, Jodhpur, wherein he underwent the angiography and angioplasty and four stents were implanted and the total amount incurred was Rs.2,73,832/-, out of which only Rs.1,70,800/- were reimbursed. Since the petitioner has undertaken the treatment in a Government hospital, stents were implanted which were purchased from private shop, the complete amount was liable to be reimbursed.

11. On a cumulative consideration of the above and in view of the judgment in Mohan Kanwar Bhansali (supra), the learned Single Judge is absolutely justified in directing for

⁶ Suo Moto Writ Petition (Civil) No.7/2020, decided on 19.06.2020



reimbursement of the remaining amount incurred in the treatment.

12. Accordingly, the appeal, being devoid of merit, is dismissed.



(VINIT KUMAR MATHUR),J

(SANJAY K. AGRAWAL),CJ

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