
(2025) 01 J&K CK 1580
In the Jammu And Kashmir High Court
Case No : WP(C) No. 4305 Of 2019

Bishnah Cooperative Medical and another	APPELLANT
Vs	
State of J&K and others	RESPONDENT

Date of Decision : 29-01-2025

Acts Referred:

Citation : (2025) 01 J&K CK 1580

Hon'ble Judges : Rahul Bharti, J

Bench : Single Bench

Advocate : Abhinav Sharma, Abhirash Sharma, Munish Sharma

Final Decision : Disposed Of

Judgement

Rahul Bharti, J

1. Heard.

2. Writ petition OWP No. 1647/2015 came to be filed by the petitioner-Surinder Sharma on 04.11.2015 by reference to six respondents named therein with the respondent No. 5 and the respondent No. 6 being Bishnah Medical Cooperative Consumer Store Limited, Bishnah and Amar Bishnah Cooperative Medical Store, Bishnah.

3. Through this writ petition, the writ petitioner-Surinder Sharma came seeking a direction unto the official respondents to cancel the allotment made in favour of said two respondents i.e. Bishnah Medical Cooperative Consumer Store Limited, Bishnah and Amar Bishnah Cooperative Medical Store, Bishnah for running of Fair Price Medical Shop within the premises of Sub-District Hospital, Bishnah as being illegal and contrary to Government Order No. 492-HME of 2008 dated 17.06.2008.

4. In this writ petition, notice came to be addressed to the respondents. In terms of an order dated 29.08.2017, the writ court came to direct no allotment of any shop in the new hospital premises to be made without following the procedure in

terms of Government Order No. 492-HME of 2008 dated 17.06.2008.

5. While the writ petition OWP No. 1647/2015 came to be so instituted and was pending, a writ petition OWP No. 1636/2016 came to be preferred by two petitioners with the petitioner No. 1-Bishnah Cooperative Medical Consumer Store, Bishnah acting through its Secretary Anuj Sajgotra who joined as the petitioner No.

2. The institution of this writ petition came to take place on 15.11.2016.

6. In this writ petition, the two petitioners came claiming the relief to the extent to prohibit the writ respondents, four in number, from cancelling the purported allotment of the petitioner No. 1's Fair Price Shop in the premises of the Sub-District Hospital, Bishnah under the name and style Bishnah Cooperative Medical Consumer Store, Bishnah and further to command and direct the writ respondents not to auction the shop so run by the petitioner No. 1 and also further seeking quashment of a complaint titled "Surinder Sharma Vs. Director Health Services, Jammu" pending before the J&K State Vigilance Commission.

7. The four writ respondents in the writ petition OWP No. 1636/2016 are State of J&K, as it was then, through its Commissioner/Secretary, Health and Medical Education Department, the Director Health Services, Jammu, the Deputy Director Health Services (HQ) Jammu and the Block Medical Officer (BMO), Sub-District Hospital, Bishnah.

8. By virtue of an order dated 17.11.2016 passed in the writ petition OWP No. 1636/2016, the writ court came to direct status quo on spot, obtaining on the said date, to be maintained while putting the respondents to notice.

9. The institution of aforesaid two writ petitions came to be joined by institution of 3rd writ petition WP(C) No. 4305/2019 filed by the sole petitioner-Bishnah Cooperative Medical Consumer Store, Bishnah acting through its Secretary Anuj Sajgotra. Thus, last two writ petitions came to be filed by same principal petitioner, namely, Bishnah Cooperative Medical Consumer Store, Bishnah.

10. This 3rd writ petition came to be filed on 25.10.2019. In this writ petition, the two respondents came to be State of J&K through Financial Commissioner, Health & Medical Educational Department and the Director Health Services, Jammu.

11. In this 3rd writ petition, the sole petitioner sought a writ of mandamus unto the respondents, in particular, the Director Health Services, Jammu to consider and pass an appropriate order allotting the petitioner an alternative space for shifting and relocation of Fair Price Cooperative Medical Consumer Store in the premises of the newly constructed building of the Sub District Hospital, Bishnah.

12. By virtue of an order dated 28.08.2020 in later writ petition WP(C) No. 4305/2019, the writ court directed listing it along with the writ petition OWP No. 1268/2018 titled "Bishnah Cooperative Medical Consumer Store, Bishnah and

another Vs. State of J&K and others” which came to be disposed of in terms of an order dated 06.07.2018 with a direction to the writ respondents therein to accord consideration and to take appropriate decisions with respect to the representation of two petitioners of writ petition OWP No. 1268/2018, strictly in accordance with policy and guidelines, if any, as also recommendations said to have been made by the Chief Medical Officer, Health and Family Welfare, Jammu and the disposal was without adjudication on merits of the petitioners’ claim in the said writ petitions.

13. Thus, all the afore referred four writ petitions, three pending and one disposed of, are found carrying the same subject matter and that is with respect to allotment of Fair Price Shop for medicines in the hospital premises in reference.

14. All three pending writ petitions should not detain this Court any longer in light of the judgment given by this Court in the case of “Kathua Cooperative Marking Society Limited, Kathua Vs. State of J&K and others” in OWP No. 969/2013 disposed of vide judgment dated 26.07.2022 wherein this Court came to hold that the allotment of shops within the Government Premises, in particular, Hospital Premises is to be governed by the Government Order No. Government Order No. 492-HME of 2008 dated 17.06.2008 and, accordingly, any allotment whatsoever obtaining in any form prior to the said Government order in favour of anybody is to come to an end on its own without further extension whatsoever and, therefore, the same judgment is to hold good for the aforesaid three writ petitions so pending by holding that the petitioner-Bishnah Cooperative Medical Consumer Store is nothing but a disguised entity which has been making best exploit of use and occupation of public premises without any auction/bidding process in terms of its allotment and, as such, is not any further entitled to hold on to the said shop premise in the Hospital Premises.

15. Accordingly, writ petition OWP No. 1636/2016 read with WP(C) No. 4305/2019 are dismissed and OWP No. 1647/2015 is allowed by directing discontinuance of use and occupation of the shops in reference in the Sub District Hospital, Bishnah by the Bishnah Cooperative Medical Consumer Store rendering it liable to be evicted therefrom.

16. The detailed judgment is following the order dated 19.12.2023 vide which the writ petition were ordered to be disposed of as hereby being done.

17. Disposed of.