



16TH September 2021

PRESS NOTE

Awaken India Movement (AIM) seek recall of High Court's blanket order for vaccination of prisoners above 45 years of age and asked for compensation to all prisoners whose fundamental rights are violated due to wrong order of the High Court.

Said order is violative of fundamental rights of prisoners to wilful consent and refusal to experimental vaccines.

The Awaken India Movements' National Steering Committee member, Ambar Koiri filed an intervention application before Bombay High Court in **Suo Motu Public Interest Litigation No. 1 of 2021**.

He sought recalling and setting aside of the order directing vaccination of prisoners above 45 years.

The petitioner pointed out the following illegalities in the order dated **20.04.2021**.

- i)** The suo-moto cognizance by the Bench of Justice Nitin Jamdar is illegal as only Chief Justice can take the suo-moto cognizane.
- ii)** Court's order directing vaccination of prisoners above 45 years is per-incuriam as it ignored the constitutional mandate and Central Government's policy decision that no one can be forced to take vaccination against his/her will.
- iii)** The prayers in the intervention application reads thus;

“i) To place the present application before the Bench of which Hon’ble Chief Justice Shri. Dipankar Datta and other Hon’ble Judges mentioned in memo of this petition are not a member because of the reasons of disqualification of said Hon’ble Judges from hearing the issue;

ii) To hold that the suo-motu cognizance of the present P.I.L. on 16.04.2021 by Justice Shri. Nitin Jamdar was illegal and against the Constitution Bench’s judgment in Campaign for Judicial Accountability and Reforms v. Union of India, (2018) 1 SCC 196 and in State of Rajasthan Vs. Prakash Chand (1998) 1 SCC 1, as only Chief Justice can take the suo-motu cognizance.

iii) Allow the present application and after hearing the parties recall and set aside the order dated 20.04.2021 to the effect which mandates for vaccinating the prisoners above 45 years and further be pleased to make it clear that the prisoners cannot be vaccinated against their free and informed consent.

iv) Record a specific finding about failure of duty of Advocate General Mr. A. A. Kumbhkoni and P. P. Mr. Deepak Thakare for not bringing the correct legal and factual position to the notice of the Hon’ble Court and thereby inviting the unlawful orders which is violative of fundamental rights of the said prisoners and also having fear of death causing side effects or life time injuries to the said prisoners;

v) Direct State authorities to fix the amount of interim compensation to be paid to the said prisoners whose fundamental rights are violated as per law laid down in



Ramesh Maharaj's case (1978) 2 WLR 902 which is followed in D. K. Basu's case 1997 1 SCC 416 which mandates the State to compensate the victim for mistake of a Judge as the Judge is the extended arm of the State;

vi) Record a specific finding about disqualification of Hon 'ble Chief Justice Shri. Dipankar Datta as Master of Roster to take decision of allocation of Bench in a cases related with Chief Minister of Maharashtra State, Shri. Uddhav Thackeray and Brihanmumbai Municipal Corporation (BMC) Commissioner, Shri. Iqbal Singh Chahal;

vii) Pass any other order which this Hon 'ble Court deems fit and proper in the fact and circumstances of the case."

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