

HIGH COURT OF JAMMU & KASHMIR & LADAKH AT SRINAGAR

WP (c) 130/2025
 CM No. 268/2025
 Caveat No. 92/2025

Shifa Medical Centre (Hospital)

....Petitioners.

Through: Mr. Arif Sikender Mir, adv.
 With Asifa Rashid, adv.

UT of J&K and ors

v.

....Respondents.

Through: Mr. Hakim Aman Ali, Ld Dy. Advocate
 General.

Coram:

Hon'ble Mr. Justice Mohammad Yousuf Wani, Judge

ORDER
 17.01.2025

Caveat No. 92/2025

With the appearance of Mr. Hakim Aman Ali, Dy AG on behalf of caveator.
 Caveat stands discharged.

WP (c) 130/2025, CM No. 268/2025

1. Mr. Hakim Aman Ali, learned Dy AG, who was already on caveat on behalf of respondents, accepts notice on their behalf in the main petition as well as in the interim application. He is directed to file his reply/objections positively by the next date of hearing.
2. Heard learned counsel for the applicant/petitioner Mr. Arif Sikender Mir, Advocate in respect of his prayer for the grant of interim relief. He submitted that the impugned show cause notice dated 18.12.2024 as well as the suspension order dated 11.01.2025, are bad under law for having been issued in brazen violation of the principles of natural justice as well as the relevant scheme i.e. **Ayushman Bharat Pradhan Mantri Jan Arogya Yojana**, and the Rules/Guidelines framed under the same. The learned counsel contended that the impugned show cause notice allegedly issued to the petitioner-hospital has not in essence been so issued which is otherwise evident from the fact that the said notice dated 18.12.2024 was directed to be replied only within a period of two days.

He also submitted that the impugned show cause notice/order have been issued by the incompetent person and the respondents have resorted to the redundant Rules earlier framed under the scheme for targeting the petitioner-hospital. He further contended that the petitioner-hospital has been rendering the patient care facilities to the best possible extent and the allegations against the Hospital are unverified/unproved as the petitioner-hospital has been condemned unheard in the matter. Learned counsel submitted that the learned co-ordinate Benches of this Court in similarly situated cases have already stayed penalty imposed by way of De-Empanelment of hospitals, on the allegations of violations of the norms of the scheme. Learned counsel has referred to two interim orders passed by this court in WP(C) No. 1495/2023 and WP (C) No. 617/2023. Learned counsel while placing reliance on an authoritative judgment of the Hon'ble Supreme Court of India cited as ***Vishnu Traders vs. State of Haryana and ors 1995 Supp (1) Supreme Court Cases 481*** contended that there is need for consistency of approach and uniformity in exercise of judicial discretion respecting similar causes for achieving desirability to eliminate occasions for grievance of discriminatory treatment. Learned counsel further contended that so many patients from urban as well as rural areas of the UT of J&K and whose cases have already been processed under the relevant scheme have been badly suffering for their proper treatments. Learned counsel also submitted that the petitioner-hospital has received an appreciation certificate for its exemplary performance under Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (AB PM-JAY) on 15th August 2023 from CEO, SHA, J&K.

3. Mr. Hakim Aman Ali, learned counsel for the respondents, however in rebuttal argued that the respondents have been receiving repeated complaints against the petitioner-hospital in respect of receipt of out of pocket money from the patients covered under the scheme and whose cases have been entertained and processed by the petitioner-hospital. Learned counsel contended that the respondents have acted in the matter strictly in accordance with the Rules and Guidelines of the Scheme especially relating to Hospital Empanelment and De-Empanelment and it

is totally denied that the respondents have proceeded under the old redundant rules.

4. Learned counsel very vehemently contended that Ayushman Bharat Pradhan Mantri Jan Arogya Yojana is a social welfare policy of the Government of India, which has been highly hailed by the public at large as pertaining to the Health & Family Welfare of all the citizens of the country. He further contended that the empanelled Hospitals playing fraud with such Social Welfare Scheme, do not deserve any lenient view and need to be strictly dealt with under law.
5. Perused the interim application supported with an affidavit. Also perused the main petition and the copies of the documents enclosed with the same, as annexures thereto.
6. Considered the rival contentions of the learned counsel for the parties.
7. List on **07.02.2025**.
8. In the meantime, subject to any vacation or modification upon the consideration of objections/arguments and till next date of hearing before the bench, operation of the suspension order bearing No. 03 SHA, J&K of 2025 dated 11.01.2025 is kept in abeyance. However, the respondents shall proceed with and finalize the disciplinary enquiry in connection whereof the impugned show cause notice bearing No. SHA/AB-PMJAY/JK/2024-25/8124-25 dated 18.12.2024 has already been issued to the petitioner-hospital with the direction that respondents shall afford fresh opportunity of two weeks to the petitioner-hospital to submit its reply to the same, in the interest of natural justice.

(Mohammad Yousuf Wani)

Judge

Srinagar

17.01.2025

Syed Ayaz Hussain Jalali
Secretary