

Case Number before Hon'ble President of India	PRSEC/E/2021/33812
Case Number before Hon'ble Prime Minister of India	PMOPG/E/2021/0580340
Case Number before Central Vigilance Commission	188782/2021/vigilance-9

BEFORE HON'BLE PRESIDENT OF INDIA

CASE NUMBER: PRSEC/E/2021/33812

Rashid Khan Pathan

Residing at Vasant Nagar,

Tq: Pusad **Dist:** Yawatmal – 445303

..... Complainant

Vs.

Shri. Justice Dr. D.Y. Chandrachud & Ors.

Supreme Court of India,

Tilak Marg, Mandi House,

New Delhi, Delhi 110001

..... Accused

Subject: (i) Immediate direction to C.B.I. to register an F.I.R. against accused Judges under section 52, 109, 115, 166, 167, 201, 202, 218, 219, 302, 304, 304 (A), 409, 120(B), 34 Etc. of IPC;

AND

Section 51(b), 54, 55 of Disaster Management Act, 2005 AND provisions of Prevention of Corruption Act 1988., for their act of commission, active participation in committing the offences and omission to prevent the offences of abatement of murder, preparation to commit murder,

misappropriation of thousands of Crores of public fund with ulterior motive to save the real culprits and give wrongful profits to the vaccine syndicate;

OR

i) Granting sanction to the complainant to initiate prosecution against the accused Judges Sh. D. Y. Chandrachud and others for the above said offences and also for any other offences disclosed from the materials available on record;

ii) Immediate directions to the accused Judges to forthwith tender their resignation by following the binding precedents of the Constitution Bench judgment in the case of K.Veeraswami Vs. Union of India (1991) 3 SCC 655;

iii) Immediate directions to the Attorney General for India to file the Contempt petition before Supreme Court against accused Judges, for their wilful disregard and defiance of the binding precedents of the Supreme Court of India and for abusing the process of Court.

Respected Sir,

1. I have watched the virtual hearings of the cases related with vaccines which are dealt by accused Judge D.Y. Chandrachud along with the co-accused Judges.

2. On 26th November, 2021, accused Judge D.Y. Chandrachud, while hearing a case related with vaccine surveillance, has made following false remarks.

“COVID vaccination has huge merits; even WHO says so: Supreme Court

*A Bench of Justices DY Chandrachud and AS Bopanna said that **the top court will not make observations or pass orders which could send a signal casting doubt on COVID vaccination and its efficacy.***

*A Bench of Justices **DY Chandrachud** and **AS Bopanna** said that the top court will not make observations or pass orders which could send a signal casting doubt on COVID vaccination and its efficacy.*

"There are huge merits of vaccination. Even WHO says so. We don't want to send a signal casting doubt on vaccinations," the Court remarked."

Link: <https://www.barandbench.com/news/covid-vaccination-has-huge-merits-even-who-says-so-supreme-court>

3. On 10th September, 2021, accused Judge D.Y. Chandrachud, while rejecting the petition asked the lawyer for Petitioner to advise his client to get vaccinated as soon as possible.

Link: <https://www.hindustantimes.com/india-news/cant-order-use-of-red-ant-chutney-as-covid-cure-take-jab-sc-101631211181223.html>

4. On 25th October, 2021, accused Judge D.Y. Chandrachud refused to entertain the SLP by taking a stand as under;

“A bench of Justices DY Chandrachud and BV Nagarathna refused to entertain the plea challenging the May 26 order of Karnataka High Court dismissing the plea of an ex-serviceman Mathew Thomas.

The bench said, "The High Court is right in dismissing the plea. Let us not cast doubt on the vaccination process. It is a key to protecting the population. We don't want the petition to be argued at all. Even issuing notice on this appeal will be subject to great mischief."

Link: <https://economictimes.indiatimes.com/news/india/supreme-court-dismisses-plea-to-stop-mass-covid-19-vaccination-programme/articleshow/87261877.cms>

5. The mindset of accused Judge D.Y. Chandrachud from various interactions with the counsel for the parties in all above said cases is summarized as:

i) Vaccines are completely safe and any argument or court actions, which creates hesitancy in the mind of public about vaccines is to be avoided. Even if it has an effect of violation of fundamental rights of crores of Indians and causing deaths of thousands of people due to side effects of vaccines.

ii) Vaccine is the only solution to deal with the covid-19 infection. There is no other solution. If there is any better solution then also accused Judge D.Y. Chandrachud, I will not hear it at all.

6. Because of the said wrong perception and misunderstandings, accused Judge D.Y. Chandrachud refused to pass an order in the following cases:

i) Nayadhar Padhial Vs. UOI, **Special Leave to Appeal (C) No(s). 8601/2021.**

ii) Mathew Thomas Vs. The Government of India, **Special Leave to Appeal (C) No.15830/2021.**

7. That, accused Judge D.Y. Chandrachud acted against the constitutional mandate while discouraging the citizen's right to raise a petition and expose the malpractices of the Government authority and pharma mafia, which is fundamental duty of every citizen as enshrined under Article 51(A) of the Constitution of India.

8. That, accused Judge D.Y. Chandrachud also acted against the **Universal Declaration on Bioethics and Human Rights, 2005 (UDBHR)**. It mandates for promoting opportunities for informed pluralistic public debate, seeking the expression of all relevant opinions.

“Article 18 – Decision-making and addressing bioethical issues

1. Professionalism, honesty, integrity and transparency in decision-making should be promoted, in particular declarations of all conflicts of interest and appropriate sharing of knowledge. Every endeavour should be made to use the best available scientific knowledge and methodology in addressing and periodically reviewing bioethical issues.

2. *Persons and professionals concerned and society as a whole should be engaged in dialogue on a regular basis.*

3. *Opportunities for informed pluralistic public debate, seeking the expression of all relevant opinions, should be promoted.”*

9. It seems that, accused Judge D.Y. Chandrachud on one side telling the India’s public that **“the Government hides data, gives false information on covid-19 pandemic and intellectual citizen of the country should bring the truth.”**

Link:<https://www.newindianexpress.com/thesundaystandard/2021/aug/29/state-can-spread-lies-but-citizens-must-be-vigilantsupreme-court-justice-dy-chandrachud-2351171.html>

“Supreme Court Judge Hon’ble Justice Dr. D. Y. Chandrachud on 29th August, 2021 said that the State officer can spread lies, but citizens must be vigilant. Public intellectuals have a duty to expose lies of the state. Emphasizing the need for truth in a democracy, he said the state can indulge in falsehood and it was the duty of citizens to strengthen public institutions and question the state to determine the truth. In the context of the Covid-19 pandemic, we see that there is an increasing trend of countries across the world trying to manipulate data. Hence, one cannot only rely on the state to determine the truth”

However, on the other hand accused Judge D.Y. Chandrachud, himself is discouraging the people who are performing their duties and acting by believing his advice. This is double standard on the part of accused Judge

D.Y. Chandrachud. It is also unbecoming of a Judge of Supreme Court or any Court of Law.

10. Hon'ble Supreme Court in the case of **Amar Pal Singh Vs. State of U.P. (2012) 6 SCC 491**, has ruled that the Judge who applies the law is only called as 'Vidvana'. Others are 'Intellectually Dishonest Judges'. It is ruled as under;

*“20. Every judge has to remind himself about the aforesaid principles and religiously adhere to them. In this regard it would not be out of place to sit in the time machine and dwell upon the sagacious saying of an eminent author who has said that **there is a distinction between a man who has command over 'Shastras' and the other who knows it and puts into practice. He who practises them can alone be called a 'vidvan'**. Though it was told in a different context yet the said principle can be taken recourse to, for one may know or be aware of that use of intemperate language should be avoided in judgments but while penning the same the control over the language is forgotten and acquired knowledge is not applied to the arena of practice. Or to put it differently the knowledge stands still and not verbalised into action. Therefore, a committed comprehensive endeavour has to be made to put the concept to practice so that it is concretised and fructified and the litigations of the present nature are avoided.”*

11. In addition to the acts of dismissing the above said petitions, accused Judge D.Y. Chandrachud in the case of **Gaurav Kumar Bansal Vs. Mr. Dinesh Kumar, Contempt Petition (C) No. 1653 of 2018** in **Writ**

Petition (C) No. 412 of 2016, have passed an unlawful and unconstitutional order on **01.09.2021** and **06.07.2021** directing vaccination of all Health workers staff of mental clinic.

12. The prejudices, misinformation, illegality, unlawfulness, unconstitutionality and the criminal offences already committed and being committed by accused Judge D.Y. Chandrachud are capulized in following paras.

13. Vaccines are not safe and having death causing side effects and therefore 18 European countries banned the use of CoviShield (AstraZeneca): -

13.1. That, the misinformation which is being spread by the vaccine companies in connivance with the senior officials of the task force and WHO was that the vaccines are completely safe.

Link:- (i) <https://www.ndtv.com/india-news/oxford-covid-19-vaccine-bharat-biotechs-covaxin-get-final-approval-by-drug-regulator-will-be-indias-first-vaccines-2347053>

*“Drug Controller General of India VG Somani said,
"We'll never approve anything if there is slightest of safety concern. The vaccines are 110 per cent safe"”*

(ii) <https://fb.watch/7u26q6CL59/>

13.1.2. The falsity of above narrative is ex-facie clear from the very fact that the 18 European countries has banned the use of Covishield due to its death causing side effects.

Link: <https://timesofindia.indiatimes.com/life-style/health-fitness/health-news/covishield-coronavirus-vaccine-with-covishield-astrazeneca->

[banned-in-some-countries-should-we-be-worried-about-its-safety/photostory/83398722.cms](https://www.theguardian.com/society/2021/apr/08/spain-belgium-and-italy-restrict-astrazeneca-covid-vaccine-to-older-people)

Link: <https://www.theguardian.com/society/2021/apr/08/spain-belgium-and-italy-restrict-astrazeneca-covid-vaccine-to-older-people>

Link: <https://www.aljazeera.com/news/2021/3/15/which-countries-have-halted-use-of-astrazenecas-covid-vaccine>

13.1.3. In India there are around 9,700 reported deaths caused due to side effects of vaccines.

Link:https://drive.google.com/file/d/1uikc1a6_KDzUx7HNLrFwa11NJRt0D_YP/view?usp=sharing

13.1.4. There are many cases but, I would like to cite only one example of **Dr. Snehal Lunawat, where Government of India's AEFI Committee issued certificate that her death was due to side effects of covishield.**

Needless to mention here that, the CoviShield's manufacturing company i.e. Serum Institute was also spreading the similar misinformation as being spread by Your Honour. The CoviShield's manufacturing company Serum Institute, keep on saying that their vaccine does not cause any such side effects. But their narratives are proven to be false from the abovesaid evidences. They were also rejected by the AEFI committee.

13.1.5. WHO also issued a warning about the side effects of the CoviShield vaccine?

Link: <https://www.who.int/news/item/26-07-2021-statement-of-the-who-gacvs-covid-19-subcommittee-on-gbs>

13.1.6. Dr. Tess Lawrie, UK has lodged a police complaint through a retired police officer.

Link: <https://dailyexpose.co.uk/2021/06/24/crimes-against-humanity-uk-government-release-21st-report-on-adverse-reactions-to-the-covid-vaccines/>

Dr. Tess Lawrie, presented evidence of the following various side-effects in her written representation and demanded that the vaccine be stopped immediately. The side-affects mentioned in the letter written by Dr. Tess Lawrie is as follows:

“Bleeding, clotting, ischaemic, re-activation of latent viruses, Herpes Zoster or shingles, Herpes Simplex, Rabies, Guillain-Barré Syndrome, Crohn's and non-infective colitis, Multiple Sclerosis, pain, -algia, arthralgias (joint pains), myalgias (muscle pains), fibromyalgia, (a long-term condition that causes pain all over the body), Paroxysmal, Extreme Pain Disorder, abdominal pain, eye pain, chest pain, pain in extremities, Headaches were reported more than 90,000 times and were associated with death in four people.

Nervous System Disorders

Twenty-one percent (185,474) of ADRs were categorized as Nervous System Disorders, Seizures, paralysis, including Bell's palsy, encephalopathy, dementia, ataxia, spinal muscular atrophy, Parkinson's and delirium.

Adverse Drug Reactions involving loss of sight, hearing, speech or smell Visual impairment including blindness, speech impairment, taste impairment, olfactory impairment, hearing impairment.

High number of Pregnancy ADRs, maternal death, stillbirths, newborn death, spontaneous abortions.”

Link: <https://dailyexpose.co.uk/2021/06/24/crimes-against-humanity-uk-government-release-21st-report-on-adverse-reactions-to-the-covid-vaccines/>

13.2. The lack of knowledge on the part of accused Judge D. Y. Chandrachud about the 81 Research proving that Natural Immunity developed due to covid-19 infection is 13 times better, more robust and long lasting than the vaccine immunity.

Research also proved that, giving vaccines to such person with Natural Immunity will cause damage to their health and will also cause loss of thousands of crores to public exchequer and wrongful profit to vaccine companies.

13.3. The research data shows that the persons with natural immunity cannot get re-infection and they cannot spread infection. The vaccinated people can spread infection they can die due to Covid infection.

Dr. Sanjay K. Rai, President of Indian Public Health Association (IPHA) and Professor at Department of Community Medicine at AIIMS, Delhi in his interview at

Link: <https://www.youtube.com/watch?v=-btDk0eSi5U&feature=youtu.be>

He made it clear that,

“the best protection and possibly life time immunity only comes from Natural immunity/natural infection i.e. those who have recovered from COVID-19. He further stated that death

due to Covid-19, among those who acquired Natural Immunity is nearly zero and possibility of re-infection is rare. Further those vaccines could cause harm or result in adverse effects if administered to those who have already acquired natural immunity and are also non-susceptible.

(A copy of excerpt of comments of Dr. Sanjay K Rai, Professor at Department of community Medicine at AIIMS, Delhi in conversation with Girijesh Vashistha of Knocking News is annexed as Annexure ...”

13.5. The Brownstone Institute lists 81 of the highest-quality, complete, most robust scientific studies and evidence reports/position statements on natural immunity as compared to the COVID-19 vaccine-induced immunity.

Link: <https://childrenshealthdefense.org/defender/research-natural-immunity-covid-brownstone-institute/>

14. Study shows that, giving vaccines to the person with previous Covid-19 infection is causing more harm than the disease itself.

14.1. Most recently, researchers in Israel reported that, the fully vaccinated persons are up to 13 times more likely to get infected than those who have had a natural COVID infection.

“As explained by Science Mag: The study ‘found in two analyses that people who were vaccinated in January and February were, in June, July and the first half of August, six to 13 times more likely to get infected than unvaccinated people who were previously infected with the coronavirus

“In one analysis, comparing more than 32,000 people in the health system, the risk of developing symptomatic COVID-19 was 27 times higher among the vaccinated, and the risk of hospitalization eight times higher.”

“The study also said that, while vaccinated persons who also had natural infection did appear to have additional protection against the Delta variant, the vaccinated were still at a greater risk for COVID-19-related-hospitalizations compared to those without the vaccine, but who were previously infected.

“Vaccines who hadn’t had a natural infection also had a 5.96-fold increased risk for breakthrough infection and a 7.13-fold increased risk for symptomatic disease.

“This study demonstrated that natural immunity confers longer lasting and stronger protection against infection, symptomatic disease and hospitalization caused by the Delta variant of SARS-CoV-2, compared to the BNT162b2 two-dose vaccine-induced immunity,” study authors said.

Link:

<https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1>

15. Giving vaccines to persons with allergies to vaccine ingredients and previous infection is having death causing serious side effects:

15. 1. Even the vaccine manufacturing companies have given the list of the person prohibited from taking vaccines.

16. Vaccinated people are at higher risk: -

16.1. “A majority of gravely ill patients in Israel are double vaccinated. A majority of deaths over 50 in England are also double vaccinated. [Exhibit]

Link: <https://www.science.org/content/article/grim-warning-israel-vaccination-blunts-does-not-defeat-delta>

16.2. A study published Sept. 30, in the peer-reviewed European Journal of Epidemiology Vaccines found “no discernible relationship” between the percentage of population fully vaccinated and new COVID cases.

In fact, the study found the most fully vaccinated nations had the highest number of new COVID cases, based on the researchers’ analysis of emerging data during a seven-day period in September.

The authors said the sole reliance on vaccination as a primary strategy to mitigate COVID-19 and its adverse consequences “needs to be re-examined,” especially considering the Delta (B.1.617.2) variant and the likelihood of future variants.

They wrote:

“Other pharmacological and non-pharmacological interventions may need to be put in place alongside increasing vaccination rates. Such course correction, especially with regards to the policy narrative, becomes paramount with emerging scientific evidence on real-world effectiveness of the vaccines.”

As part of the study, researchers investigated the relationship between the percentage of population fully vaccinated and new COVID cases across 68 countries and 2,947 U.S.

counties that had second dose vaccine, and available COVID case data.

Link: <https://link.springer.com/article/10.1007/s10654-021-00808-7>

16.3. A paper published Sept. 30 in Euro surveillance raises questions about the legitimacy of “vaccine-generated herd immunity.”

The study cites a COVID outbreak which spread rapidly among hospital staff at an Israeli Medical Center — despite a 96% vaccination rate, use of N-95 surgical masks by patients and full personal protective equipment worn by providers.

The calculated rate of infection among all exposed patients and staff was 10.6% (16/151) for staff and 23.7% (23/97) for patients, in a population with a 96.2% vaccination rate (238 vaccinated/248 exposed individuals).

The paper noted several transmissions likely occurred between two individuals both wearing surgical masks, and in one instance using full PPE, including N-95 mask, face shield, gown and gloves.

Link: <https://www.eurosurveillance.org/content/10.2807/15607917.ES.2021.26.39.2100822>

17. Cases where vaccine causing more harm than the disease itself:

17.1. Healthy boys may be more likely to be admitted to the hospital with heart inflammation from the Pfizer-BioNTech COVID vaccine than with COVID itself, according to a new pre-print study.

U.S. researchers found boys between the ages of 12 and 15, with no underlying medical conditions, were four to six times more likely to be

diagnosed with vaccine-related myocarditis than they were to be hospitalized with COVID.

Link: <https://www.medrxiv.org/content/10.1101/2021.08.30.21262866v1>

17.2. Many countries banned the use of Covi-Shield vaccines due to its side effects:

11 European countries banned the use of AstraZeneca (Covishield) vaccines for deaths of their citizens due to side effects of Said Vaccine.

Link: <https://www.aljazeera.com/news/2021/3/15/which-countries-have-halted-use-of-astrazenecas-covid-vaccine>

17.3. Majority of Hospitalizations Are Actually in the Vaccinated

The oft-repeated refrain is that we're in a "pandemic of the unvaccinated," meaning those who have not received the COVID jab make up the bulk of those hospitalized and dying from the Delta variant. However, we're already seeing a shift in hospitalization rates from the unvaccinated to those who have gotten one or two injections.

For example, in Israel, the fully "vaccinated" made up the bulk of serious cases and COVID-related deaths in July 2021, as illustrated in the graphs below. The red is unvaccinated, yellow refers to partially "vaccinated" and green fully "vaccinated" with two doses. By mid-August, 59% of serious cases were among those who had received two COVID injections.

Data from the U.K. show a similar trend among those over the age of 50. In this age group, partially and fully "vaccinated" people account for 68% of hospitalizations and 70% of COVID deaths.

- Link: 1.** <https://cdn.altnews.org/wp-content/uploads/2021/08/new-hospitalizations-thumb.jpg>
2. <https://cdn.nexusnewsfeed.com/images/2021/8/new-severe-covid-19-patients-thumb-1631973102161.png>
3. <https://cdn.nexusnewsfeed.com/images/2021/8/deaths-trend-thumb-1631973112475.png>
4. <https://cdn.nexusnewsfeed.com/images/2021/8/covid-19-delta-variant-hospital-admission-and-death-in-england-1631973123881.png>
5. <https://www.science.org/content/article/grim-warning-israel-vaccination-blunts-does-not-defeat-delta>
6. <https://www.standard.co.uk/news/uk/england-delta-donald-trump-government-public-health-england-b951620.html>

17.4. Assam: 80% Covid-19 infections among vaccinated in Guwahati

<https://timesofindia.indiatimes.com/city/guwahati/assam-80-covid-19-infections-among-vaccinated-in-guwahati/articleshow/86791235.cms>

17.5. In Bangalore more than 56% of hospitalization of covid positive patient are vaccinated.

Link: https://www.deccanherald.com/amp/state/top-karnataka-stories/more-than-half-of-hospitalised-covid-19-cases-among-vaccinated-in-bengaluru-1015918.html?_twitter_impression=true&s=04%5C

“Source Name: Deccan Herald

Date:03.08.2021

More than half of hospitalised Covid-19 cases among vaccinated in Bengaluru

These hospitalisations are indicative of the extent of vaccine penetration in the public, explained BBMP Chief Commissioner, Gaurav Gupta”

17.6. Over 50% new COVID-19 cases, deaths in Kerala from vaccinated section.

<https://www.onmanorama.com/news/kerala/2021/10/12/kerala-covid-cases-deaths-among-vaccinated.html>

17.7. In K.E.M Hospital 27 out of 29 Covid-19 positive patients were vaccinated. [Around 93%]

Link: <https://www.freepressjournal.in/mumbai/mumbai-29-mbbs-students-at-kem-hospital-test-positive-for-covid-19-27-were-fully-vaccinated>

“29 MBBS students at KEM hospital test positive for COVID-19, 27 were fully vaccinated

SOURCE:- FREE PRESS JOURNAL”

17.8. In Nagpur 13 people tested positive for the virus out of which 12 were already vaccinated.”.

Link:- <https://www.freepressjournal.in/mumbai/covid-19-third-wave-has-entered-nagpur-guardian-minister-nitin-raut-urges-people-to-avoid-crowding>

“Source:- Free Press Journal.

*Date:- Monday, September 06, 2021, 11:02 PM
IST*

Relevant Important Para to be taken;

The district guardian minister, Dr Nitin Raut, told the Free Press Journal after a review meeting, 'The third wave has started in Nagpur, which is reporting a rise in positive cases for the last few days. Notably, on Monday, 13 people tested positive for the virus out of which 12 were already vaccinated.'

18. Covishield unable to halt breakthrough Delta infections: Study
Fresh evidence on Covishield's inability to halt "breakthrough infections" caused by the Delta variant of SARS-CoV-2 in fully vaccinated individuals emerged on Sunday with a group of Indian researchers reporting an unexpectedly large proportion of Covid-19 infections among the vaccine recipients.

<https://www.medrxiv.org/content/10.1101/2021.02.28.21252621v4>

<https://www.deccanherald.com/science-and-environment/covishield-unable-to-halt-breakthrough-delta-infections-study-1024960.html>

18.1. Half of India's 87k breakthrough Covid cases in Kerala
Contributing over half of the new Covid positive cases in the country, the state has also accounted for half of the breakthrough infections reported till date.

<https://www.newindianexpress.com/states/kerala/2021/aug/20/half-of-indias-87k-breakthrough-covid-cases-in-kerala-2347145.html>

18.2. Nearly 80% (91 out of 114) Covid-19 cases reported from Sept 1 till Oct 23 in Lucknow were of breakthrough infections, according to data accessed by TOI from the office of Chief Medical Officers.

http://timesofindia.indiatimes.com/articleshow/87277252.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

19. Vaccines don't stop transmission, admitted by WHO

At a virtual press conference held by the World Health Organization on Dec. 28, 2020, officials warned there is no guarantee COVID-19 vaccines will prevent people from being infected with the SARS-CoV-2 virus and transmitting it to other people.

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/media-resources/press-briefings>

19.1. Judge's duty to respect dissenting view and see 'what is right' and not to see 'who is right':-

19.1.1. That, if accused Judge D.Y. Chandrachud and his associate Judges i.e. Co-accused Judges were misinformed due to the '**false narratives**' and '**conspiracy theories**' then the fair hearing with open mind of the dissenting views would have made a lot of difference and many lives could have been saved.

But accused Judge D.Y. Chandrachud acted with the understanding that only they are correct and brilliant and all others are wrong, fools etc.

This is a breach of the oath taken as a Supreme Court Judge, which mandates to do justice without fear or favor, malice or ill will. It is unbecoming of a Judge.

19.1.2. The acts of accused Judge D.Y. Chandrachud and others in passing orders or taking stand in a cavalier fashion or acting carelessly and to put the life of Crores of people in danger and let them die, is an offence under sec. 52 of IPC.

Section 52 of Indian Penal Code;

“52. “Good faith”.—Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.”

In Noor Mohamed Mohd. Shah R. Patel Vs. Nadirshah Ismailshah Patel 2003 SCC OnLine Bom 1233, it is ruled as under;

“It has to be kept in mind that nothing can be said to be done in good faith which is not done with due care and caution. If these ingredients are indicated by the complaint, the Magistrate is obliged to take the cognizance of the complaint so presented before him unless there are the other grounds for acting otherwise which has to be justified by reasons recorded in writing.”

19.1.4. This is also an offence of “Fraud on Power ” as explained by the Hon’ble Full Bench in the case of Vijay Shekhar Vs. Union Of India (2004)4 SCC 666, where it is ruled as under;

“(9.) This Court in Express Newspapers Pvt. Ltd. and Ors. v. Union of India and Ors.1 at has held thus :

"Fraud on power voids the order if it is not exercised bona fide for the end design. There is a distinction between exercise of power in good faith and misuse in bad faith. The former arises when an authority misuses

its power in breach of law, say, by taking into account bona fide, and with best of intentions, some extraneous matters or by ignoring relevant matters. That would render the impugned act or order ultra vires. It would be a case of fraud on powers. The misuse in bad faith arises when the power is exercised for an improper motive, say, to satisfy a private or personal grudge or for wreaking vengeance of a Minister as in S. Pratap Singh v. State of Punjab, (1964) 4 SCR 733 A power is exercised maliciously if its repository is motivated by personal animosity towards those who are directly affected by its exercise. Use of a power for an 'alien' purpose other than the one for which the power is conferred is mala fide use of that power. Same is the position when an order is made for a purpose other than that which finds place in the order. The ulterior or alien purpose clearly speaks of the misuse of the power and it was observed as early as in 1904 by Lord Lindley in General Assembly of Free Church of Scotland v. Overtown, 1904 AC 515, 'that there is a condition implied in this as well as in other instruments which create powers, namely, that the power shall be used bona fide for the purpose for which they are conferred'. It was said by Warrington, C.J. in Short v. Poole Corporation, (1926) 1 Ch 66 that: "No public body can be regarded as having statutory authority to act in bad faith or from corrupt motives, and any action purporting to be of that body, but proved to be committed in bad faith or from corrupt motives, would

certainly be held to be inoperative." In Lazarus Estates Ltd. V. Beasley, (1956) 2 QB 702 at Pp. 712-13 Lord Denning, LJ. said : "No judgment of a court, no order of minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything." (emphasis supplied) See also, in Lazarus case at p. 722 per Lord Parker, C.J. : "'Fraud' vitiates all transactions known to the law of however high a degree of solemnity." All these three English decisions have been cited with approval by this Court in Pratap Singh's case."

(10.) Similar is the view taken by this Court in the case of Ram Chandra Singh v. Savitri Devi and Ors.1 wherein this Court speaking through one of us (Sinha, J.) held thus :

"Fraud as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letter or words, which induces the other person or authority to take a definite determinative stand as a response to the conduct of the former either by word or letter. It is also well settled that misrepresentation itself amounts to fraud. Indeed, innocent misrepresentation may also give reason to claim relief against fraud. A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law if a party makes representations which he

knows to be false, and injury ensues therefrom although the motive from which the representations proceeded may not have been bad. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata."

(11.) Thus, it is clear a fraudulent act even in judicial proceedings cannot be allowed to stand. ”

19.1.4. accused Judge D.Y. Chandrachud and co accused judges , while refusing to hear the concerned petitioners on merits and discouraging their Counsels/Lawyers also acted in contempt of Hon’ble Supreme Court’s judgment in the case of **Indirect Tax Practitioners Association Vs. R.K. Jain (2010) 8 SCC 281**, where it is ruled as under;

“25...Voltaire expressed a democrat's faith when he told, an adversary in arguments : "I do not agree with a word you say, but I will defend to the death your right to say it".
Champions of human freedom of thought and expression throughout the ages, have realised that intellectual paralysis creeps over a society which denies, in however subtle a form, due freedom of thought and expression to its members.”

20. Judge cannot deny hearing to a person. Denying hearing is violation of basic human rights and also contempt of Court:

20.1. A Full Bench in National Human Rights Commission Vs. State MANU/2009/SC/0713, had ruled as under;

“Failure to accord fair hearing violates even minimum standards of due process of law. It is inherent in the concept of due process of law, that condemnation should be rendered only after the trial in which the hearing is a real one, not sham or a mere farce and pretence. Since the fair hearing requires an opportunity to preserve the process, it may be vitiated and violated by an over hasty stage- managed, tailored and partisan trial.

“In Zahira Habibullah Sheikh (5) and Anr. v. State of Gujarat and Ors. MANU/SC/1344/2006: 2006 CriLJ 1694 it was observed as under:

If the court acts contrary to the role it is expected to play, it will be destruction of the fundamental edifice on which the justice delivery system stands. People for whose benefit the courts exist shall start doubting the efficacy of the system. "Justice must be rooted in confidence; and confidence is destroyed when right-minded people go away thinking: `The Judge was biased.

The perception may be wrong about the Judge's bias, but the Judge concerned must be careful to see that

no such impression gains ground. Judges like Caesar's wife should be above suspicion.

A criminal trial is a judicial examination of the issues in the case and its purpose is to arrive at a judgment on an issue as to a fact or relevant facts which may lead to the discovery of the fact in issue and obtain proof of such facts at which the prosecution and the accused have arrived by their pleadings; the controlling question being the guilt or innocence of the accused. Since the object is to mete out justice and to convict the guilty and protect the innocent, the trial should be a search for the truth and not about over technicalities, and must be conducted under such rules as will protect the innocent, and punish the guilty. The proof of charge which has to be beyond reasonable doubt must depend upon judicial evaluation of the totality of the evidence, oral and circumstantial, and not by an isolated scrutiny.

The fair trial for a criminal offence consists not only in technical observance of the frame, and forms of law, but also in recognition and just application of its principles in substance, to find out the truth and prevent miscarriage of justice.

It was significantly said that law, to be just and fair has to be seen devoid of flaw. It has to keep the promise to justice and it cannot stay petrified and sit nonchalantly. The law should not be seen to sit by limply, while those who defy it go free and those who seek its protection

lose hope (see Jennison v. Baker). Increasingly, people are believing as observed by Salmon quoted by Diogenes Laertius in Lives of the Philosophers, "Laws are like spiders' webs: if some light or powerless thing falls into them, it is caught, but a bigger one can break through and get away." Jonathan Swift, in his "Essay on the Faculties of the Mind" said in similar lines: "Laws are like cobwebs, which may catch small flies, but let wasps and hornets break through.

Right from the inception of the judicial system it has been accepted that discovery, vindication and establishment of truth are the main purposes underlying the existence of the courts of justice. The operative principles for a fair trial permeate the common law in both civil and criminal contexts. Application of these principles involves a delicate judicial balancing of competing interests in a criminal trial: the interests of the accused and the public and to a great extent that of the victim have to be weighed not losing sight of the public interest involved in the prosecution of persons who commit offences.''

20.2. While protecting some anti national, ‘anti-Indian Army’ and pro-Chinese elements, accused Judge D.Y. Chandrachud, in his speech at Justice P.D. Desai, Memorial Lecture at Gujrat have delivered a lecture on respecting dissent but while acting as a Judge acted against his own stand. **This is called as hypocrisy and double standard.**

21. Doing any act against law, while sitting on a Dias as a Judge and doing something to help the vaccine syndicate is also an offence punishable under section **166, 219, 218, 192, 193, 120(B), 34** etc. of IPC.

22. **Offences done and violation of fundamental rights while passing order dated 01.09.2021 in Gaurav Kumar Bansal's case Contempt Petition (C) No. 1653 of 2018 in Writ Petition (C) No. 412 of 2016.**

22.1. That in the abovesaid case, accused Judge D.Y. Chandrachud, vide order dated **01.09.2021** give a blanket direction to the authorities that all the staff of Health care institutes be vaccinated.

The relevant para read thus;

“3... All the States/Union Territories are directed to lay down a time schedule for facilitating the vaccination of all persons who are lodged in mental health care institutions within a period of one month from the date of this order.

The vaccination of the inmates must also be coupled with vaccination of all the service providers as well as health care professionals and other staff associated with these institutions. The progress shall be monitored and details submitted to this Court when a status report is next filed in pursuance of the directions contained in this order.”

22.2. That, the earlier order dated **06.07.2021** passed by accused Judge D.Y. Chandrachud (**Coram:** Shri. Dr. Justice D.Y. Chandrachud, Mr. Justice M.R. Shah) reads thus;

“7. Mr. Gaurav Kumar Bansal, petitioner in person, has submitted and, in our view, in justification, that the issue of testing, tracing and vaccinating those suffering from mental illness must be taken up on a priority. Persons who are institutionalized in mental health establishments need to be vaccinated so as to protect them.”

22.3. The gross illegalities in the said directions are that the person with allergies to the contents of the vaccines or the person having previous covid-19 infection will also be vaccinated and will have death causing side effects. It is an offence u/s **115, 52, 307, 304, 304-A, 166, 120(B), 34, 109** etc. of IPC.

22.4. This is also an offence of misappropriation of public resources and money to give wrongful profit to vaccine companies and it is an offence punishable u/s 409, 120(B) and 34 of IPC.

22.5. THE RISK AND POSSIBLE DEATH CAUSING SIDE – EFFECTS AND IMPACT DUE TO SUCH BLANKET DIRECTIONS OF VACCINATIONS OF STAFF WITHOUT THEIR CONSENT OR FREE WILL:

22.5.1. That, the abovesaid directions are illegal on two counts as they are;

- (i) Violative of Constitutional protection granted to every citizen regarding their right to choose medication;
- (ii) The order is passed without hearing the people who are likely to be affected by the decision. It is violation of **Audi - Alterim - Partem** rule.

22.6. CONSTITUTIONAL MANDATE

22.6.1. That, as per **Universal Declaration on Bioethics & Human Rights 2005** and as per **International Covenant on Civil & Political Rights** the person should not be subjected to any medication against his informed consent.

22.6.2. The relevant articles of **Universal Declaration on Bioethics and Human Rights, 2005 (UDBHR)** are as under;

“Article 3 – Human dignity and human rights

1. Human dignity, human rights and fundamental freedoms are to be fully respected.

2. The interests and welfare of the individual should have priority over the sole interest of science or society.

Article 6 – Consent

1. Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information. The consent should, where appropriate, be express and may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice.

2. Scientific research should only be carried out with the prior, free, express and informed consent of the person concerned. The information should be adequate, provided in a comprehensible form and should include modalities for withdrawal of consent. Consent may be withdrawn by the person concerned at any time and for any reason without any disadvantage or prejudice. Exceptions to this

principle should be made only in accordance with ethical and legal standards adopted by States, consistent with the principles and provisions set out in this Declaration, in particular in Article 27, and international human rights law.

3. In appropriate cases of research carried out on a group of persons or a community, additional agreement of the legal representatives of the group or community concerned may be sought. In no case should a collective community agreement or the consent of a community leader or other authority substitute for an individual's informed consent.

Article 7 – Persons without the capacity to consent

In accordance with domestic law, special protection is to be given to persons who do not have the capacity to consent:

(a) authorization for research and medical practice should be obtained in accordance with the best interest of the person concerned and in accordance with domestic law. However, the person concerned should be involved to the greatest extent possible in the decision-making process of consent, as well as that of withdrawing consent;

(b) research should only be carried out for his or her direct health benefit, subject to the authorization and the protective conditions prescribed by law, and if there is no research alternative of comparable effectiveness with research participants able to consent. Research which

does not have potential direct health benefit should only be undertaken by way of exception, with the utmost restraint, exposing the person only to a minimal risk and minimal burden and, if the research is expected to contribute to the health benefit of other persons in the same category, subject to the conditions prescribed by law and compatible with the protection of the individual's human rights. Refusal of such persons to take part in research should be respected.

Article 8 – Respect for human vulnerability and personal integrity

In applying and advancing scientific knowledge, medical practice and associated technologies, human vulnerability should be taken into account. Individuals and groups of special vulnerability should be protected and the personal integrity of such individuals respected.

Article 10 – Equality, justice and equity

The fundamental equality of all human beings in dignity and rights is to be respected so that they are treated justly and equitably.

Article 11 – Non-discrimination and non-stigmatization

No individual or group should be discriminated against or stigmatized on any grounds, in violation of human dignity, human rights and fundamental freedoms.

Article 16 – Protecting future generations

The impact of life sciences on future generations, including on their genetic constitution, should be given due regard.

Application of the principles

22.6.3. That, in a reply to RTI filed by Mr. Tarun, dated **16-04-2021** file number **MOHFW/R/E/21/01536**, the Ministry of Health and Family Welfare, replied to the 1st question, **“Is Covid Vaccine Voluntary or Mandatory?”**, thus: **“Vaccination for Covid-19 is Voluntary”**. Further when the applicant asked in his subsequent questions, **“Can any government or private organization hold our salary or terminate us from job in case of not taking Covid vaccine?”** and **“Can government cancel any kind of government facilities such as subsidies, ration and medical facilities in case of not taking covid vaccine?”** the reply was, **“In view of above reply, these queries do not arise”**.

22.6.4. It is pertinent note that the Minister of State in the Ministry of Health & Family Welfare, Government of India in an answer given on **19.03.2021** in the Lok Sabha to an Unstarred Question No. 3976, **stated that there is no provision of compensation for recipients of Covid-19 Vaccination against any kind of side effects or medical complication that may arise due to inoculation. The Covid-19 Vaccination is entirely voluntary for the beneficiaries. [Annexure – B].**

22.6.5. That, the Nine Judge Queen’s Bench in the landmark case of **Airadale NHS Trust Vs. Bland (1993) 2 WLR 316**, had explained the issue regarding informed consent and free will of the said individual.

Abovesaid judgment in **Airadale NHS Trust (supra)** case is followed with approval by this Hon’ble Court in a landmark case of **Common Cause Vs. Union of India (2018) 5 SCC 1.**

Recently, the **Airadale NHS Trust** (*supra*) judgment is followed by Hon'ble Meghalaya High Court in a Landmark judgment in relation with corona vaccines and Hon'ble Court quashed the orders passed by the state authorities where people were forced to take vaccines. [**Registrar General Vs. State of Meghalaya 2021 SCC OnLine Megh 130**]

23. DOUBLE STANDERS BY TREATING THE COMMON MAN AND RICH PEOPLE DIFFERENTLY:

Accused Judge in a case of Arnab Goswami laid down the law that it is the duty of the Judges to act immediately by keeping all the work aside when the matter is related with the life and liberty of a citizen.

In the case of **Arnab Goswami Vs. State (2021) 2 SCC 427**, it is ruled as under;

“72.... Every court in our country would do well to remember Lord Denning's powerful invocation in the first Hamlyn Lecture, titled “Freedom under the Law” [Sir Alfred Denning, “Freedom under the Law”, the Hamlyn Lectures, First Series, available at .] : “Whenever one of the Judges takes seat, there is one application which by long tradition has priority over all others. The counsel has but to say, ‘My Lord, I have an application which concerns the liberty of the subject’, and forthwith the Judge will put all other matters aside and hear it...” It is our earnest hope that our courts will exhibit acute awareness to the need to expand the footprint of liberty and use our approach as a decision-making yardstick for future cases.

23.1. All the Honest and efficient Judges respected the rights of an individual and granted immediate stay to the vaccine mandates and protected the rights of the Citizen. They stayed the rules and orders of conditions of fully vaccination. But accused Judge acted with double standard and failed to protect the rights of the Crores of victims.

23.2. In Nand Lal Mishra Vs Kanhaiya Lal Mishra [AIR 1960 SC 882, it is ruled that there should not be double standard by a Judge.

"Double standard and biased conduct of Judge- In the courts of law, there cannot be a double-standard - one for the highly placed and another for the rest: the Judge should have no concern with personalities who are parties to the case before him but only with its merits.

The record discloses that presumably the Magistrate was oppressed by the high status of the respondent, and instead of making a sincere attempt to ascertain the truth proceeded to adopt a procedure which is not warranted by the Code , and to make an unjudicial approach to the case of the appellant. In the courts of law, there cannot be a double-standard-one for the highly placed and another for the rest: the Magistrate has no concern with personalities who are parties to the case before him but only with its merits.

10. After carefully going through the entire record, we are satisfied that the appellant was not given full opportunity to establish his case in the manner prescribed by law."

24. The orders and judgments passed by the Honest and efficient Judges are given as under to compare the gravity of criminal mindset and callous attitude of the accused judge Chandrachud.

24.1. In India the Hon'ble Judges of Gauhati, Meghalaya, and Manipur high Courts have taken suo-moto cognizance of the arbitrary, unlawful and unconstitutional mandates of the state and immediately quashed it.

24.2. On 23rd June, 2021 in the case between **Registrar General, High Court of Meghalaya Vs. State of Meghalaya 2021 SCC OnLine Megh 130**, it is ruled by High Court as under;

“It has been brought to the notice of this High Court that the State of Meghalaya, through various orders of the Deputy Commissioners, has made it mandatory for shopkeepers, vendors, local taxi drivers and others to get themselves vaccinated before they can resume their businesses. Whether vaccination can at all be made mandatory and whether such mandatory action can adversely affect the right of a citizen to earn his/her livelihood, is an issue which requires consideration.

Thus, by use of force or through deception if an unwilling capable adult is made to have the „flu vaccine would be considered both a crime and tort or civil“ wrong, as was ruled in Airedale NHS Trust v Bland reported at 1993 AC 789 = (1993) 2 WLR 316 = (1993) 1 All ER 821, around thirty years (30) ago. Thus, coercive element of vaccination has, since the early phases of the initiation of vaccination as a preventive measure against several diseases, have been time and again not only discouraged

but also consistently ruled against by the Courts for over more than a century.

Till now, there has been no legal mandate whatsoever with regard to coercive or mandatory vaccination in general and the Covid19 vaccination drive in particular that can prohibit or take away the livelihood of a citizen on that ground.

In the “frequently asked questions” (FAQs) on COVID-19 vaccine prepared and uploaded by the Ministry of Health and Family Welfare, Government of India, in its official website, the question which appears under serial number 3 reads, “Is it mandatory to take the vaccine?” The “potential response”, which is provided in the official website reads, “Vaccination for COVID-19 is voluntary.

*In this context, around one hundred and seven (107) years ago, in *Schloendorff v Society of New York Hospitals* reported at (1914) 211 NY 125 = 105 NE 92; 1914 NY Justice Cardozo ruled that „every human being of adult years and sound mind has a right to determine what shall be done with their body”.*

This finds mention in decisions of the European Commission and Court of Human Rights [X vs. Netherlands of 1978 (decision rendered on 4th December, 1978); X vs. Austria of 1979 (decision rendered on 13th December, 1979)] which has become truer in the present times across the world than ever before. Compulsorily administration of a vaccine without hampering one”s

right to life and liberty based on informed choice and informed consent is one thing. However, if any compulsory vaccination drive is coercive by its very nature and spirit, it assumes a different proportion and character.

However, vaccination by force or being made mandatory by adopting coercive methods, vitiates the very fundamental purpose of the welfare attached to it.”

24.3. That, Division Bench of Hon’ble Gauhati High Court in the case of **In Re: Dinthar Incident Aizawl Vs. State of Mizoram 2021 SCC OnLine Gau 1313**, has ruled as under;

*“14. It has been brought to our notice that even persons who have been vaccinated can still be infected with the covid virus, which would in turn imply that vaccinated persons who are covid positive, can also spread the said virus to others. It is not the case of the State respondents that vaccinated persons cannot be infected with the covid virus or are incapable of spreading the virus. Thus, even a vaccinated infected covid person can be a **super spreader**. If vaccinated and un-vaccinated persons can be infected by the covid virus and if they can both be spreaders of the virus, the restriction placed only upon the un-vaccinated persons, debarring them from earning their livelihood or leaving their houses to obtain essential items is unjustified, grossly unreasonable and arbitrary.”*

24.4. That, in **Common Cause Vs. Union of India (2018) 5 SCC 1**, it is ruled as under;

“169. In the context of health and medical care decisions, a person's exercise of self-determination and autonomy involves the exercise of his right to decide whether and to what extent he/she is willing to submit himself/herself to medical procedures and treatments, choosing amongst the available alternative treatments or, for that matter, opting for no treatment at all which, as per his or her own understanding, is in consonance with his or her own individual aspirations and values.

Q. Conclusions in seriatim

202. In view of the aforesaid analysis, we record our conclusions in seriatim:

202.1. A careful and precise perusal of the judgment in Gian Kaur case [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] reflects the right of a dying man to die with dignity when life is ebbing out, and in the case of a terminally-ill patient or a person in PVS, where there is no hope of recovery, accelerating the process of death for reducing the period of suffering constitutes a right to live with dignity.

202.2. The Constitution Bench in Gian Kaur [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] has not approved the decision in Airedale [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] inasmuch as the Court has only made a brief reference to the Airedale case [Airedale N.H.S. Trust v. Bland, 1993 AC

789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)]

202.3. It is not the ratio of Gian Kaur [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] that passive euthanasia can be introduced only by legislation.

202.4. The two-Judge Bench in Aruna Shanbaug [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] has erred in holding that this Court in Gian Kaur [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] has approved the decision in Airedale case [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] and that euthanasia could be made lawful only by legislation.

202.5. There is an inherent difference between active euthanasia and passive euthanasia as the former entails a positive affirmative act, while the latter relates to withdrawal of life-support measures or withholding of medical treatment meant for artificially prolonging life.

202.6. In active euthanasia, a specific overt act is done to end the patient's life whereas in passive euthanasia, something is not done which is necessary for preserving a patient's life. It is due to this difference that most of the countries across the world have legalised passive euthanasia either by legislation or by judicial interpretation with certain conditions and safeguards.

202.7. Post Aruna Shanbaug [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294], the 241st Report of the Law Commission of India on Passive Euthanasia has also recognised passive euthanasia, but no law has been enacted.

202.8. An inquiry into Common Law jurisdictions reveals that all adults with capacity to consent have the right of self-determination and autonomy. The said rights pave the way for the right to refuse medical treatment which has acclaimed universal recognition. A competent person who has come of age has the right to refuse specific treatment or all treatment or opt for an alternative treatment, even if such decision entails a risk of death. The “Emergency Principle” or the “Principle of Necessity” has to be given effect to only when it is not practicable to obtain the patient's consent for treatment and his/her life is in danger. But where a patient has already made a valid Advance Directive which is free from reasonable doubt and specifying that he/she does not wish to be treated, then such directive has to be given effect to.

202.9. Right to life and liberty as envisaged under Article 21 of the Constitution is meaningless unless it encompasses within its sphere individual dignity. With the passage of time, this Court has expanded the spectrum of Article 21 to include within it the right to live with dignity as component of right to life and liberty.

202.12. Though the sanctity of life has to be kept on the high pedestal yet in cases of terminally ill persons or PVS patients where there is no hope for revival, priority shall be given to the Advance Directive and the right of self-determination.

202.13. In the absence of Advance Directive, the procedure provided for the said category hereinbefore shall be applicable.

*202.14. When passive euthanasia as a situational palliative measure becomes applicable, **the best interest of the patient shall override the State interest.***

*306. In addition to personal autonomy, other facets of human dignity, namely, “self-expression” and “right to determine” also support the argument that **it is the choice of the patient to receive or not to receive treatment.***

*517. The entitlement of each individual to a dignified existence necessitates constitutional recognition of the principle that an individual possessed of a free and competent mental state is entitled to decide whether or not to accept medical treatment. The right of such an individual to refuse medical treatment is unconditional. **Neither the law nor the Constitution compel an individual who is competent and able to take decisions, to disclose the reasons for refusing medical treatment nor is such a refusal subject to the supervisory control of an outside entity.**”*

24.5. United States Court of Appeal for the fifth Circuit, considering the seriousness of the issue vide its order dated **6th November,2021** granted interim stay at first hearing.

Said order reads thus;

*In the Hon'ble Court of United States **BST Holdings Vs. Occupational Safety And Health Administration** **Order Dated 6th Nov, 2021** , it is ruled as under;*

Before the court is the petitioners'¹ emergency motion to stay enforcement of the Occupational Safety and Health Administration's November 5, 2021 Emergency Temporary Standard² (the "Mandate") pending expedited judicial review.

Because the petitions give cause to believe there are grave statutory and constitutional issues with the Mandate, the Mandate is hereby STAYED pending further action by this court.

The Government shall respond to the petitioners' motion for a permanent injunction by 5:00 PM on Monday, November 8.

The petitioners shall file any reply by 5:00 PM on Tuesday, November 9.

24.6. Thereafter vide its detail order dated **12th November ,2021** the United States Court confirm the interim stay.

24.7. The Slovenia Constitutional Court has blocked the government plan to make coronavirus vaccines mandatory for public employees, hours before it was due to come into force.

“In its decision the court said that “despite the very serious epidemic situation”, it considered that “implementing the potentially unconstitutional (measure) ... would have worse consequences than delaying implementation”.

24.8. In New York, a federal appeals court blocked New York City's coronavirus vaccine mandate days before the mandate goes into effect. “The 2nd circuit Court of Appeals granted an expedited injunction on Friday blocking the city from mandating that all public-school employees submit proof of their first coronavirus vaccine dose by Monday.”

24.9. In Gainesville, Florida a lower court has issued an injunction against vaccine mandates for employees.

“A Circuit Court judge has issued a temporary injunction preventing the City of Gainesville from requiring a COVID-19 vaccine for employees or terminating employees that do not get the vaccine.”

24.10. The governor of Texas has barred all Covid-19 vaccine mandates in state and termed the vaccine mandates as bullying by the administration. The order states:

“WHEREAS, I issued Executive Orders GA-35, GA-38, and GA-39 to prohibit governmental entities and certain others from imposing COVID- 19 vaccine mandates or requiring vaccine passports; and WHEREAS, in yet another instance of

federal overreach, the Biden Administration is now bullying many private entities into imposing COVID-19 vaccine mandates, causing workforce disruptions that threaten Texas' s continued recovery from the COVID- 19 disaster; and

WHEREAS, countless Texans fear losing their livelihoods because they object to receiving a COVID- 19 vaccination for reasons of personal conscience, based on a religious belief, or for medical reasons' including prior recovery from COVID-19; and

...

WHEREAS, the legislature has taken care to provide exemptions that allow people to opt out of being forced to take a vaccine for reasons of conscience or medical reasons; and

....

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. No entity in Texas can compel receipt of a COVID-19 vaccine by any individual, including an employee or a consumer, who objects to such vaccination for any reason of personal conscience, based on a religious belief, or for medical reasons, including prior recovery from COVID-19. I hereby suspend all relevant statutes to the extent necessary to enforce this prohibition.

2. The maximum fine allowed under Section 4 1 8. 173 of the Texas Government Code and the State's emergency management plan shall apply to any "failure to comply with" this executive order. Confinement in jail is not an available penalty for violating this executive order."

24.11.The UK Parliamentary Committee report dated **09 Sep 2021** held that the Covid passport policy lacks scientific evidence base and must be done away with. Based on this report the government decided not to issue any vaccine mandates. The report stated:

"The Committee's report demanded that the Government provide scientific evidence backing-up its claims that requiring Covid passports was necessary to reopening the economy and society if it pressed ahead with plans to implement them. Doing so through the publication of the public health case, cost-benefit analyses, and modeling of the potential impacts would be essential to public understanding and acceptance of the system, the report said. The Government failed to give any such evidence in its response. Added to this, the latest analysis by Public Health England (PHE) found that although being fully vaccinated protects against infection and severe symptoms, it unlikely to do much to stop the spread of the virus if people become infected. Jabbed and unjabbed individuals carry similar amounts of the virus. Researchers call this having a similar viral load. Concerns over viral load of the Delta variant appeared in Sage meeting minutes from 22 July. Sage, the Government's scientific advisory panel, warned that there is 'limited vaccine

effect against onward transmission' of the variant. Given that this meeting was held before the Government: responded to the Committee's report, the Committee has severe concerns about the way in which this policy has been developed and kept under consideration.”

24.12.A court in Galicia, Spain, overruled regional governments' requirement for Covid passports in bars and restaurants.

24.13.In Andalusia, Spain,

“Andalusian justice rejects the requirement of the covid certificate to enter the nightclubs. The magistrates consider that the measure requested by the Board violates the right to privacy and the principle of non-discrimination and is neither suitable nor necessary.”

24.14.The Scandinavian countries of Sweden, Finland, Norway, Denmark have all done away with all Covid restrictions; Denmark had briefly considered vaccine passports but recently decided to do away with such a system.

25. Accused Judge D. Y. Chandrachud is not aware of the basic law that **it is the duty of the Government to publish the side effects of vaccines before calling the citizens to get vaccinated. The Accused Judge seems to have more interest in profit of vaccine companies than the fundamental rights, life and liberty of the people.**

25.1. In the case (W.P.(C) 343/2019 & CM Nos.1604 1605/2019) between Master Haridaan Kumar (Minor through Petitioners Anubhav Kumar and Mr. Abhinav Mukherji) Versus

Union of India, & W.P.(C) 350/2019 & CM Nos. 1642-1644/2019 between Baby Veda Kalaan & Others Versus Director of Education & Others.

25.2. Hon'ble High Court of Delhi had observed that the authority is bound to advertise the side effects of the vaccines before getting their consent.

It is ruled as under;

“The contention that indication of the side effects and contraindications in the advertisement would discourage parents or guardians from consenting to the MR campaign and, therefore, the same should be avoided, is unmerited. The entire object of issuing advertisements is to ensure that necessary information is available to all parents/guardians in order that they can take an informed decision. The respondents are not only required to indicate the benefits of the MR vaccine but also indicate the side effects or contraindications so that the parents/guardians can take an informed decision whether the vaccine is to be administered to their wards/ children.”

The Hon'ble High Court of Delhi thus passed the following orders;

“MR vaccines will not be administered to those students whose parents / guardians have declined to give their consent. The said vaccination will be administered only to those students whose parents have given their consent either by returning the consent forms or by

conforming the same directly to the class teacher/nodal teacher and also to students whose parents/guardians cannot be contacted despite best efforts by the class teacher/nodal teacher and who have otherwise not indicated to the contrary”.

01- Further on the issue of informed consent, the Hon’ble High Court had clearly directed that:

“Directorate of Family Welfare shall issue quarter page advisements in various newspapers as indicated by the respondents... The advertisements shall also indicate that the vaccination shall be administered with Auto Disable Syringes to the eligible children by Auxiliary Nurse Midwifery. The advertisement shall also clearly indicate the side effects and contraindications as may be finalized by the Department of Preventive Medicine, All India Institute of Medical Sciences”.

26. Accused Judge failed to appreciate the fact that for bringing any vaccination mandates the liberty of a citizen cannot be curtailed on the basis of orders passed by the authority or there is a need of creating a law by the legislation as per Article 19(b) of the Constitution of India as explained by the Hon’ble High Court in Re Dinthar Incident Vs. State of Mizoram and Others 2021 SCC OnLine Gau 1313 & Madan Mili Vs. UOI 2021 SCC OnLine Gau 1503.

In Re Dinthar Incident Vs. State of Mizoram and Others 2021 SCC OnLine Gau 1313, it is ruled as under;

“17. With regard to the contention of the learned Additional Advocate General that the State Government can make

restrictions curtailing the Fundamental Rights of the citizens under the Disaster Management Act, 2005 (hereinafter referred to as the “Act”), by way of the SOP, the same in our considered view is clearly not sustainable, as the said clauses in the SOP which are in issue in the present case cannot be said to be reasonable restrictions made in terms of Article 19(6). A restriction cannot be arbitrary or of a nature that goes beyond the requirement of the interest of the general public. Though no general pattern or a fixed principle can be laid down so as to be universal in application, as conditions may vary from case to case, keeping in view the prevailing conditions and surroundings circumstances, the requirement of Article 19(6) of the Constitution is that the restriction has to be made in the form of a law and not by way of an executive instruction. The preamble of the Act clearly states that it is an Act to provide an effective management of the disasters and for matters connected therewith or incidental thereto. There is nothing discernible in the Act, to show that the said Act has been made for imposing any restriction on the exercise of the rights conferred by Article 19 of the Constitution. Further, the SOP dated 29.06.2021 is only an executive instructions allegedly made under Section 22(2)(h) & Section 24(1) of the Act and not a law. The provisions of Sections 22 & 24 only provides for the functions and powers of the State Executive Committee in the event of threatening disaster situation or disaster. It does not give any power to the State Executive Committee to issue executive instructions discriminating persons with regard to their right to liberty, livelihood and

life and violating the fundamental rights of the citizens, which is protected by the Constitution.

18. The SOP provides that vaccinated persons who are employed in shops/stores and to drive transport/commercial vehicles should wear mask and adhere to all proper covid protocols. If an un-vaccinated person is to be made to adhere to the same protocols, there can be no difference in the work of a vaccinated or un-vaccinated person. As such, the restriction placed upon un-vaccinated persons only due to non-vaccination is unreasonable and arbitrary.

19. In view of the reasons stated above, we hold that the restrictions placed upon un-vaccinated individuals vis-à-vis vaccinated individuals in terms of Clause 5(2), 6(1), 6(5), Serial No. 31 & 42 of Annexure-3 of the SOP dated 29.06.2021 are arbitrary and not in consonance with the provisions of Article 14, 19 & 21 of the Constitution. The said impugned clauses are interfered with, to the extent that the allowances available and given to vaccinated persons in the above clauses shall also be made equally applicable to un-vaccinated persons. The State respondents are accordingly directed to issue a corrigendum of the SOP dated 29.06.2021 at the earliest incorporating the above directions.

20. The Order dated 29.06.2021 issued by the Chief Secretary Mizoram with the enclosed SOP dated 29.06.2021, the letter dated 01.07.2021 issued by the Under Secretary to the Government of Mizoram, Disaster Management & Rehabilitation Department and the Notice dated 01.07.2021

issued by the Deputy Commissioner, Aizawl are made a part of the record and marked as Annexure-X, Y & Z respectively.”

In the case of **Madan Mili Vs. UOI 2021 SCC OnLine Gau 1503**, it is ruled as under;

“12. The right granted under Article 19 (1) (d) of the Constitution of India to move freely throughout the territory of India, however, is not absolute and the State may impose a reasonable restrictions on the exercise of the rights under Article 19 (1) (d) of the Constitution of India either in the interest of the general public or for the protection of the interest of the Schedule Tribe. While putting any restrictions, as above, such restrictions, however, must be a reasonable one conforming to the requirement of Article 14 of the Constitution of India as well. Article 14 of the Constitution of India guarantees to every persons the right not to be denied equality before the law or the equal protection of laws. “Equality before the law” means that amongst equals the law should be equal and should be equally administered and that like should be treated alike. Classification of persons into groups for different treatment of such groups is permissible if there is a reasonable basis for such difference. Article 14 of the Constitution of India forbids class legislation, but does not forbid classification or differentiation which rests upon reasonable grounds of distinction. The power of making classification, however, is not without limit. A classification to be valid must be reasonable. It must always rest upon some real and substantial distinction bearing reasonable and just needs in respect of which the classification is made. In order

to pass the test of permissible classification, 2 (two) conditions must be fulfilled, namely, (i) the classification must be founded on an intelligible differentiation which distinguishes persons or things that are grouped together from others left out of the group; and (ii) the differentia must have a rational relation to the object sought to be achieved by such classification.

14. Thus, if the sole object of issuing the Order dated 30.06.2021, by the Chief Secretary cum Chairperson-State Executive Committee, Government of Arunachal Pradesh, vide Memo No. SEOC/DRR&DM/01/2011-12, is for containment of the Covid-19 pandemic and its further spread in the State of Arunachal Pradesh, the classification sought to be made between vaccinated and unvaccinated persons for Covid-19 virus for the purpose of issuing temporary permits for developmental works in both public and private sector, vide Clause 11 thereof, prima facie, appears to be a classification not founded on intelligible differentia nor it is found to have a rational relation/nexus to the object sought to be achieved by such classification, namely, containment and further spread of Covid-19 pandemic.

15. For the reasons stated hereinabove, it prima facie appears to this Court that Clause 11 of the Order dated 30.06.2021, issued by the Chief Secretary cum Chairperson-State Executive Committee, Government of Arunachal Pradesh, vide Memo No. SEOC/DRR&DM/01/2011-12, in so far it makes a classification of persons who are Covid-19 vaccinated and persons who are Covid-19 unvaccinated for

the purpose of issuance of temporary permits for developmental works in both public and private sector in the State of Arunachal Pradesh violates Articles 14, 19 (1) (d) & 21 of the Constitution of India calling for an interim order in the case. Accordingly, till the returnable date, Clause 11 of the Order dated 30.06.2021, issued by the Chief Secretary cum Chairperson-State Executive Committee, Government of Arunachal Pradesh, vide Memo No. SEOC/DRR &DM/01/2011-12, in so far it discriminates between Covid-19 vaccinated persons and Covid-19 unvaccinated persons for issuance of temporary permits for developmental works in both public and private sector in the State of Arunachal Pradesh, shall remain stayed.”

27. Act of accused also amounts to an offence under Section 51(b), 54, 55 of Disaster Management Act, 2005 & other provisions of I.P.C.

Section 51(b), 55 of the Act reads thus;

“Section 51 in the Disaster Management Act, 2005

51. Punishment for obstruction, etc.-

Whosoever,

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act, shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such

obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years. notes on clauses Clauses 51 to 58 (Secs. 51 to 58) seeks to lay down what will constitute an offence in terms of obstruction of the functions under the Act, false claim for relief, misappropriation of relief material or funds, issuance of false warning, failure of an officer to perform the duty imposed on him under the Act without due permission or lawful excuse, or his connivance at contravention of the provisions of the Act. The clauses also provide for penalties for these offences.

Section 54 : Punishment for false warning.—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine. —Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine."

55. Offences by Departments of the Government.-

(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence

to prevent the commission of such offence. (1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.”

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

28. The Accused judges are bound to resign as per law laid down in the case of K. Veeraswami Vs. Union of India (1991) 3 SCC 655.

28.1. Constitution Bench in the case of K. Veeraswami K. Veeraswami Vs. Union of India (1991) 3 SCC 655, while dealing with the case of criminal prosecution of a Supreme Court Judge had ruled that

“ The judiciary has no power of the purse or the sword. It survives only by public confidence and it is important to the stability of the society that the confidence of the public is not shaken. The Judge whose character is clouded and whose standards of morality and rectitude are in doubt may not have the judicial independence and may not command

confidence of the public. He must voluntarily withdraw from the judicial work and administration.

The emphasis on this point should not appear superfluous. Prof. Jackson says "Misbehaviour by a Judge, whether it takes place on the bench or off the bench, undermines public confidence in the administration of justice, and also damages public respect for the law of the land; if nothing is seen to be done about it, the damage goes unrepaired. This must be so when the judge commits a serious criminal offence and remains in office". (Jackson's Machinery of Justice by J.R. Spencer 8th ed. p.p. 369-370)

*The proved "misbehaviour" which is the basis for removal of a Judge under clause (4) of Article 124 of the Constitution may also in certain cases involve an offence of criminal misconduct under section S(1) of the Act. But that is **no ground for withholding criminal prosecution till the Judge is removed by Parliament as suggested by counsel for the appellant. One is the power of Parliament and the other is the jurisdiction of a Criminal Court. Both are mutually exclusive. "Even a Government servant who is answerable for his misconduct which may also constitute an offence under the IPC or under Section 5 of the Act is liable to be prosecuted in addition to a departmental enquiry. If prosecuted in a criminal court he may be punished by way of imprisonment or fine or with both but in departmental enquiry, the highest penalty that could be imposed on him is dismissal. The competent authority may either allow the***

prosecution to go on in a Court of law or subject him to a departmental enquiry or subject him to both concurrently or consecutive- ly. It is not objectionable to initiate criminal proceedings against public servant before exhausting the disciplinary proceedings, and a fortiori, the prosecution of a Judge for criminal misconduct before his removal by Parliament for proved misbehaviour is unobjectionable.”

28.2. Justice Krishna Iyer in **Raghibir Singh vs State Of Haryana 1980 SCR (3) 277**, gave a rich and subtle warning to the members of Judiciary, which is also applicable to the members of Bar. The said famous words reads thus:

4. We conclude with the disconcerting note sounded by Abraham Lincoln :

“If you once forfeit the confidence of your fellow citizens you can never regain their respect and esteem. It is true that you can fool all the people some of the time, and some of the people all the time, but you cannot fool all the people all the time.”

28.3. It is the duty of the members of the Bar to expose corrupt Judges. In the case of **R. Muthukrishnan Vs. The Registrar General Of The High Court AIR 2019 SC 849**, ruled that;

“it is the duty of the Bar to protect honest judges and at the same time to ensure that corrupt judges are not spared.”

28.4. In Madhav Hayawadanrao Hoskot vs. State of Maharashtra; (1978) 3 SCC 544”, Justice Shri V.R. Krishna Iyer reproduced the well-known words of Mr. Justice William J. Brennan, Jr. and held as under:

“16. Nothing rankles (cause annoyance) more in the human heart than a brooding sense (fear / anxiety) of injustice.

...Democracy’s very life depends upon making the machinery of justice so effective that every citizen shall believe in and benefit by its impartiality and fairness.

The social service which the Judges render to the community is the removal of a sense / fear of injustice from the hearts of people, which unfortunately is not being done, and the people (victims & dejected litigants) have been left abandoned to suffer and bear their existing painful conditions, and absolutely on the mercy of GOD.”

28.5. Martin Luther King said **“Injustice anywhere is threat to Justice everywhere”**. The second sound principle is that **“Evil tolerated is evil propagated”**

28.6. “Justice”, we do not tire of saying, must not only be done”, but, ‘must be seen to be done” and yet at times some Courts suffer from temporary amnesia and forget these words of wisdom. In the result, a Court occasionally adopts a procedure which does not meet the high standards set for itself by the judiciary. The present matter falls in that unfortunate category of cases”. These are the observations of Hon'ble Supreme Court against a Judge who adopted the unfair procedure and passed a wrong order consciously. (Nirankar Nath Wahi and Others,

Vs. Fifth Addl. District Judge, Moradabad and others, AIR 1984 SC 1268)

29. In a case against Justice **Nirmal Yadav**, she was charge sheeted by CBI for accepting **Rs. 10** Lakh bribe for passing an unlawful order. It is ruled as under;

“Hon’ble Supreme Court observed:

Be you ever so high, the law is above you.” Merely because the petitioner has enjoyed one of the highest constitutional offices(Judge of a High Court), she cannot claim any special right or privilege as an accused than prescribed under law. Rule of law has to prevail and must prevail equally and uniformly, irrespective of the status of an individual.

The petitioner Justice Mrs. Nirmal Yadav, the then Judge of Punjab and Haryana High Court found to have taken bribe to decide a case pending before her- CBI charge sheeted - It is also part of investigation by CBI that this amount of Rs.15.00 lacs was received by Ms. Yadav as a consideration for deciding RSA No.550 of 2007 pertaining to plot no.601, Sector 16, Panchkula for which Sanjiv Bansal had acquired interest. It is stated that during investigation, it is also revealed that Sanjiv Bansal paid the fare of air tickets of Mrs. Yadav and Mrs. Yadav used matrix mobile phone card provided to her by Shri Ravinder Singh on her foreign visit. To establish the close proximity between Mrs. Yadav, Ravinder Singh, Sanjiv Bansal and Rajiv Gupta, CBI has given details of phone calls amongst these accused persons

during the period when money changed hands and the incidence of delivery of money at the residence of Ms. Nirmaljit Kaur and even during the period of initial investigation - the CBI concluded that the offence punishable under [Section 12](#) of the PC Act is established against Ravinder Singh, Sanjiv Bansal and Rajiv Gupta whereas offence under [Section 11](#) of the PC Act is established against Mrs. Justice Nirmal Yadav whereas offence punishable under [Section 120-B](#) of the IPC read with [Sections 193, 192, 196, 199 and 200](#) IPC is also established against Shri Sanjiv Bansal, Rajiv Gupta and Mrs. Justice Nirmal yadav

It has been observed by Hon'ble Supreme Court "Be you ever so high, the law is above you." Merely because the petitioner has enjoyed one of the highest constitutional offices(Judge of a High Court), she cannot claim any special right or privilege as an accused than prescribed under law. Rule of law has to prevail and must prevail equally and uniformly, irrespective of the status of an individual. Taking a panoptic view of all the factual and legal issues, I find no valid ground for judicial intervention in exercise of inherent jurisdiction vested with this Court. Consequently, this petition is dismissed.

B) In-House procedure 1999 , for enquiry against High Court and Supreme Court Judges - Since the matter pertains to allegations against a sitting High Court Judge, the then Hon'ble Chief Justice of India, constituted a three members committee comprising of Hon'ble Mr. Justice H.L. Gokhale, the then Chief Justice of Allahabad High Court,

presently Judge of Hon'ble Supreme Court, Justice K.S. Radhakrishnan, the then Chief Justice of Gujarat High Court, presently, Judge of Hon'ble Supreme Court and Justice Madan B.Lokur, the then Judge of Delhi High Court, presently Chief Justice Gauhati High Court in terms of In-House procedure adopted by Hon'ble Supreme Court on 7.5.1997. The order dated 25.8.2008 constituting the Committee also contains the terms of reference of the Committee. The Committee was asked to enquire into the allegations against Justice Mrs. Nirmal Yadav, Judge of Punjab and Haryana High Court revealed, during the course of investigation in the case registered vide FIR No.250 of 2008 dated 16.8.2008 at Police Station, Sector 11, Chandigarh and later transferred to CBI. The Committee during the course of its enquiry examined the witnesses and recorded the statements of as many as 19 witnesses, including Mrs. Justice Nirmal Yadav (petitioner), Ms. Justice Nirmaljit Kaur, Sanjiv Bansal, the other accused named in the FIR and various other witnesses. The Committee also examined various documents, including data of phone calls exchanged between Mrs. Justice Nirmal yadav and Mr. Ravinder Singh and his wife Mohinder Kaur, Mr. Sanjiv Bansal and Mr. Ravinder Singh, Mr. Rajiv Gupta and Mr. Sanjiv Bansal. On the basis of evidence and material before it, the Committee of Hon'ble Judges has drawn an inference that the money delivered at the residence of Hon'ble Ms. Justice Nirmaljit Kaur was in fact meant for Ms. Justice Nirmal Yadav.”

29.1. In Jagat Jagdishchandra Patel Vs. State of Gujarat and Ors. 2016 SCC OnLine Guj 4517, it is ruled as under;

“Two Judges caught in sting operation – demanding bribe to give favourable verdict – F.I.R. registered – Two accused Judges arrested – Police did not file charge-sheet within time – Accused Judges got bail – complainant filed writ for transferring investigation.

Held, the police did not collect evidence, phone details – CDRS – considering apparent lapses on the part of police, High Court transferred investigation through Anti-Corruption Bureau.

A Constitution Bench of this Court in Subramanian Swamy v. Director, Central Bureau of Investigation & Anr. (2014) 8 SCC 682, reiterated that corruption is an enemy of the nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the Act 1988.

Not only this has a demoralising bearing on those who are ethical, honest, upright and enterprising, it is visibly antithetical to the quintessential spirit of the fundamental duty of every citizen to strive towards excellence in all spheres of individual and collective activity to raise the nation to higher levels of endeavour and achievement.

It encourages defiance of the rule of law and the propensities for easy materialistic harvests, whereby the society's soul stands defiled, devalued and denigrated.

Corruption is a vice of insatiable avarice for self-aggrandizement by the unscrupulous, taking unfair advantage of their power and authority and those in public office also, in breach of the institutional norms, mostly backed by minatory loyalists. Both the corrupt and the corrupter are indictable and answerable to the society and the country as a whole. This is more particularly in re the peoples' representatives in public life committed by the oath of the office to dedicate oneself to the unqualified welfare of the laity, by faithfully and conscientiously discharging their duties attached thereto in accordance with the Constitution, free from fear or favour or affection or ill-will. A self-serving conduct in defiance of such solemn undertaking in infringement of the community's confidence reposed in them is therefore a betrayal of the promise of allegiance to the Constitution and a condemnable sacrilege. Not only such a character is an anathema to the preambular promise of justice, liberty, equality, fraternal dignity, unity and integrity of the country, which expectantly ought to animate the life and spirit of every citizen of this country, but also is an unpardonable onslaught on the constitutional religion that forms the bedrock of our democratic polity.

Both the Presiding Officers and two staff members were suspended by the Gujarat High Court and a first information report being I-C.R. No. 1 of 2015 came to be registered

The accused-judicial officers preferred Special Criminal Application, seeking a writ of mandamus, which ultimately came to be rejected by this Court on the ground that it was a large scale scam. The Court further observed in its prima facie conclusion that the officers have tarnished the image of the judiciary and the facts of the case are gross and disturbing.

Both the said accused were arrested and produced before the learned District and Sessions Judge. The regular bail application preferred by them came to be rejected and they were sent to the judicial custody. It is alleged that except the evidence furnished by the petitioner, no fresh evidence came to be collected by the respondent No. 2-Investigating Officer. The slipshod manner of investigation of the complaint led the petitioner to approach the High Court.

It is the grievance of the petitioner that due to improper investigation by an incompetent Police Officer, there are many more accused who are roaming freely in the society and no attempts have been made to arrest the seven advocates who were a part of this corruption racket. It is also their say that in a zeal to protect the erring officer, the remand of both the accused persons has not been sought for. The reason of unaccounted wealth received towards the illegal gratification has not been pressed into service for seeking remand. The deliberate lapse on the part of the respondent No. 2 has jeopardised the audio and video proof which have been tendered. The hard disk which is a

preliminary evidence and the CD-a secondary evidence, have been ignored. The charge sheet ought to have been filed within a period of sixty days from the date of the arrest of the accused, which since was not done, it resulted into their release as they both have been given default bail. According to the petitioner, it was the duty of the respondent as well as the Registrar (Vigilance) to check the entire hard disk to find out other and further corrupt practices by the accused persons. Therefore, it is urged that the investigation be carried out by a person having impeccable integrity.

Dealing firstly with the first issue of remand, it is not in dispute that the remand of the accused who both are the judicial officers and allegedly involved in corrupt practice has not been sought for.

From the beginning it is the case of the complainant that the conduct, which has been alleged in the complaint has brought disrepute to the investigation. It is also his say that huge amount of illegal gratification had been demanded by both the judicial officers in the pending matters and, therefore, to presume that there was no material to seek remand, is found unpalatable. It is an uncontroverted fact that the Vigilance Officer (VO-II), who has filed his affidavit-in-reply, has retired during the pendency of the investigation. While he continued to act as Investigating Officer also, he could have conducted the investigation more effectively and with scientific precision. To be complacent and/or to presume anything while handling serious

investigation cannot be the answer to the requirements of law. It though may not be said to be an attempt to save the accused, it surely is an act, which would raise the eye-brows, particularly when the investigation was at a very nascent stage against the judicial officers. Recourse of the society against all kinds of injustice and violation of law when is in the judiciary, all the more care would be essential when judicial officers themselves are alleged of demand of bribe for discharging their duties under the law. Not that remand in every matter is a must to be sought. But, the stand taken by the Investigating Officer to justify his stand leaves much to be desired.

At the time of hearing of this petition, when a specific query was raised as to why the charge sheet was not filed within the time frame, non-receipt of report from the Forensic Science Laboratory was shown to be one of the strongest grounds

Undoubtedly, in every criminal matter where the investigation is to be completed and the charge sheet is to be laid either within 60 days or 90 days, the report of the Forensic Science Laboratory does not necessarily form the part of the papers of the charge sheet. The Criminal Manual also provides for submission of the Forensic Science Laboratory report if not submitted with the charge sheet, at a belated stage.

It is not a sound reason put forth on the part of the Investigating Officer that the pendency of the Forensic

Science Laboratory report had caused delay in filing the charge sheet

Such time limit to place the charge sheet could not have gone unnoticed and that ought not to have furnished a ground for default bail when otherwise these officers were refused bail by the competent Court.

Even when the CD did not reveal giving of illegal gratification, but only demand, how could all other angles of this serious issues be left to the guesswork. To say that after the Special Officer (Vigilance) recorded the statement of the complainant and collected some material, nothing remained to be collected, is the version of the Investigating Officer wholly unpalatable. After a thorough investigation, he would have a right to say so and the Court if is not satisfied or the complainant finds it unacceptable, he can request for further investigation under section 173(8) of the Code of Criminal Procedure. But, how could an Investigating Officer presume from the tenor of the complaint or the CD sent by the complainant about non-availability of the evidence.

To give only one example, it is unfathomable as to why the Investigating Officer failed to call CDRs in this matter.

In every ordinary criminal matter also, collecting of CDRs is found to be a very useful tool to prove whereabouts of parties and also to link and resolve many unexplained links.

CDRs are held to be the effective tool by a Division Bench of this Court in one of the appeals, by holding thus:

"It would be apt to refer to certain vital details CDR, which known as Call detail record as also Call Data record, available on the internet [courtesy Wikipedia]. The CDR contains data fields that describe a specific instance of telecommunication transaction minus the content of that transaction. CDR contains attributes, such as [a] calling party; [b] called party; [c] date and time; [e] call duration; [f] billing phone number that is charged for the call; [g] identification of the telephone exchange; [h] a unique sequence number identifying the record; [i] additional digits on the called number, used to route the call; [j] result of the call ie., whether the same was connected or not; [k] the route by which call left the exchange; [l] call type [ie., voice, SMS, etc.].

Call data records also serve a variety of functions. For telephone service providers, they are critical to the production of revenue. For law enforcement, CDRs provide a wealth of information that can help to identify suspects, in that they can reveal details as to an individual's relationships with associates, communication and behavior patterns and even location data that can establish the whereabouts of an individual during the entirety of the call. For companies with PBX telephone systems, CDRs provide a means of tracking long distance access, can monitor

telephone usage by department; including listing of incoming and outgoing calls.

In a simpler language, it can be said that the technology can be best put to use in the form of CDRs which contains data fields describing various details, which also includes not only the phone number of the subscriber originating the call and the phone number receiving such call etc., but, the details with regard to the individual's relationships with associates, the behavior patterns and the whereabouts of an individual during the entirety of the call.

The whole purpose of CDR is not only to establish the number of phone calls which may be a very strong circumstance to establish their intimacy or behavioral conduct. Beyond that, such potential evidence also can throw light on the location of the mobile phone and in turn many a times, the position and whereabouts of the person using them with the aid of mobile phone tracking and phone positioning, location of mobile phone and its user is feasible. As the mobile phone ordinarily communicates wirelessly with the closest base station. In other words, ordinarily, signal is made available to a mobile phone from the nearest Mobile tower. In the event of any congestion or excessive rush on such mobile tower, there is an inbuilt mechanism of automatic shifting over to the next tower and if access is also not feasible there, to the third available tower. This being largely a scientific evidence it may have a material bearing on the issue, and therefore, if such evidence is established

scientifically before the Court concerned, missing link can be provided which more often than not get missed for want of availability of credible eye-witnesses. We have noticed that in most of the matters these days, scientific and technical evidence in the form of Call Data Record is evident. However, its better and further use for the purpose of revealing and establishing the truth is restricted by not examining any witness nor bringing on record the situation of the mobile towers. Such kind of evidence, more particularly in case of circumstantial evidence will be extremely useful and may not allow the truth to escape, as the entire thrust of every criminal trial is to reach to the truth."

25. With the nature of direct allegations of demand of illegal gratification by the judicial officers for disposition of justice, they would facilitate further investigation and also may help establishing vital links. No single reason is given for not collecting the CDRs during the course of investigation of crime in question.

This Court has exercised the power to transfer investigation from the State Police to the CBI in cases where such transfer is considered necessary to discover the truth and to meet the ends of justice or because of the complexity of the issues arising for examination or where the case involves national or international ramifications or where people holding high positions of power and influence or political clout are involved.

The Apex Court in the said decision further observed that the purpose of investigation is to reach to the truth in every investigation. For reaching to the truth and to meet with the ends of justice, the Court can exercise its powers to transfer the investigation from the State Police to the Central Bureau of Investigation. Such powers are to be exercised sparingly and with utmost circumspection.

In Sanjiv Kumar v. State of Haryana and Others (2005) 5 SCC 517, where this Court has lauded the CBI as an independent agency that is not only capable of but actually shows results:

CBI as a Central investigating agency enjoys independence and confidence of the people. It can fix its priorities and programme the progress of investigation suitably so as to see that any inevitable delay does not prejudice the investigation of the present case. They can think of acting fast for the purpose of collecting such vital evidence, oral and documentary, which runs the risk of being obliterated by lapse of time. The rest can afford to wait for a while. We hope that the investigation would be entrusted by the Director, CBI to an officer of unquestioned independence and then monitored so as to reach a successful conclusion; the truth is discovered and the guilty dragged into the net of law. Little people of this country, have high hopes from CBI, the prime investigating agency which works and gives results. We hope and trust the sentinels in CBI would justify the confidence of the people and this Court reposed in them.

Mere glance at these two documents also prima facie reveal hollowness of the investigation in criminal matter and this Court is further vindicated by these materials that the matter requires consideration.

It is certainly a case where the investigation requires to be conducted by a specialised agency which is well equipped with manpower and other expertise.

Some of the aspects where the said officer Ms. Rupal Solanki, Assistant Director, Anti-Corruption Bureau, needs to closely look at and investigate are:

"(i) The collection of CDRs of the accused and all other persons concerned with the crime in question.

(ii) Non-recordance of any statements of advocates and litigants by the then Investigating Officer except those which had been recorded by the Special Officer (Vigilance) at the time of preliminary investigation.

(iii) Investigation concerning various allegations of demand of illegal gratification by both the judicial officers and the details which have been specified in the CD, as also reflected in the imputation of charges for the departmental proceedings.

(iv) The issue of voice spectography in connection with the collection of the voice sample in accordance with law.

(v) The examination of hard disk/CPU by the Forensic Science Laboratory, which is in possession of the petitioner.

(vi) Investigation against all other persons who are allegedly involved in abetting this alleged crime of unpardonable nature.

(vii) All other facets of investigation provided under the law, including disproportionate collection of wealth which she finds necessary to reach to the truth in the matter.”

29.2. In Shameet Mukharjee Vs CBI 2003-DRJ-70-327 it is ruled as under;

“Cr. P.C. – Section 439 – Accused was a Judge of High Court – Arrested under section 120 – B, IPC r/w sec. 7,8,11,12,13 (1) of prevention of corruption Act.- Charges of misuse of power for passing favourable order – Petitioner/accused is having relationship with another accused – Petitioner used to enjoy his hospitality in terms of wine and women – 12 days police remand granted but nothing incriminating was found – Petitioner’s wife is ill – Held petitioner entitled to be released on bail.”

29.3. Former Chief Minister Shri Kalikho Pul in his suicide note was found on **8th August, 2016** accused then Chief Justice J.S Khelhar, Former Chief Justice Deepak Mishra that they demanded 77 Crores (Rupees Seventy Seven Crores Only) & 27 Crores (Rupees Twenty Seven Crores Only) respectively Similarly allegations are made against former CJI H.L.Dattu for demanding 47 Crores.

29.4. Full Bench in K.K. Dhawan’s (1993) 2 SCC 56 where it is ruled that, the jurisdiction to Challenge the order is different thing and jurisdiction to take the action against concerned Judge is a different thing.

It is ruled as under;

“If any Judge acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. And he can be proceeded for passing unlawful order apart from the fact that the order is appealable. Action for violation of Conduct Rules is must for proper administration.

“28. Certainly, therefore, the officer who exercises judicial or quasi - judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. **The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:**

(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;

(ii) **if there is prima facie material to show recklessness or misconduct in the discharge of his duty;**

(iii) if he has acted in a manner which is unbecoming of a government servant;

(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(v) if he had acted in order to unduly favour a party-,

(vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great."

"17. In this context reference may be made to the following observations of Lopes, L.J. in Pearce v. Foster.

"If a servant conducts himself in a way inconsistent with the faithful discharge of his duty in the service, it is misconduct which justifies immediate dismissal. That misconduct, according to my view, need not be misconduct in the carrying on of the service of the business. It is sufficient if it is conduct which is prejudicial or is likely to be prejudicial to the interests or to the reputation of the master, and the master will be justified, not only if he discovers it at the time, but also if he discovers it afterwards, in dismissing that servant."

(Emphasis supplied)"

30. CONCLUDING PARAPGRAPH: From the abovesaid facts and circumstances it is clear that:

Accused Judge D.Y. Chandrachud and co-accused judges are not acting honestly, judiciously, legally, BUT acting in utter disregard and defiance

of the mandatory rules framed by the Supreme Court itself and Constitutional mandate. The ulterior motive and one line agenda of the accused Judges is to promote the agenda of the vaccine syndicates and thereby to allow the authorities to push the life of common man in to danger and allow them to kill the people and also allow the authorities to put the unlawful and unconstitutional restrictions on the citizen and not to protect the rights of the people even if they have taken a oath to protect the rights.

Therefore, accused Judge D.Y. Chandrachud and other co-accused are guilty of offences under sec **52,109,115,166,167,201,202, 218, 219, 302, 304, 304(A), 409, 120(B), 34 Etc. of IPC AND Section 51(b), 54, 55 of Disaster Management Act, 2005 AND provisions of Prevention of Corruption Act, 1988.**

Therefore, as per law laid down by the Constitution bench in the case of **K. Veeraswami Vs. Union of India (1991) 3 SCC 655** , the accused Judges are bound to resign. And if they fail to resign then the CJI can withdraw all the judicial work from them as per in house procedure laid down in **Addl. Sessions Judge 'X' Vs. Registrar General (2015) 4 SCC 91.**

REQUEST: It is therefore humbly requested for;

(i) Immediate direction to C.B.I. to register an F.I.R. against accused Judges under section 52, 109, 115, 166, 167, 201,202, 218, 219, 302, 304, 304(A), 409, 120(B), 34 Etc. of IPC, AND Section 51(b), 54, 55 of Disaster management Act, 2005 AND provisions of Prevention of Corruption Act, 1988 for their act of commission, active participation in committing the offences and omission to prevent the offences of abatement of murder, preparation to commit

murder, misappropriation of thousands of Crores of public fund with ulterior motive to save the real culprits and give wrongful profits to the vaccine syndicate;

OR

i) Granting sanction to the complainant to initiate prosecution against the accused Judges Sh. D. Y. Chandrachud and others for the above said offences and also for any other offences disclosed from the materials available on record;

ii) Immediate directions to the accused Judges to forthwith tender their resignation by following the binding precedents of the Constitution Bench judgment in the case of K. Veeraswami Vs. Union of India (1991) 3 SCC 655;

iii) Immediate directions to the Attorney General For India to file the Contempt petition before Supreme Court against accused Judges, for their wilful disregard and defiance of the binding precedents of the Supreme Court of India and for abusing the process of court.

DATE: 28.11.2021

PLACE: PUSAD



Complainant

Rashid Khan Pathan