INDIAN BAR ASSOCIATION

(THE ADVOCATES' ASSOCIATION OF INDIA)

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28th July, 2022

|| **नोटीस** ||

नोटीसा घेणार:- **1. श्री. सुनील चव्हाण**

जिल्हाधिकारी, औरंगाबाद

2. श्री. मनुकुमार श्रीवास्तव

मुख्य सचिव महाराष्ट्र राज्य मंत्रालय, मुंबई

विषय:- मा. मुंबई उच्च न्यायालय व मा. सर्वोच्च न्यायालयाची हेतुपुरस्सरपणे अवमानना करुन जिल्ह्यातील सरकारी कर्मचाऱ्यांना त्यांचा हक्काचा पगार घेण्यासाठी जीवघेणे दुष्परीणाम असलेल्या कोरोना लसीचा बुस्टर डोज घेण्याची सक्ती घालून त्यांचे जीव धोक्यात घालून त्यांच्या मूलभूत संवैधानिक अधिकाराचे उल्लंघन केल्यामुळे **कोर्ट अवमानना कायदा 1971** चे **कलम 2(b), 12, भारतीय संविधानाचे कलम 129, 215 आणि भादवी 52, 109, 166, 336, 409, 115, 304-A, 120 (B), 34** आदी कलामांअतर्गत करण्यात येणाऱ्या कारवाईबाबत.

संदर्भ:- 1. मा. सर्वोच्च न्यायालयाचे आदेश

2022 SCC OnLine SC 533 Jacob Puliyel Vs. Union of

India

2. मा. मुंबई उच्च न्यायालयाचे आदेश

a. 2022 SCC OnLine Bom 457 Feroze Mithiborwala Vs. State of Maharashtra **(02.03.2022)**

b. 2022 SCC OnLine Bom 1038 Subrata Muzumdar Vs. Dr. Vidya Yervavdekar

आम्हाला प्राप्त माहिती व दै. देशोन्नती चे 'इडिटर-इन-चीफ' श्री. प्रकाश पोहरे यांनी 'Q.vive' या चॅनलवर केलेल्या विनंतीच्या आधारे आपणास नोटीस देण्यात येते ती येणेप्रमाणे;

1. तुम्ही नोटीस घेणार नं. १ यांनी **दि. 22.07.2022** रोजी आपल्या पत्रकार परिषदेत अशी घोषणा केली आहे की औरंगाबाद जिल्हयातील सरकारी कर्मचाऱ्यांना त्यांचा 'जुलै-ऑगस्ट' महिन्याचा पगार हा त्यांनी कोरोना लसीचा 'बुस्टर डोज' घेतल्याचे प्रमाणपत्र दाखविल्याशिवाय दिला जाणार नाही.

2. तुम्ही नोटीस घेणार नं. 1 यांनी **दि. 22.07.2022** रोजी घेतलेल्या पत्रकार परिषदेत लसीच्या बुस्टर डोस घेण्याची मार्केटींग करण्यासाठी खोटे, दिशाभूल व फसवणूक करणारे आणी मा. सर्वोच्च न्यायालय व मा. मुंबई उच्च न्यायालयाच्या आदेशाची अवमानना करणारे विधान करुन पगार घेण्यासाठी लसीच्या बूस्टर डोजचा पुरावा देण्याचे निर्देश दिल्याबाबत म्हटले आहे.

संबंधीत व्हिडीओ ABP MAJHA वर खालील लिंक वर उपलब्ध आहे.

Link: https://www.youtube.com/watch?v=GZoamn9xN3g

Title: "बुस्टर डोसचा पुरावा दाखवा, मग पगार घ्या : जिल्हाधिकारी"

3. अशाप्रकारे तुम्ही लस घेण्यास लोकांना सक्ती केली असून तुमचे हे कृत्य मा. उच्च व

सर्वोच न्यायालयाची अवमानना करणारे आहे.

4. मा. सर्वोच न्यायालयाने **Jacob Puliyel Vs. Union of India 2022 SCC OnLine Bom 533** प्रकरणात स्पष्ट कायदा ठरवून दिला आहे कि **भारतीय राज्यघटनेच्या कलम 21** नुसार लस घेणे किंवा न घेणे हा निर्णय घेण्याचा प्रत्येक व्यक्तीचा वैयक्तीक अधिकार आहे. या बाबत त्या व्यक्तीला कोणतेही प्रत्यक्ष अप्रत्यक्ष निर्बंध आणून लस घेण्यास बाध्य केले जावू शकत नाही. असे सर्व निर्णय परत घेण्याचे स्पष्ट आदेश मा. सर्वोच्च न्यायालयाने **दि. २ मे २०२२** रोजीच दिले आहेत.

5. मा. उच्च न्यायालयानेही **Osbert Khaling Vs. State of Manipur and Ors. 2021 SCC OnLine Mani 234, Dr. Aniruddha Babar Vs. State of Nagaland 2021 SCC OnLine Gau 1504** या प्रकरणात स्पष्ट कायदा ठरवून दिला आहे की एखाद्या व्यक्तीला लस न घेतल्या मुळे त्याचा पगार किंवा इतर कोणत्याही सुविधा रोखणे हे असंवैधानिक आहे.

In **Osbert Khaling Vs. State of Manipur and Ors. 2021 SCC OnLine Mani 234** it is ruled as under;

> ***"8….*** *Restraining people who are yet to get vaccinated from opening institutions, organizations, factories, shops, etc., or* ***denying them their livelihood by linking their employment****, be it NREGA job card holders or workers in Government or private projects,* ***to their getting vaccinated would be illegal on the part of the State, if not unconstitutional. Such a measure would also trample upon the freedom of the individual to get vaccinated or choose not to do so."***

In **Dr. Aniruddha Babar Vs. State of Nagaland 2021 SCC OnLine Gau 1504,** it is ruled as under;

*"**6.** Till the returnable date, fees should not be charged for testing from Government employees and **<u>their salaries should not be stopped for reason of not having being vaccinated.</u>**"*

6. मा. मुंबई उच्च न्यायालयाने **दि 02.03.2022** रोजी **<u>Feroze Mithiborwala Vs. State of Maharashtra 2022 SCC Online Bom 457</u>** प्रकरणात सुद्धा असाच स्पष्ट कायदा ठरवून दिला आहे. त्या आदेशात मा. मुंबई उच्च न्यायालयाने तत्कालीन मुख्य सचिव श्री. सीताराम कुंटे यांच्यावर कठोर ताशेरे ओढले असून सीताराम कुंटे यांच्यासह तत्कालीन मुख्यमंत्री उद्धव ठाकरे व इतर आरोपींविरुद्ध **भादवि 52, 109, 384, 385, 420, 409, 511, 341, 342, 120 (b), 32** अंतर्गत फौजदारी कारवाई करण्यासंबंधीची याचिका मुंबई उच्च न्यायालयात प्रलंबित आहे. **[PIL No. 84 of 2021]**

त्या याचिकेची प्रत सोबत जोडली आहे.

7. मा. सर्वोच्च न्यायालयाचे **<u>Jacob Puliyel Vs. Union of India 2022 SCC OnLine Bom 533</u>** प्रकरणातील आदेशानंतरही कर्मचाऱ्यास भेदभावपूर्ण वागणूक देणाऱ्या विद्यापीठाच्या अधिकाऱ्यांना मा. मुंबई उच्च न्यायालयाने ताकीद दिल्यानंतर त्यांनी त्वरीत आपले निर्णय मागे घेतले व याचिकाकर्त्याने मागितलेली नुकसान भरपाईची विनंतीही मान्य केल्याबाबत बातम्या सर्व वर्तमानपत्रात प्रकाशीत झाल्या आहेत

Link: https://epaper.loksatta.com/3474498/loksatta-mumbai/14-05-2022#clip/68019438/342c659a-a2f7-4ca1-b999-edcfac784d48/610.2857142857142:434.261565836299

8. News published in **Free Press Journal** on **May 13, 2022 titled as "<u>Pune: Symbiosis to reinstate unvaccinated employees who were asked to go on unpaid leave.</u>"**

"A vacation bench of Justices AK Menon and NR Borkar accepted Symbiosis' statement. While disposing of the petition, the HC has also asked the society to consider paying

compensation to the employee from the month of January to date."

Link: https://www.freepressjournal.in/legal/pune-symbiosis-to-reinstate-unvaccinated-employees-who-were-asked-to-go-on-unpaid-leave

News Published in **Loksatta** on **14th May, 2022** titled as "**<u>सिम्बॉयसिस विद्यापीठाची माघार</u>**"

"याचिकाकर्त्याला नुकसान भरपाई देण्याचा विचार केला जाईल."

Link: https://epaper.loksatta.com/3474498/loksatta-mumbai/14-05-2022#clip/68019438/342c659a-a2f7-4ca1-b999-edcfac784d48/610.2857142857142:434.261565836299

9. मा. उच्च न्यायालयाचे दि. **13 मे, 2022** रोजीचे आदेश **<u>Subrata Mazumdar Vs. Dr. Vidya Yervavdekar 2022 SCC OnLine Bom</u>** मध्ये खालीलप्रमाणे निरीक्षण नोंदविले आहेत;

> *"**1.** On behalf of the respondent learned Advocate states that he has been instructed to enter appearance and make a statement that in view of the decision of the Supreme Court in **<u>Jacob Puliyel v. Union of India in Writ Petition (Civil) No. 607 of 2021</u>**, the respondents have decided to review their vaccination policy and issue fresh guidelines and the grievance of the petitioner will now be addressed.*
>
> ***2.** In view thereof petition is disposed."*

10. अश्याप्रकारे तुम्ही नोटीस घेणारे नं. 1 यांनी हेतुपुरस्सरपणे मा. मुंबई उच्च न्यायालय व सर्वोच न्यायालयाच्या आदेशाची अवमानना करुन **कोर्ट अवमानना कायदा 1971** चे **कलाम 2 (b) व 12** अंतर्गत फौजदारी शिक्षापात्र व तुरुंगवासाची शिक्षा असलेला अपराध आहे.

मा. सर्वोच्च न्यायालयाने **T.N. Godavarman Thirumpula Vs. Ashok Khot, (2006) 5 SCC 1** प्रकरणात महाराष्ट्राचे **तत्कालीन मुख्य सचिव श्री. अशोक खोत व वन मंत्री श्री. स्वरुपसिंग नाईक यांना अश्याच स्वरुपाच्या कृत्यांसाठी 1 महिना तुरुंगात पाठविले होते.**

> *"**1.** The **"King is under no man, but under God and the law"**—was the reply of the Chief Justice of England, Sir Edward Coke when James I once declared, "Then I am to be under the law. It is treason to affirm it"—so wrote Henry Bracton who was a Judge of the King's Bench.*
>
> ***2.** The words of Bracton in his treatise in Latin "quod rex non debet esse sub homine, sed sub Deo et lege" (that the King should not be under man, but under God and the law) were quoted time and time again when the Stuart Kings claimed to rule by divine right. We would like to quote and requote those words of Sir Edward Coke even at the threshold.*
>
> ***3.** In our democratic polity under the Constitution based on the concept of "rule of law" which We have adopted and given to ourselves and which serves as an aorta in the anatomy of our democratic system, THE LAW IS SUPREME.*
>
> ***4. Everyone, whether individually or collectively, is unquestionably under the supremacy of law. Whoever he may be, however high he is, he is under the law. No matter how powerful he is and how rich he may be.***
>
> ***21. Any country or society professing the rule of law as its basic feature or characteristic does not distinguish between high or low, weak or mighty. Only monarchies and even some democracies have adopted the age-old principle that***

the king cannot be sued in his own courts.

22. *Professor Dicey's words in relation to England are equally applicable to any nation in the world. He said as follows:*

> *"When we speak of the rule of law as a characteristic of our country, not only that with us no man is above the law but that every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals. In England the idea of legal equality, or the universal subjection of all classes to one law administered by the ordinary courts, has been pushed to its utmost limit.* ***With us every official, from Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done with legal justification as any other citizen.*** *The reports abound with cases in which officials have been brought before the courts, and made, in their personal capacity, liable to punishment, or to the payment of damages, for acts done in their official character but in excess of their lawful authority. A colonial Governor, a Secretary of State, a military officer, and all subordinates, though carrying out the commands of their official superiors, are as responsible for any act which the law does not authorise as is a private and unofficial person. (See Introduction to the Study of the Law of the Constitution, 10th Edn., 1965, pp. 193-94.)*

34. *While contempt proceedings usually have these*

characteristics and contempt proceedings against a government department or a Minister in an official capacity would not be either personal or punitive (it would clearly not be appropriate to fine or sequester the assets of the Crown or a government department or an officer of the Crown acting in his official capacity), this does not mean that a finding of contempt against a government department or Minister would be pointless. The very fact of making such a finding would vindicate the requirements of justice. In addition, an order for costs could be made to underline the significance of a contempt. A purpose of the court's powers to make findings of contempt is to that ensure the orders of the court are obeyed. This jurisdiction is required to be coextensive with the court's jurisdiction to make orders which need the protection which the jurisdiction to make findings of contempt provides. In civil proceedings the court can now make orders (other than injunctions or for specific performance) against authorised government departments or the Attorney General. On applications for judicial review orders can be made against Ministers. In consequence such orders must be taken not to offend the theory that the Crown can supposedly do no wrong. Equally, if such orders are made and not obeyed, the body against whom the orders were made can be found guilty of contempt without offending that theory, which could be the only justifiable impediment against making a finding of contempt. (See M. v. Home Office [(1993) 3 All ER 537 : (1994) 1 AC 377 : (1993) 3 WLR 433 (HL)]).

35. *This is a case where not only right from the beginning attempt has been made to overreach the orders of this Court but also to draw red herrings. Still worse is the accepted*

position of inserting a note in the official file with oblique motives. That makes the situation worse. In this case the contemnors deserve severe punishment. This will set an example for those who have a propensity for disregarding the court's orders because of their money power, social status or posts held. Exemplary sentences are called for in respect of both the contemnors. Custodial sentence of one month's simple imprisonment in each case would meet the ends of justice. It is to be noted that in T.N. Godavarman Thirumulpad (67) v. Union of India [(2003) 10 Scale 1126] this Court had imposed costs of Rs 50,000 on a DFO on the ground that renewal of licence was not impermissible in cases where licences were issued prior to this Court's order dated 4-3-1997 [T.N. Godavarman Thirumulpad (2) v. Union of India, (1997) 3 SCC 312] . That was the case of an officer in the lower rung. Considering the high positions held by the contemnors more stringent punishment is called for, and, therefore, we are compressing (sic passing) custodial sentence."

11. मा. सर्वोच्च न्यायालयाने **Legrand (India) Pvt. Ltd. Vs. Union of India 2007 (6) Mh.L.J. 146, E.T. Sunup Vs. C.A.N.S.S. Employee Association 2004-CCC(SC)-4-295** प्रकरणातही स्पष्ट कायदा ठरवून दिला आहे कि अश्या अधिकाऱ्यांना (Bureaucrats) तुरुंगातच पाठविले पाहिजे.

In **Legrand (India) Pvt. Ltd. Vs. Union of India 2007 (6) Mh.L.J. 146** it is ruled as under;

> ***"9(c).*** *If in spite of the earlier exposition of law by the High Court having been pointed out and attention being pointedly drawn to that legal position, in utter disregard of that*

position, proceedings are initiated, it must be held to be a wilful disregard of the law laid down by the High Court and would amount to civil contempt as defined in Section 2(b) of the Contempt of Courts Act, 1971."

In **E.T. Sunup Vs. C.A.N.S.S. Employee Association 2004-CCC(SC)-4-295** it is ruled as under;

> ***"A] CONTEMPT OF COURT-****Deliberate attempt on the part bureaucracy to circumvent order of court and try to take recourse to one jurisdiction or other - this shows complete lack of grace in accepting the order of the Court - this tendency of undermining the court's order cannot be countenanced - in democracy the role of Court cannot be subservient to the administrative fiat - the executive and legislature and executive within check - the appellant office flouted order of this court is guilty of contempt of court*
>
> ***B] PUNISHMENT TO BUREAUCRATS****- apology tendered -order of court complied - held- if the court's are flouted like this then people will lose faith in the court - therefore it is necessary that such violation should be dealt with strong hands and to convey to the authorities that the courts are not going to take things lightly - order of the high court convincing the officer under contempt of court's act and imposition of fine of Rs. 5000 is affirmed."*

12. कोरोना लसींचे अनेक जीवघेणे दुष्परीणाम असल्याचे स्वतः केंद्र सरकारनेच मान्य केले असून औरंगाबादच्या डॉ. स्नेहल लुणावत (वय 30 वर्ष) यांचा मृत्यू कोव्हीशील्ड लसींच्या दुष्परिणामामुळेच झाल्याचा अहवाल केंद्र सरकारच्या AEFI समीतीने दिला आहे. त्यामुळे मा. सर्वोच्च व मुंबई उच्च न्यायालयाने अश्या पिडीतांना नुकसान भरपाई साठी ठरवून

दिलेल्या कायद्यानुसार डॉ. स्नेहल लुणावत यांच्या परिवारास 1000 कोटी रुपये नुकसान भरपाई मिळण्यासाठी याचिका **WP(C) No. 5767 of 2022** उच्च न्यायालयात दाखल करण्यात आली असून त्याबाबत देशातील सर्व प्रिंट व डिजीटल मिडीयाने बातम्या प्रकाशित केल्या आहेत याची आपणास पूर्ण माहीत आहे.

Link:https://drive.google.com/file/d/11oiYAbwIcTPe_0J2zAUynVEipggrM14O/view

13. याचिकेमध्ये लसीच्या दुष्परीणामांमुळे सिंगापूर व अमेरीके मध्ये लोकांना अब्जावधी रुपयांची नुकसान भरपाईसाठी देण्यात आलेल्या प्रकरणाचा आधार घेण्यात आला आहे.

सर्वोच्च न्यायालयाच्या संविधानपीठाने **<u>अनिता कुशवाहा Vs. पुषप सदन (2016) 8 SCC 509</u>** प्रकरणात स्पष्ट केले आहे की भारतीय लोकांच्या आयुष्याची किंमत ही अमेरीकेतील लोकांच्या जीवाच्या किमतीपेक्षा कमी नाही.

14. अमेरीकन न्यायालयाकडून लसीच्या दुष्परीणामापोटी 80 कोटी व औषधाचे दुष्परीणाम लपविणाऱ्या फार्मा कंपनीला 24000 कोटी रुपये नुकसान भरपाई द्यावयास भाग पाडण्यात आले.

15. लसींच्या दुष्परीणामांमुळे लहान मुलांचे स्वस्थ बिघडल्यामुळे अमेरीकन न्यायालयाने 78 कोटी रुपये **(101 मिलीयन US Dollor)** नुकसान भरपाई मिळवून दिली. दुसऱ्या एका प्रकरणात अमेरिकन पोलिसांनी औषधांचे दुष्परीणाम लपवून लोकांच्या आरोग्याशी खेळणाऱ्या कंपनीकडून **(3 Billion Dollor) 24000** कोटी रु दंड वसूल केला व पिडीतास नुकसान भरपाई मिळवून दिली.

16. डिसेंबर 2021 मध्ये मुंबईतील हितेश कडवे नावाच्या २३ वर्षीय युवकाचा सुद्धा कोव्हीशील्ड लसीच्या दुष्परीणामांमुळे तीन तासातच मृत्यू झाला होता. त्याच्या आईने सुद्धा मुंबई उच्च न्यायायलात याचिका दाखल करुन १००० कोटी रुपये नुकसान भरपाईची मागणी केली आहे. तसेच आरोपींविरुद्ध हत्या, फसवणूक आदी गुन्हयासाठी कारवाईची

मागणी केली आहे.

त्या केस बाबत संपूर्ण जगभरात चर्चा होत असून अमेरीकेतील 'द डिफेंडर' ने सुद्धा ती बातमी सविस्तर रित्या प्रकाशीत केली आहे.

Link:-https://childrenshealthdefense.org/defender/bill-gates-indian-government-lawsuit-astrazeneca-vaccine-killed-shri-hitesh-kadve/

याचिका प्रत येथे उपलब्ध आहे.

Link:https://drive.google.com/file/d/129nQaVjiJwL0dbI0B6hfzdmleI_L2j43/view

17. मा. सुप्रीम कोर्ट व हाय कोर्ट यांनी ठरवून दिलेल्या कायद्यानुसार शासकीय अधिकाऱ्यांच्या चुकीमुळे जर कोणत्याही नागरिकांच्या मुलभूत अधिकारांचे उल्लंघन झाल्यास शासनाने त्वरीत नुकसान भरपाई देवून ती भरपाई नंतर आरोपी अधिकाऱ्यांकडून वसूल करावी असा कायदा आहे.

i. **Veena Sippy Major Vs. Narayan Dumbre, then Senior Inspector of Police & Ors. 2012 SCC OnLine Bom 339**

ii. **S. Nambi Narayanan v. Siby Mathews, (2018) 10 SCC 804**

18. नुकतेच मा. सर्वोच्च न्यायालयाने **S. Nambi Narayanan Vs. Siby Mathews, (2018) 10 SCC 804** प्रकरणात **50 लाख रुपये** अंतरीम नुकसान भरपाई सरकारने त्वरीत देण्याचे आदेश देवून नंतर उरलेली नुकसान भरपाई कनिष्ठ न्यायालयाकडून मागण्याचे आदेश देवून सर्व भरपाई दोषी अधिकाऱ्यांकडून वसूल करण्याचे आदेश दिले आहेत.

In **S. Nambi Narayanan v. Siby Mathews (2018) 10 SCC 804**, it is ruled as under;

*"**41.** In Sube Singh v. State of Haryana [Sube Singh v. State of Haryana, (2006) 3 SCC 178 : (2006) 2 SCC (Cri) 54] , the three-Judge Bench, after referring to the earlier decisions, has opined: (SCC pp. 198-99, para 38)*

> *"38. It is thus now well settled that the award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental right under Article 21, by a public servant. The quantum of compensation will, however, depend upon the facts and circumstances of each case. Award of such compensation (by way of public law remedy) will not come in the way of the aggrieved person claiming additional compensation in a civil court, in the enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under Section 357 of the Code of Criminal Procedure."*

42.** In Hardeep Singh v. State of M.P. [Hardeep Singh v. State of M.P., (2012) 1 SCC 748 : (2012) 1 SCC (Cri) 684] , the Court was dealing with the issue of delayed trial and the humiliation faced by the appellant therein. A Division Bench of the High Court in intra-court appeal had granted [Hardeep Singh Anand v. State of M.P., 2008 SCC OnLine MP 501 : 2008 Cri LJ 3281] compensation of Rs 70,000.* ***This Court, while dealing with the quantum of compensation, highlighted the suffering and humiliation caused to the appellant and enhanced the compensation.

***43.** In the instant case, keeping in view the report of CBI and*

the judgment rendered by this Court in K. Chandrasekhar [K. Chandrasekhar v. State of Kerala, (1998) 5 SCC 223 : 1998 SCC (Cri) 1291] , suitable compensation has to be awarded, without any trace of doubt, to compensate the suffering, anxiety and the treatment by which the quintessence of life and liberty under Article 21 of the Constitution withers away. ***We think it appropriate to direct the State of Kerala to pay a sum of Rs 50 lakhs towards compensation to the appellant and, accordingly, it is so ordered. The said amount shall be paid within eight weeks by the State. We hasten to clarify that the appellant, if so advised, may proceed with the civil suit wherein he has claimed more compensation.*** *We have not expressed any opinion on the merits of the suit."*

19. जर एखादा अधिनस्थ किंवा कनिष्ठ अधिकारी (Collector) हा कोर्ट अवमानना किंवा इतर कोणताही गुन्हा करत असल्याचे निदर्शनास आणून दिल्यावर त्याच्याविरुद्ध त्वरीत कारवाई न करणारे किंवा त्यांना गैरकृत्यामध्ये अप्रत्यक्ष सहकार्य करणारे किंवा त्यांना वाचविण्यासाठी चुकीचा अहवाल बनविणारे, पदाचा दुरुपयोग करणारे वरिष्ठ अधिकारी, मंत्री हे कोर्ट अवमाननाच्या शिक्षेसाठी पात्र राहतील असा स्पष्ट कायदा मा. सर्वोच्च न्यायालयाने ठरवून दिला आहे. **[M.P. Dwivedi AIR 1996 SC 2299]**

20. तसेच अश्या वरिष्ठ अधिकाऱ्यांविरुद्ध **भा.द.वि. 218, 201, 192, 193, 409** आदी विविद्ध गुन्ह्यांअंतर्गत कारवाईस पात्र राहतील असा स्पष्ट कायदा मा. उच्च व सर्वोच्च न्यायालयाने ठरवून दिला असून अश्याच प्रकरणात तत्कालीन मुख्यमंत्री विलासराव देशमुख यांच्या गैरकारभारासाठी शासनावर 10 लाख रुपये दंड लावला आहे. **[State of Maharashtra Vs. Sarangdharsingh S. Chavan (2011) 1 SCC 577]**

i) In **State of Odisha Vs. Pratima Mohanty 2021 SCC OnLine SC 1222** it is ruled as under;

"***20.*** *It is further observed after referring to the decision of this Court in the case of Common Cause, A Registered Society (supra) that* ***if a public servant abuses his office whether by his act of omission or commission, and the consequence of that is injury to an individual or loss of public property, an action may be maintained against such public servant. It is further observed that no public servant can arrogate to himself powers in a manner which is arbitrary.*** *In this regard we wish to recall the observations of this Court as under:*

> *"The concept of public accountability and performance of functions takes in its ambit, proper and timely action in accordance with law. Public duty and public obligation both are essentials of good administration whether by the State or its instrumentalities." [See Delhi Airtech Services (P) Ltd. v. State of U.P., (2011) 9 SCC 354]*
>
> ***"The higher the public office held by a person the greater is the demand for rectitude on his part."*** *[See Charanjit Lamba v. Army Southern Command, (2010) 11 SCC 314]*
>
> *"The holder of every public office holds a trust for public good and therefore his actions should all be above board." [See Padma v. Hiralal Motilal Desarda, (2002) 7 SCC 564]*
>
> ***"Every holder of a public office by virtue of which he acts on behalf of the State or public body is ultimately accountable to the people in whom the sovereignty***

vests. As such, all powers so vested in him are meant to be exercised for public good and promoting the public interest. *This is equally true of all actions even in the field of contract. Thus, every holder of a public office is a trustee whose highest duty is to the people of the country and, therefore, every act of the holder of a public office, irrespective of the label classifying that act, is in discharge of public duty meant ultimately for public good." [See Shrilekha Vidyarthi (Kumari) v. State of U.P., (1991) 1 SCC 212]*

"Public authorities should realise that in an era of transparency, previous practices of unwarranted secrecy have no longer a place. Accountability and prevention of corruption is possible only through transparency." *[See ICAI v. Shaunak H. Satya, (2011) 8 SCC 781]"*

ii) In **Kodali P. Rao vs. Public Prosecutor, AP (1975) 2 SCC 570**, it is ruled as under;

"A] ***Penal Code section 201,218,468*** *- Prosecution of enquiry Officer - Preparation of incorrect and forged record of investigation of the case with the fraudulent and dishonest intention of misleading his superior officers and inducing them to do or omit to do the legal and lawful actions.*

Held - The accused officer framed the record in such a manner which he knews to be incorrect with intent to save or knowing to be likely that he will thereby save the true offender from legal punishment is liable to be punished u.s 218/ 468 of I.P.C. The Co accused who facilitated and intentionally aided

in preparation of the false and forged record is also liable to be convicted.

B] *The position of accused A-2 was very different. He was a Police officer and as such was expected to discharge the duties entrusted to him by law with fidelity and accuracy. He was required to ascertain the cause of the death and to investigate the circumstances and the manner in which it was brought about. His duty was to make honest efforts to reach at the truth. But he flagrantly abused the trust reposed in him by law. He intentionally fabricated false clues. laid false trails, drew many red herring across the net smothered the truth, burked the inquest, falsified official records and shortcircuited the procedural safeguards. In short, he did everything against public justice which is by Section 201, Penal Code. The other circumstantial evidence apart the series of these designed acts of omission and commission on the part of A-2, were eloquent enough to indicate in no uncertain terms that A-2 knew or had reasons to believe that Kalarani's death was homicidal."*

iii) In **Regina vs. Dytham [1979] Q.B. 722**, it is ruled as under;

"Police-Duties-Law enforcement-Misconduct of officer of justice-Constable witnessing assault wilfully omitting to preserve peace or protect victim or arrest assailants - Wilful neglect without reasonable excuse of justification- Guilty Police officer sentenced to fine of £ 150 or three months imprisonment. He was also directed to pay £ 150 towards legal aid cost of his defence.

Ninthly, the only authority against the appellant's eighth

submission is Reg. v. Wyat, 1 Salk. 380, which is distinguishable and need not be followed. Since the Act of 1964 provides a code of conduct, it is unnecessary to go back to ancient authority. A constable is not to be distinguished from any other public servant.

So also in Reg. v. Wyat (1705) 1 Salk. 380 it was held that "where an officer" (in that case a constable) "neglects a duty incumbent on him, either by common law or statute, he is for his default indictable." Counsel for the appellant contended that this was too wide a statement of principle since it omitted any reference to corruption or fraud; but in Stephen's Digest of the Criminal Law , 9th ed. (1950), p. 114, art. 145 are to be found these words:

"Every public officer commits a misdemeanour who wilfully neglects to perform any duty which he is bound either by common law or by statute to perform provided that the discharge of such duty is not attended with greater danger than a man of ordinary firmness and activity may be expected to encounter."

In the present case it was not suggested that the appellant could not have summoned or sought assistance to help the victim or to arrest his assailants. The charge as framed left this answer open to him. Not surprisingly he did not seek to avail himself of it, for the facts spoke strongly against any such answer. The allegation made was not of mere non-feasance but of deliberate failure and wilful neglect.

This involves an element of culpability which is not restricted to corruption or dishonesty but which must be of such a

degree that the misconduct impugned is calculated to injure the public interest so as to call for condemnation and punishment. Whether such a situation is revealed by the evidence is a matter that a jury has to decide. It puts no heavier burden upon them than when in more familiar contexts they are called upon to consider whether driving is dangerous or a publication is obscene or a place of public resort is a disorderly house: see Reg. v. Quinn [1962] 2 Q.B. 245.

The judge's ruling was correct. The appeal is dismissed."

21. तुम्ही नोटीस घेणार नं. 1 लोकांनी लस घेण्यासाठी प्रवृत्त व्हावे यासाठी केलेल्या आपल्या आवाहनात असे म्हटले आहे की:

> *"ज्यांनी व्हॅक्सीननेशन घेतलय त्यांना निश्चीत कोव्हीडपासून प्रोटेक्शन मिळतय.*
> *प्लस ज्यांनी व्हॅक्सीन घेतलय त्यांना कोव्हीड जरी झाला तरी हॉस्पीटल मध्ये जाण्याच प्रमाण खुप कमी आहे.*
> *म्हणजे OPD पेशंट करुन ते लोक बरे होतायेत."*

22. तुमचे वरील विधान हे पूर्णपणे खोटे, अशास्त्रीय, दिशाभूल व फसवणूक करणारे आहेत.

23. लसींच्या दुष्परीणामांच्यातरीक्त लसीचे कोणतेही खात्रीलायक सरंक्षण नसल्याचे सिद्ध झाले असून उलट लस घेणाऱ्यांनाच जास्त कोरोना व इतर रोग होत असल्याचे स्पष्ट होत आहे. नुकतेच **100% लसीकरण करणाऱ्या मुंबई मध्ये जुलै महिन्यात देशातील सर्वोधिक कोरोना रुग्ण आढळल्यामुळे 100 टक्के लसीकरणाचा आग्रह हा वैज्ञानिक दृष्ट्या पूर्णपणे असंयुक्तीक व बेकायदेशीर असून केवळ लस कंपन्यांना गैरफायदा पोहचविण्यासाठी देशाच्या संपत्तीचा अपहार व दुरुपयोग करण्याचा प्रकार असल्याचे स्पष्ट होते** व हा सर्व गैरप्रकार **IPC 409** अंतर्गत आजीवन कारावासाच्या

शिक्षेचा अपराध आहे.

बेंगलोर येथे इस्पीतळात येणाऱ्या नवीन कोरोना रुग्णांमध्ये लस घेतलेल्या लोकांचे प्रमाण अधिक आहे.

मुंबईतील के.ई.एम. मेडीकल कॉलेज च्या विद्यार्थ्यांमध्ये 29 कोरोना रुग्णांपैकी 27 रुग्णांनी लसींचे दोन डोज घेतले होते. म्हणजेच लस घेतलेल्या 93% लोकांना कोरोनाचा संसर्ग होण्याचा धोका आहे.

इंडियन मेडिकल असोसिएशन चे पूर्व अध्यक्ष के.के. अग्रवाल व दिल्लीतील 60 डॉक्टर्स ज्यांनी कोरोना लसीचे दोन्ही डोस घेतले होते त्यांचा मृत्यू कोरोनानेच झाला होता.

केन्द्र शासनाचा आरोग्य मंत्रालयाने दि. 20.09.2021 रोजी दिलेल्या उत्तरामध्ये स्पष्ट केले आहे की लस घेतल्यामुळे नेमका काय फायदा होतो याचा कोणताही निष्कर्ष अजून काढण्यात आलेला नाही.

24. केवळ वरिष्टाच्या आदेशचे पालन केले होते म्हणून गुन्ह्यातून सुटका नाही. असा बचाव कोणत्याही अधिकाऱ्यास घेता येणार नसल्याचाही स्पष्ट कायदा आहे.

याच मुद्यावर मा. मुंबई उच्च न्यायालयाने सचिन वाझे यांचे कनिष्ठ सहकारी यांचा जमीन अर्ज फेटाळला आहे.

25. भारत देशातील व आंतरराष्ट्रीय स्तरावरील संपूर्ण जगभरातील वैज्ञानिकांनी दिलेल्या माहितीवरून व सरकारच्या स्वतःच्या विभागाचे संशोधन व शोधपत्र आणि Sero Survey वरून हे सिद्ध झाले आहे की ओमायक्रॉन मुळे देशातील जवळपास सर्व जनतेचा कोरोना विषाणूशी संपर्क येऊन गेला असल्यामुळे त्यांच्या शरीरात नैसर्गिक प्रतीकारशक्ती (Natural Immunity) तयार झाली असून ती प्रतीकार शक्ती ही 27 बुस्टर डोज पेक्षा जास्त प्रभावी आहे असे रिसर्च मध्ये सिद्ध झाले आहे.

Link:- https://www.youtube.com/watch?v=-btDk0eSi5U

अश्या लोकांना लस दिल्यास त्याचा कोणताही फायदा नसून उलट त्याचे दुष्परीणाम अधिक होवून त्यांची तब्येत बिघडून त्यांना गंभीर दुष्परिणाम होत असल्याचे संशोधन (रिसर्च) मध्ये सिद्ध झाले आहे.

Link: https://drive.google.com/file/d/1DsfKqibYddyqNo-f9N5yrXKnO9erx0iY/view

26. कोव्हीशील्डची लसीपासून निर्माण झालेली प्रतीकार शक्ती ही 3 महिन्यातच संपते असे Lancet ने आपल्या अहवालात नमूद केले आहे.

Link: https://www.businesstoday.in/coronavirus/story/astrazeneca-covid-vaccine-protection-wanes-after-three-months-lancet-study-316348-2021-12-21

27. शासनाच्या कोणत्याही विभागातील विशेषज्ञ समीती **Domain Expert** यांनी बुस्टर डोज च्या उपयुक्ततेबाबत कोणतेही अधिकृत, शास्त्रोक्त व संयुक्तीक कारण दिलेले नाही. बुस्टर डोजची प्रतीकार शक्ती ही केवळ 7 दिवसच टिकते किंवा नकारात्मक परिणाम देते असे काही डॉक्टर्सच्या संशोधनात आढळले असल्याची माहिती आहे.

(i) **Negative Vaccine Efficacy - Dr. Paul Alexander sounds the alarm**

Source: **The Desert Review**

Link:https://www.thedesertreview.com/opinion/columnists/negative-vaccine-efficacy---dr-paul-alexander-sounds-the-alarm/article_2226ec36-aeb6-11ec-8772-03a7ae44197e.html

Published on: Mar 28, 2022

(ii) **Ontario Study: Double Jabs Give Negative Vaccine Efficacy Against Omicron, 95 Percent of Cases Fully Vaccinated**

Source: Vision Times

Link: https://www.visiontimes.com/2022/01/10/ontario-negative-

vaccine-efficacy-study.html

Published on: January 10, 2022

(iii) As Three More Studies Show Negative Vaccine Effectiveness, When Will Health Authorities Face Up to What the Data is Telling Us?

Source: The Daily Sceiptic

Link: https://dailysceptic.org/2021/12/28/as-three-more-studies-show-negative-vaccine-effectiveness-when-will-health-authorities-face-up-to-what-the-data-is-telling-us/

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28. नैसर्गिक प्रतीकारशक्ती निर्माण झालेल्या लोकांना लस देने हा अविवेकीपणा व दुहेरी गुन्हा आहे कारण हा प्रकार म्हणजे एख्याद्या व्यक्तीला मर्सिडीज कारमधून उतरवून ऑटोरिक्षा मध्ये बसण्यास सांगणे आहे. आणि हा शासकीय निधीचा दुरुपयोग असून **भादंवि 409** अंतगर्त गुन्हा आहे. दुसरे म्हणजे अश्या लोकांना लस देणे म्हणजे त्यांच्या शरीराला बाधा पोहचविणे हे आहे.

29. अशाप्रकारे तुम्ही नोटीस घेणार नं. १ यांनी शासकीय पद, यंत्रणा व निधीचा दुरुपयोग हा लस कंपन्यांना कोटयावधी रुपयांचा गैरफायदा करून देण्यासाही व सरकारी अधिकारी कर्मचारी व जनता यांचा जीव धोक्यात घालण्यासाही केला असल्याचे सिद्ध होत आहे.

30. कोणत्याही व्यक्तीने लस का घेतली नाही हे विचारण्याचा कोणताही अधिकार कोणत्याही सरकारी अधिकाऱ्यास नसल्याचा स्पष्ट कायदा मा. सर्वोच्च न्यायालयाच्या संविधान पीठाने **Common Cause Vs. Union of India (2018) 5 SCC 1** प्रकरणात ठरवून दिला असून **'घर-घर दस्तक'** अभियानामध्ये आपले कर्मचारी हे बेकायदेशीरपणे तसे प्रश्न विचारून नागरिकांच्या मुलभूत अधिकारांचे उल्लंघन व न्यायालयाची अवमानना करीत असल्याच्या तक्रारी प्राप्त झाल्या आहेत.

31. लसीच्या बाबतीत सरकारी यंत्रणा व काही भ्रष्ट मिडीयांद्वारे करण्यात येणाच्या खोटे

प्रसार व प्रचार आणि त्यातील सत्य याबाबत खालील माहितीचे आपण अवलोकन करून सत्य परिस्थीती जनतेपुढे आणणे आपणावर बंधनकारक आहे.

32. ज्या व्यक्तींना कोणत्याही स्वरूपाची किंवा कोणत्याही खाद्यापदार्थीची ॲलर्जी आहे त्यांना लस अजीबात देवू नये अशी तरतूद असल्याचे शपथपत्र केंद्र शासनाने उच्च न्यायालयात दाखल केले आहे.

> ***"8. Central Government itself issued guidelines for not giving Covid vaccines to the person with allergies :-***
>
> *Affidavit dated 21.02.2022 by Shri Satyendra Singh working as Under Secretary COVID Vaccination Administration Cell (MoHFW) before Delhi High Court in the case of **R. S. Bhargava Vs. Government of NCT of Delhi Writ Petition (C) No. 2033 of 2022** , reads thus;*
>
>> *"9. It is respectfully submitted that the directions and guidelines. released by Government of India and Ministry of Health and family Welfare, do not entail forcible vaccination.*
>>
>> *10. It is respectfully submitted that the Ministry of Health and Family Welfare has advised and duly advertised following conditions as contraindications from administration of Covid-19 vaccine:*
>>
>> *(A) With history of anaphylactic or allergic reaction to a previous dose of COVID-19 vaccine and its ingredients.*
>>
>> *(B) A suspected or confirmed case of thromboembolic phenomenon following first dose of any of the COVID-'19 vaccines.*

(C) History of immediate or delayed-onset anaphylaxis or allergic reaction requiring hospitalization to vaccines or injectable therapies, pharmaceutical products, food-items and insect sting etc.

11. It is further respectfully submitted that maximum benefit of getting the COVID vaccine is for those who have co morbidities. However, if such persons are concerned for any specific reason, they may consult their doctor and follow his/her advice."

33. परंतू तुम्ही नोटीस घेणार नं. १ यांचे आदेश हे त्या निर्देशाचे उल्लंधन करणारे असून सरसकट १००% लोकांना लस घेण्यास जबरदस्ती करून त्यांचे जीव धोक्यात घालण्याचा व शासकीच निधीच्या दुरुपयोगाचा प्रकार आहे.

34. कोणत्याही सेवा किंवा सुविधांसाठी लसीचे प्रमाणपत्र मागता येणार नसल्याबाबत केंद्र शासनाने आधीच सुचीत केले असून तसे शपथपत्रही सर्वोच्च न्यायालयात दाखल केले आहे.

Link:https://drive.google.com/file/d/1XHyQygkNpKKwh8iICzxGhr5vk1IMbwVW/view

Link:https://drive.google.com/file/d/19b2di6JaMdNXH7uWF0ZWf7d68UOU5B5g/view?usp=sharing

35. कायद्यातील तरतुदी केंद्र शासनाच्या लसीकरणाच्या गाईडलाईन्स आणि महाराष्ट्र शासनाचे **Additional Director of Health Services, State Family Welfare Bureau, Pune** यांनी दि. **28.06.2022** रोजी दिलेल्या निर्देशानुसार कोणत्याही व्यक्तीस लस देण्याआधी त्याला लसींचे जीवघेणे दुष्परिणाम सांगितल्यानंतर त्या व्यक्तीची संमतीपत्रावर (Informed Consent) वर सही घेतल्याशिवाय त्याला लस देता येणार नाही असा स्पष्ट कायदा आहे. [**Montgomery Vs. Lanarkshire Health Board [2015] UKSC 11].**

"Law of Informed Consent as has been laid down by the Government of India under* Disaster Management Act, 2005 *is as under;

The relevant paras from guidelines and affidavit dated13.01.2022 before Supreme Court in the case of ***Evara Foundation Vs. Union of India Writ Petition (Civil) No. 580 of 2021*** *reads thus;*

> *"13. It is humbly submitted that the directions and guidelines released by Government of India and Ministry of Health and Family Welfare, do not envisage any forcible vaccination without obtaining consent of the concerned individual. It is further humbly submitted that vaccination for COVID-19 is of larger public interest in view of the ongoing pandemic situation. It is duly advised, advertised and communicated through various print and social media platforms that all citizens should get vaccinated and systems and processes have been designed to facilitate the same. However, no person can be forced to be vaccinated against their wishes.*
>
> *19. Counselling before vaccination: It is humbly submitted that Government of India has formulated Operational Guidelines for COVID-19 vaccination. As per these Guidelines, all beneficiaries are to be informed about adverse events which may occur after COVID-19 vaccine."*

Ref: Covid-19 vaccine Operational Guidelines available at MoHFW website at: individual's ill.

Link:

https://www.mohfw.gov.in/pdf/COVID19VaccineOG111Chapter16.pdf

7. 'The National Disaster Management Guidelines' regarding 'Management of Biological Disasters' *issued by National Disaster Management Authorityof Government of India in July 2008 is available at the following link:*

Link:- https://nidm.gov.in/PDF/guidelines/sdmp.pdf

In the said guidelines the para 10.3 at Page No. 106 reads thus ;

> *"10.3. Adverse Events Following Immunization*
>
> *An adverse event following immunization (AEFI) is any untoward medical occurrence which follows immunization, and which does not necessarily have a causal relationship with the usage of the vaccine. The adverse event may be any unfavorable or unintended disease, symptom, sign or abnormal laboratory finding. Reported adverse events can either be true adverse events, i.e. really a result of the vaccine or immunization process, or coincidental events that are not due to the vaccine or immunization process but are temporally associated with immunization.*
>
> *For purposes of reporting, AEFIs can be classified as minor, severe and serious*
>
> *Minor AEFI*
>
> *• Common, self limiting reactions*

• E.g. pain, swelling at injection site, fever, irritability, malaise etc

Severe AEFI

• Can be disabling and rarely life threatening; do not lead to long-term problems

• Examples of severe reactions include non-hospitalized cases of: anaphylaxis that has recovered, high fever (>102 degree F), etc.

Serious AEFI

• Results in death

• Requires inpatient hospitalization

• Results in persistent or significant disability

• AEFI cluster

• Evokes significant parental/ community concern"

36. राज्य शासनाचे आरोग्य विभागाचे अति संचालक यांनी दि. **28 जून 2022** रोजीच्या पत्रात खालीलप्रमाणे निर्देश देण्यात आले आहेत की कोणत्याही व्यक्तीचे संमती पत्र दिल्याशिवाय त्यांना लस देता येणार नाही.

"1. Communication directions regarding informed consent: State has framed a policy document in which it is directed to Districts & Municipal corporations to take consent before vaccination.

2. Information of side effects of vaccines before they are vaccinated: All detailed information about covid vaccine is

published on Cowin portal, and is visible to all."

Link:https://drive.google.com/file/d/1RMRkLxbI1szaC7mFakJGP9hnaLfpVCT5/view?usp=sharing

37. भारतीय आयुर्विज्ञान संस्थान AIIMS भुवनेश्वर यांनी **दि. 5.08.2021** रोजी Informed Consent बाबत खालीलप्रमाणे माहिती दिली आहे;

> *"A **Consent Form** is a document, in which a beneficiary needs to read, understand and sign before taking the vaccine.*
>
> *This Consent Form has information such as:*
>
> *1) Name and Type of Vaccine, Manufacturer*
>
> *2) Route and Site of Administration, Doser*
>
> *3) Risks and Benefits of Vaccination*
>
> *4) Side effects if any and whom to contact and what to do in case of any side effect*
>
> *5) Any additional source of information related to the vaccine, etc.*
>
> *Thus, after reading it **(Consent Form)** and understanding, a beneficiary needs to sign the document and thereafter should get the vaccine. The beneficiary may or may not sign the informed consent form.*
>
> *Further, for the second part of the query as requested, an **Informed Consent Form for Yellow Fever** is enclosed herewith at Annexure- 'A' (01 Sheet) for your reference."*

38. मा. उच्च न्यायालयाने स्पष्ट कायदा ठरवून दिला आहे की जर एखाद्या व्यक्तीस खोटे

बोलून म्हणजेच कोरोना लसींचे दुष्परीणाम लपवून किंवा प्रत्यक्ष या अप्रत्यक्ष रीत्या दबाब आणून, गैरकायदेशीर नियम बनवून लस घेण्यास भाग पाडले तर तो दीवाणी आणि फौजदारी दोन्ही कायद्यामध्ये गुन्हा ठरतो. हा फसवणूकीचा स्पष्ट प्रकार आहे.

In **<u>Registrar General Vs. State of Meghalaya 2021 SCC OnLine Megh 130,</u>** has ruled as under;

> ***"7… <u>Every human being of adult years and sound mind has a right to determine what shall be done with their body'. 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</u>"***
>
> ***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.***
>
> ***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."***

39. लसींच्या दुष्परीणामामुळे Myocarditis होत असून त्या हृदयविकाराने अनेक लोग व विशेषतः तरुणांचे मृत्यूमुखी पडण्याचे प्रमाण वाढले आहे.

40. लसीच्या इतर दुष्परिणामांमध्ये लकवा (paralysis), अंधत्व, तोंड वाकडे होणे, Guillian Barre syndrome असे अनेक आजीवन जायबंदी करणारे दुष्परिणाम आहेत.

41. कोव्हीशील्ड (Astrazeneca) लसीमुळे रक्ताच्या गुठळ्या (Blood Clotting) होवून मृत्यू होत असल्यामुळे यूरोपातील **२१ देशांनी** त्या लसीवर ३५ वर्षापर्यंतच्या नागरिकांना वापरण्यास बंदी घातली आहे.

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

42. जपान देशातील स्वस्थ विभागाने सर्व नागरिकांना स्पष्टपणे सुचित केले आहे की कोरोना लसीमुळे हृदय विकारांचा जीवघेणा दुष्परीणाम होत असून नागरीकांनी डॉक्टरच्या सल्याशिवाय लस घेवू नय.

That, recently the Health Ministry of Japan has made Following declaration/orders on their website:

> ***"Consent to vaccination***
>
> *Although we encourage all citizens to receive the COVID-19 vaccination, it is not compulsory or mandatory. Vaccination will be given only with the consent of the person to be vaccinated after the information provided. Please get vaccinated of your own decision, understanding both the effectiveness in preventing infectious diseases and the risk of side effects. No vaccination will be given without consent. Please do not force anyone in your workplace or those who around you to be vaccinated, and do not discriminate against those who have not been vaccinated."*

Furthermore, the Government of Japan also asked the citizens to make complain to Human Rights Division if there is any discrimination on the basis of

vaccination status.

The government made companies of Covid “vaccines” to warn of dangerous and potentially deadly side effects such as myocarditis. In addition, the country is reaffirming its commitment to adverse event reporting requirements to ensure all possible side effects are documented.

For more details read the article:

https://rairfoundation.com/alert-japan-places-myocarditis-warning-on-vaccines-requires-informed-consent/

Alert: Japan Places Myocarditis Warning on 'Vaccines' - Requires Informed Consent Amy Mek.

43. परंतू आपण त्या गंभीर विषयाला लपवून नागरीकांना त्याच लसीचे बुस्टर डोज घेण्यास दबाव आणून जनसंहार (Genocide, Mass Murder) चा गुन्हा करीत आहात.

44. या आधीसुद्धा आपण कायद्याच्या विरुद्ध जाऊन औरंगाबाद येथील नागरिकांना लस न घेतल्यास राशन, पेट्रोल किंवा इतर सुविधा बंद करण्यासंबंधी केलेल्या वादग्रस्थ विधानाबाबत **तत्कालीन आरोग्य मंत्री राजेश टोपे यांच्यासोबत दै. देशोन्नती चे 'इडिटर-इन-चीफ' श्री. प्रकाश पोहरे** यांनी फोनवर संवाद केला असता श्री. राजेश टोपे यांनी आपल्या गैरकृत्याबाबत नाराजी व्यक्त केली होती. आपण नोटीस घेणार नं. 1 श्री. सुनील चव्हाण हे फक्त पंतप्रधान यांना खुश करण्याकरीता बेकायदेशीरपणे वागत गैरप्रकार करीत असून त्याला कोणताही कायदेशीर आधार नाही असे स्पष्टपणे सांगितले होते. यांचे ऑडिओ क्लिप आमच्याकडे उपलब्ध आहे.

45. तुम्ही जिल्हाधिकारी कार्यपदावर काम कारीत असताना तुम्हाला हा साधा कायदा माहित असणे आवश्यक आहे की तुम्हाला संविधानातील तरतुदीनूसार काम करने आवश्यक असून तुम्हाला पंतप्रधान किंवा कोणीही काहीही सांगितलं तरी सुद्धा तुम्ही कायद्याचा बाहेर जाऊन काम करु शकत नाही अन्यथा तुम्ही फौजदारी गुन्ह्याखाली

आरोपी राहाल असा स्पष्ट कायदा मा. सर्वोच न्यायालयाने ठरवून दिला आहे.

मा. सर्वोच्च न्यायालयाने Sarangdharsingh S. Chavan प्रकरणात तत्कालीन जिल्हाधिकारी व मुख्यमंत्री या दोघांविरोधात कठोर ताशेर ओढत त्यांचे गैरकायदेशीर आदेश रद्द करुन १० लाख रुपये दंड ठोठावला आहे.

In **State of Maharashtra Vs. Sarangdharsingh S. Chavan (2011) 1 SCC 577,** it is ruled as under;

> ***"66.*** *In his opinion, Lord Denning M.R. in Metropolitan Police Commr. [(1968) 2 QB 118 : (1968) 2 WLR 893 : (1968) 1 All ER 763 (CA)] made the following observations : (QB p. 136 A-C)*
>
> > *"... I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps so to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and, if need be, bring the prosecution or see that it is brought. But in all these things he is not the servant of anyone, save of the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone."*
> >
> > *(emphasis supplied)*
>
> ***47.*** *We affirm the order of the High Court and direct that the*

instruction of the Chief Minister to the Collector dated 5-6-2006 has no warrant in law and is unconstitutional and is quashed.

64. *In Jaipur Development Authority v. Daulat Mal Jain [(1997) 1 SCC 35] this Court had the occasion to examine allotment of lands to the respondents by the Minister and the Committee headed by the Minister. Some of the observations made in that decision are quite relevant in the context of the present case. Therefore, they are quoted below : (SCC pp. 45-46, paras 11-12 & 14)*

> *"11. The Minister holds public office though he gets constitutional status and performs functions under the Constitution, law or executive policy. The acts done and duties performed are public acts or duties as the holder of public office. Therefore, he owes certain accountability for the acts done or duties performed.* ***In a democratic society governed by the rule of law, power is conferred on the holder of the public office or the authority concerned by the Constitution by virtue of appointment.*** *The holder of the office, therefore, gets opportunity to abuse or misuse the office. The politician who holds public office must perform public duties with the sense of purpose, and a sense of direction, under rules or sense of priorities. The purpose must be genuine in a free democratic society governed by the rule of law to further socio-economic democracy. ...*

12. ... If the Minister, in fact, is responsible for all the detailed workings of his department, then clearly ministerial responsibility must cover a wider spectrum than mere moral responsibility : for no Minister can possibly get acquainted with all the detailed decisions involved in the working of his

department. ...

*****

14. The so-called public policy cannot be a camouflage for abuse of the power and trust entrusted with a public authority or public servant for the performance of public duties. Misuse implies doing of something improper. The essence of impropriety is replacement of a public motive for a private one. When satisfaction sought in the performance of duties is for mutual personal gain, the misuse is usually termed as corruption. The holder of a public office is said to have misused his position when in pursuit of a private satisfaction, as distinguished from public interest, he has done something which he ought not to have done. The most elementary qualification demanded of a Minister is honesty and incorruptibility. He should not only possess these qualifications but should also appear to possess the same."

(emphasis supplied)

67. *In Porter v. Magill [(2002) 2 AC 357 : (2002) 2 WLR 37 : (2002) 1 All ER 465 (HL)] the House of Lords upheld the decision of the District Auditor who had opined that certain Ministers of Westminster's City Council had used their powers to increase the number of owners/occupiers in marginal wards for the purpose of encouraging them to vote for the Conservative Party in future elections. The House of Lords held that although the powers under which the Council could dispose of the land was very broad, and although, elected politicians were entitled to act in a manner which would earn the gratitude and support of their electorate, they could act only to pursue a "public purpose for which the power was conferred", but the purpose of*

securing electoral advantage for the Conservative Party was no such "public purpose".

68. *At this stage, I may also refer to the following portion of the preface to 1964 paperback edition of the book titled The Modern State by Maciver:*

"The State has no finality, but human nature is as stable as human needs, and what human beings need from government — if we think not of the few, but of men generally, men as social beings — is the same under all conditions. These are liberties secured by restraints, justice under law, order that provides opportunity, the economy of the good life. The modes of satisfying these needs change with the changing conditions. To satisfy any need whatever, even the most spiritual, a modicum of power is necessary, for power is simply the effective control of means. From the beginning of human history government has been recognized as the overall holder and regulator of power, maintaining order by limiting all other expressions of power and thereby turning permitted powers into rights. In that concept lay the rudiments of the principles of government. In every age men have sought to clarify the application of these principles to the changing times. In every age the abuse of power by governments has led to disasters and uprisings, oppressions and vainglorious wars, and sometimes to experiments in the control of power, seeking to make it responsible, or more responsible, subject in some manner to the will of the people, of the majority or those who represented them."

33. *From the communication of the Collector containing the instructions of the then Chief Minister, Mr Vilasrao Deshmukh, it is clear that the Chief Minister was aware of various*

complaints being filed against the said family. Even then he passed an order for special treatment in favour of the said family which is unknown to law. This was obviously done to protect the Sananda family from the normal legal process and a special procedure was directed to be adopted in respect of criminal complaints filed against them.

34. *In other words, the Chief Minister wanted to give the members of the said family a special protection which is not available to other similarly placed persons. It is clear from the Collector's order dated 5-6-2006 where the Chief Minister's instructions were quoted that the Chief Minister was acting solely on political consideration to screen the family of the MLA from the normal process of law.*

35. *As Judges of this Court, it is our paramount duty to maintain the rule of law and the constitutional norms of equal protection.*

36. *We cannot shut our eyes to the stark realities.*

38. *This being the ground reality, as the Chief Minister of the State and as holding a position of great responsibility as a high constitutional functionary, Mr Vilasrao Deshmukh certainly acted beyond all legal norms by giving the impugned directions to the Collector to protect members of a particular family who are dealing in moneylending business from the normal process of law. This amounts to bestowing special favour to some chosen few at the cost of the vast number of poor people who as farmers have taken loans and who have come to the authorities of law and order to register their complaints against torture and atrocities by the moneylenders. The instructions of the Chief Minister will certainly impede their access to legal redress and bring about a failure of the due process.*

***39.** The aforesaid action of the Chief Minister is completely contrary to and inconsistent with the constitutional promise of equality and also the Preambular resolve of social and economic justice. As the Chief Minister of the State Mr Deshmukh has taken a solemn oath of allegiance to the Constitution but the directions which he gave are wholly unconstitutional and seek to subvert the constitutional norms of equality and social justice.*

***41.** Records disclosed in this case show that out of 74 cases only in seven cases charge-sheets were filed and the rest of the cases were either compromised or withdrawn. How can poor farmers sustain their complaints in the face of such directions and how can the subordinate police officers carry on investigation ignoring such instructions of the Chief Minister? Therefore, the instructions of the Chief Minister have completely subverted the rule of law.*

***46.** This Court is extremely anguished to see that such an instruction could come from the Chief Minister of a State which is governed under a Constitution which resolves to constitute India into a socialist, secular, democratic republic. The Chief Minister's instructions are so incongruous and anachronistic, being in defiance of all logic and reason, that our conscience is deeply disturbed. We condemn the same in no uncertain terms.*

***48.** We dismiss this appeal with costs of Rs. 10,00,000 (rupees ten lakhs) to be paid by the appellant in favour of the Maharashtra State Legal Services Authority. This fund shall be earmarked by the Authority to help the cases of poor farmers. Such costs should be paid within a period of six weeks from date.*

*52… **Every citizen must do his duty towards the nation as well as the fellow citizens because unless everyone does his duty, it is not possible to achieve the goals of equality and justice enshrined in the Preamble.***

***53.** Part IV-A of the Constitution was enacted with a fond hope that every citizen will honestly play his role in building of a homogeneous society in which every Indian will be able to live with dignity without having to bother about the basics like food, clothing, shelter, education, medical aid and the nation will constantly march forward and will take its place of pride in the comity of nations.*

***56.** Article 164 lays down that:*

"164. Other provisions as to Ministers.—(1)The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor."

*Article 164(3) lays down that the Governor shall before a Minister enters upon his office, administer to him the oath of office and secrecy according to the form set out in the Third Schedule, in terms of which, the Minister is required to take oath that he shall discharge **his duties in accordance with the Constitution and the law without fear or favour, affection or ill will. However, the cases involving pervasive misuse of public office for private gains, which have come to light in the last few decades tend to shake the peoples' confidence and one is constrained to think that India has freed itself from British colonialism only to come in the grip of a new class, which tries to rule on the same colonial principles.** Some members of the*

political class who are entrusted with greater responsibilities and who take oath to do their duties in accordance with the Constitution and the law without fear or favour, affection or ill will, have by their acts and omissions demonstrated that they have no respect for a system based on the rule of law.

57. *The judgment of the Constitution Bench in C.S. Rowjee v. State of A.P. [AIR 1964 SC 962 : (1964) 6 SCR 330] is an illustration of the misuse of public office by the Chief Minister for political gain. The schemes framed by the Government of Andhra Pradesh under Chapter IV-A of the Motor Vehicles Act, 1939 for nationalisation of motor transport in certain areas of Kurnool District of Andhra Pradesh were challenged by filing writ petitions under Article 226 of the Constitution. The High Court repelled the challenge to the validity of the schemes and also negatived the argument that the same were vitiated due to mala fides of the then Chief Minister of the State. This Court allowed the appeals and quashed the scheme and declared that the schemes are invalid and cannot be enforced. While examining the issue of mala fide exercise of power, the Constitution Bench stuck a note of caution by observing that allegations of mala fides and of improper motives on the part of those in power are frequently made and sometimes without any foundation and, therefore, it is the duty of the Court to scrutinise those allegations with care so as to avoid being in any manner influenced by them if they are not well founded.*

58. *The Court in C.S. Rowjee [AIR 1964 SC 962 : (1964) 6 SCR 330] then noted that the scheme was originally framed by the Corporation on the recommendations of the Anantharamakrishnan Committee, but was modified at the*

asking of the Chief Minister so that his opponents may be prejudicially affected and proceeded to observe : (AIR pp. 972-73, paras 28-30)

"28. … The first matter which stands out prominently in this connection is the element of time and the sequence of dates. We have already pointed out that the Corporation had as late as March 1962 considered the entire subject and had accepted the recommendation of the Anantharamakrishnan Committee as to the order in which the transport in the several districts should be nationalised and had set these out in their administration report for the three year period 1958 to 1961. It must, therefore, be taken that every factor which the Anantharamakrishnan Committee had considered relevant and material for determining the order of the districts had been independently investigated, examined and concurred in, before those recommendations were approved. It means that up to March-April 1962 a consideration of all the relevant factors had led the Corporation to a conclusion identical with that of the Anantharamakrishnan Committee. The next thing that happened was a conference of the Corporation and its officials with the Chief Minister on 19-4-1962. The proceedings of the conference are not on the record nor is there any evidence as to whether any record was made of what happened at the conference. But we have the statement of the Chief Minister made on the floor of the State Assembly in which he gave an account of what transpired between him and the Corporation and its officials. We have already extracted the relevant portions of that speech from which the following points emerge : (1) that the Chief Minister claimed a right to lay down rules of policy for the guidance of the Corporation and, in fact, the learned Advocate

General submitted to us that under the Road Transport Corporation Act, 1950, the Government had a right to give directions as to policy to the Corporation; (2) that the policy direction that he gave related to and included the order in which the districts should be taken up for nationalisation; and (3) that applying the criteria that the districts to be nationalised should be contiguous to those in which nationalised services already existed, Kurnool answered this test better than Chittoor and he applying the tests he laid down, therefore suggested that instead of Chittoor, Kurnool should be taken up next. One matter that emerges from this is that it was as a result of policy decision taken by the Chief Minister and the direction given to the Corporation that Kurnool was taken up for nationalisation next after Guntur. It is also to be noticed that if the direction by the Chief Minister, was a policy decision, the Corporation was under the law bound to give effect to it (vide Section 34 of the Road Transport Corporation Act, 1950). We are not here concerned with the question whether a policy decision contemplated by Section 34 of the Road Transport Act could relate to a matter which under Section 68-C of the Act is left to the unfettered discretion and judgment of the Corporation, where that is the State undertaking, or again whether or not the policy decision has to be by a formal government order in writing for what is relevant is whether the materials placed before the Court establish that the Corporation gave effect to it as a direction which they were expected to and did obey. If the Chief Minister was impelled by motives of personal ill will against the road transport operators in the western part of Kurnool and he gave the direction to the Corporation to change the order of the districts as originally planned by them and

instead take up Kurnool first in order to prejudicially affect his political opponents, and the Corporation carried out his directions it does not need much argument to show that the resultant scheme framed by the Corporation would also be vitiated by mala fides notwithstanding the interposition of the semi-autonomous Corporation.

29. … If in these circumstances the appellants allege that whatever views the Corporation entertained they were compelled to or gave effect to the wishes of the Chief Minister, it could not be said that the same is an unreasonable inference from facts. It is also somewhat remarkable that within a little over two weeks from this conference by its resolution of 4-5-1962, the Corporation dropped Nellore altogether, a district which was contiguous to Guntur and proceeded to take up the nationalisation of the routes of the western part of Kurnool District and were able to find reasons for taking the step. It is also worthy of note that in the resolution of 4-5-1962, of the Corporation only one reason was given for preferring Kurnool to Nellore, namely, the existence of a depot at Kurnool because the other reason given, namely, that Kurnool was contiguous to an area of nationalised transport equally applied to Nellore and, in fact, this was one of the criteria on the basis of which the Anantharamakrishnan Committee itself decided the order of priority among the districts. …

30. … What the Court is concerned with and what is relevant to the enquiry in the appeals is not whether theoretically or on a consideration of the arguments for and against, now advanced the choice of Kurnool as the next district selected for nationalisation of transport was wise or improper, but a totally different question whether this choice of Kurnool was made by

the Corporation as required by Section 68-C or, whether this choice was in fact and in substance, made by the Chief Minister, and implemented by him by utilising the machinery of the Corporation as alleged by the appellants. On the evidence placed in the case we are satisfied that it was as a result of the conference of 19-4-1962, and in order to give effect to the wishes of the Chief Minister expressed there, that the schemes now impugned were formulated by the Corporation."

(emphasis supplied)

***60**... Under the Cabinet system of Government the Chief Minister occupies a position of pre-eminence and he virtually carries on the governance of the State.*

Neither the Chief Minister nor the Minister for Cooperation or Industries had the power to arrogate to himself the statutory functions.

The action of the Chief Minister meant the very negation of the beneficial measures contemplated by the Act.

***62.** In Shivajirao Nilangekar Patil v. Mahesh Madhav Gosavi [(1987) 1 SCC 227] the question considered by this Court was whether the marks awarded to the daughter of the appellant, who was at the relevant time the Chief Minister of the State of Maharashtra had been changed at his instance or to please him.*

***63.** This Court in Shivajirao Patil [(1987) 1 SCC 227] extensively considered the matter, referred to some of the precedents and observed : (SCC p. 253, paras 50-51)*

"50. There is no question in this case of giving any clean chit to the appellant in the first appeal before us. It leaves a great

deal of suspicion that tampering was done to please Shri Patil or at his behest. It is true that there is no direct evidence. It is also true that there is no evidence to link him up with tampering. Tampering is established. The relationship is established. The reluctance to face a public enquiry is also apparent. Apparently Shri Patil, though holding a public office does not believe that 'Caesar's wife must be above suspicion'. The erstwhile Chief Minister in respect of his conduct did not wish or invite an enquiry to be conducted by a body nominated by the Chief Justice of the High Court. The facts disclose a sorry state of affairs. Attempt was made to pass the daughter of the erstwhile Chief Minister, who had failed thrice before, by tampering the record. The person who did it was an employee of the Corporation. It speaks of a sorry state of affairs and though there is no distinction between comment and a finding and there is no legal basis for such a comment, we substitute the observations made by the aforesaid observations as herein.

51. This Court cannot be oblivious that there has been a steady decline of public standards or public morals and public morale. It is necessary to cleanse public life in this country along with or even beforecleaning the physical atmosphere. The pollution in our values and standards in (sic is) an equally grave menace as the pollution of the environment. Where such situations cry out the courts should not and cannot remain mute and dumb."

(emphasis supplied)

64*... The essence of impropriety is replacement of a public motive for a private one. When satisfaction sought in the performance of duties is for mutual personal gain, the misuse is usually termed as corruption.*

__67.__ In Porter v. Magill [(2002) 2 AC 357 : (2002) 2 WLR 37 : (2002) 1 All ER 465 (HL)] the House of Lords upheld the decision of the District Auditor who had opined that certain Ministers of Westminster's City Council had used their powers to increase the number of owners/occupiers in marginal wards for the purpose of encouraging them to vote for the Conservative Party in future elections. The House of Lords held that although the powers under which the Council could dispose of the land was very broad, and although, elected politicians were entitled to act in a manner which would earn the gratitude and support of their electorate, they could act only ***8*** *but the purpose of securing electoral advantage for the Conservative Party was no such "public purpose".*

70. *The camouflage of sophistry used by Shri Vilasrao Deshmukh in the instructions given by him and the affidavit filed before this Court is clearly misleading.*

71… *In total disregard of the scheme of the Act, the Chief Minister gave instructions which had the effect of frustrating the object of the legislation enacted for protection of the farmers. The instructions given by the Chief Minister to District Collector, Buldhana were ex facie ultra vires the provisions of the Act which do not envisage any role of the Chief Minister in cases involving violation of the provisions of the Act and amounted to an unwanted interference with the functioning of the authorities entrusted with the task of enforcing the Act."*

46. तुम्ही नोटीस घेणार नं. १ हे कृत्य हे public servant जनसेवक या पदास शोभत नसून तुम्ही कायदा आणि संविधान नुसार काम करणारे एक जबाबदार अधिकारी असल्याचे दिसून येत नाही. तुमचा सारा प्रकार हा कुणाला तरी खुश करण्याचा आणि लस कंपन्यांना

कोट्यावधी रुपयांचा गैरफायदा पोहचवण्याचा असल्याचे स्पष्ट दिसून येते.

47. आपणांस वरिष्ठानी किंवा मा. प्रधानमंत्री यांनी लोकांना लसीचे बूस्टर डोज जबरदस्तीने द्या असे कोणतेही आदेश दिलेले नाही. त्यांनी फक्त जागरूकता निर्माण करण्याचे निर्देश दिले आहेत. तरीसुद्धा आपण त्यांच्या निर्देशांचा विपर्यस्त करून हेतुपुरस्सरपणे चुकीचा आणि सोयीचा अर्थ लावून असे बेकायदेशीर आणि गुन्हेगारी स्वरूपाचे कृत्य केले आहे.

मा. सर्वोच्च न्यायालयाने **Promotee Telecom Engg. Forum Vs. D.S. Mathur (2008) 11 SCC 571** प्रकरणात स्पष्ट कायदा ठरवून दिला आहे कि आदेशाचा चुकीचा अर्थ लावूणे हा सुद्धा गंभीर गुन्हा होतो.

48. तसेच सर्वोच्च न्यायालयाने असाही स्पष्ट कायदा ठरवून दिला आहे की ज्यांना कायदा, त्यातील तरतुदी व सर्वोच्च न्यायालयाच्या आदेशाचा अर्थ कळत नाही अश्या व्यक्तीस जबाबदार पदावर नोकरीवर ठेवणे म्हणजे अनेक लोकांच्या भविष्याशी खेळणे असून ते धोक्यात घालता येणार नाही.

49. कोरोना लसीच्या विविध दुष्परिणामांची माहिती सर्व नागरिकांना व लस घेणाऱ्या प्रत्येकाला देण्याची व संपूर्ण वर्तमानपत्रे आणि टीव्हीवर जबाबदारी ही लसीबाबतचे कोणतेही अभियान चालविणाऱ्या अधिकारी व कर्मचाऱ्यांनी कर्मचाऱ्यांची आहे. [**Airdale NHS Trust Vs. Bland (1993) 1 All ER 821**, **Montgomery Vs. Lanarkshire Health Board [2015] UKSC 11**, **Master Haridaan Kumar v. Union of India, 2019 SCC OnLine Del 11929**]

50. याबाबत आपण जपान सरकारच्या कृतीचे अनुसरण करावे.

51. लसींच्या दुष्परीणामांची माहिती न देता दुष्परिणाम लपवून अर्धवट माहिती देवून फसवणूकिद्वारे लस पूर्णतः सुरक्षीत आहे असा खोटा प्रचार करुन कोरोना लसीचे डोस घेण्यास लोकांना प्रोत्साहित करने किंवा दबाव आणणे हा फौजदारी स्वरूपाचा गुन्हा घडतो व संबंधित अधिकारी व डॉक्टर्स हे नुकसान भरपाई देण्यास सुद्धा पात्र ठरतात. [**Registrar General Vs. State of Meghalaya 2021 SCC OnLine Megh 130**, **Ajay Gautam**

Vs. Amritsar Eye Clinc 2010 SCC OnLine NCDR 96]

52. आपत्ती व्यवस्थापन कायदा 2005 चे कलम 55 नुसार ज्या शासकीय अधिकाऱ्याने गुन्हा केला आहे त्या कार्यालयातील सर्व अधिकारी व वरिष्ठ हे शिक्षेस पात्र ठरतात.

> ***"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."*

53. लस घेण्याकरीता दबाव बनविण्यासाठी कोणत्याही सुविधा रोखने हे **भारतीय राज्यघटनेच्या कलम 14, 19, 21** चे उल्लंघन ठरते.

[Feroze Mithiborwala Vs. State of Maharashtra 2022 SCC OnLine Bom 457, Jacob Puliyel Vs. Union of India 2022 SCC OnLine Bom 533, Re Dinthar Incident Vs. State of Mizoram 2021 SCC OnLine Gau 1313, Madan Mili Vs. UOI 2021 SCC OnLine Gau 1503]

54. महाराष्ट्र राज्याचे तत्कालीन मुख्य सचिव श्री. सीताराम कुंटे यांचे असेच आदेश मा. मुंबई उच्च न्यायालयाने असंवैधानिक व बेकायदेशीर असल्याचे जाहीर केले आहे व राज्य शासनाने तसे सर्व आदेश मागे घेतले आहेत. **[Feroze Mithiborvala Vs. State of Maharashtr and ors. 2022 SCC OnLine Bom 547]**

55. मा. मुंबई उच्च न्यायालयाच्या आदेशामुळे आता सीताराम कुंटे यांच्या गैरकायदेशीर आदेशामुळे ज्या नागरिकांना जबरदस्तीने लस घ्यावी लागली किंवा ज्यांना लस न घेतल्यामुळे कोणत्याही सुविधांपासून किंवा व्यवसायांपासून वंचित राहावे लागले ते सर्व

नागरिक हे शासनाकडून व श्री. सीताराम कुंटे यांच्याकडून नुकसान भरपाई मिळण्यास पात्र आहेत. [**S. Nambi Narayanan Vs. Siby Mathews, (2018) 10 SCC 804, Veena Sippy Major Vs. Narayan Dumbre 2012 SCC OnLine Bom 339.]**

56. श्री. फिरोझ मिठीबोरवाला यांनी ५ कोटी रुपये नुकसान भरपाईसाठी याचिका उच्च न्यायालयात दाखल केली आहे. **[CIVIL PIL No. (St.) 6218 of 2022]**

57. आपत्ती व्यवस्थापन कायदा, 2005 चे कलम 51(b) नुसार जर केन्द्र सरकारच्या निर्देशांविरुद्ध जावून काम केले असेल व ते निर्देश मानण्यास नकार दिला तर संबंधीत अधिकारी हे शिक्षेस पात्र राहतील.

> ***"51. Punishment for obstruction, etc.-***
>
> *Whoever without reasonable cause-*
>
> ***(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****."*

58. लस पूर्णतः सुरक्षित आहे असा खोटा प्रचार करुन किंवा लोकांना लस घेण्यास बाध्य करण्यासाठी विविध सरकारी नियम बनविल्यामुळे नाईलाजास्तव, लस घ्यावी लागली असेल किंवा जबरदस्तीने अथवा फसवणूकीने लस देण्यात आली असेल तर हा भादवि नुसार गुन्हा ठरतो. आणि जर लस घेणाऱ्या व्यक्तीचा मृत्यू लसीच्या दुष्परिणामामुळे झाला असेल तर दोषी सर्व अधिकारी, डॉक्टर्स, मंत्री आदि लोकांविरुद्ध हत्या, हत्येचा कट रचने,

शासकीय यंत्रणेचा व निधीचा दुरुपयोग हा लस कंपन्यांना फायदा पोहचविण्यासाठी करणे इत्यादी या गुन्ह्यासाठी **भादवि 302, 115, 120(B), 420, 409, 52, 109, 304-A, 304, 116, 168** इत्यादी कलमाअंतर्गत गुन्हा दाखल होऊन दोषींना मृत्युदंड (फाशी) किंवा जन्मठेप (आजीव कारावास) ची शिक्षा होऊ शकते.

59. अश्याच प्रकारची एक तक्रार महाराष्ट्राचे मुख्य सचिव सीताराम कुंटे, मुंबईचे पालिका आयुक्त इक्बाल चहल, उपायुक्त सुरेश काकाणी आदींविरुद्ध दाखल झाली आहे.

Link:https://drive.google.com/file/d/1Owe7Ty9jhDr1Vfd6y7RIrmMt39BUu1CX/view?usp=sharing

60. मा. सर्वोच्च न्यायालयाने स्पष्ट कायदा ठरवून दिला आहे की, फौजदारी कटात आरोपीला प्रत्यक्ष किंवा अप्रत्यक्ष मदत करणारे सर्व अधिकारी व कर्मचारी जे कटात नंतरही सामील झाले असतील तरीही सर्व अधिकारी हे मुख्य आरोपी इतक्याच शिक्षेस पात्र राहतील.

In **Raman Lal Vs State 2001 Cri.L J 800**, it is ruled as under;

> ***''Conspiracy – I.P.C. Sec. 120 (B) – Apex court made it clear that an inference of conspiracy has to be drawn on the basis of circumstantial evidence only because it becomes difficult to get direct evidence on such issue – The offence can only be proved largely from the inference drawn from acts or illegal ommission committed by them in furtherance of a common design – Once such a conspiracy is proved, act of one conspirator becomes the act of the others – A Co-conspirator who joins subsequently and commits overt acts in furtherance of the conspiracy must also be held liable – Proceeding against accused cannot be quashed.''***

61. लस घेतल्यानंतर कोरोना रोगापासून कोणतेही खात्रीलायक संरक्षण नाही. दोन्ही डोस

घेतलेल्यांना कोरोना होवू शकतो व तो व्यक्ती कोरोनाने मरु शकतो. तसेच लसीचे दोन डोज घेतलेला व्यक्ती कोरोनाचा प्रसार दुसऱ्यांना करु शकतो. त्याच्यापासून दुसरी लोक सुरक्षीत नाहीत. त्याबाबत भारत सरकारचे रेकॉर्ड व त्याआधारे दिलेले सर्वोच्च व उच्च न्यायालयाचे आदेश आदी पुरावे खालील लिंक वर उपलब्ध आहे. [**Jacob Puliyel Vs. Union of India 2022 SCC OnLine Bom 533, Re: Dinthar 2021 SCC OnLine Gau 1313**, **Madan Milli 2021 SCC OnLine Gau 1503**, **Registrar General Vs. State of Meghalaya 2021 SCC OnLine Megh 130**, **Osbert Khaling Vs. State of Manipur and Ors. 2021 SCC OnLine Mani 234**]

Link:1.https://drive.google.com/file/d/1m50c0ytxpijyAHpyzHV-Gt2KAOBNOn5k/view?usp=sharing

2.https://drive.google.com/file/d/1PEF53VmPMr4P7kKt8JQeNMQbcZtYHAaY/view?usp=sharing

3.https://drive.google.com/file/d/129Rd9kYFJnKez8gZDYxwgAw60ohndK2b/view?usp=sharing

4.https://drive.google.com/file/d/1cLKR3LutxomKX3BbmaIBwQ9SfUhdvIJQ/view?usp=sharing

62. नुकतेच हितेश कडवे नामक एका २३ वर्षीय युवकाने लस घेतल्याच्या तीन तासाच्या आत त्याचा मृत्यू लसीचा दुष्परीणामांमुळे झाल्यामुळे मृत युवकाच्या आईने लस सुरक्षित असल्याचा खोटा प्रचार करणारे डॉक्टर रणदीप गुलेरिया, डॉ व्ही. जी सोमाणी त्यांच्यासह लस घेण्यासाठी दबाव आणण्यासाठी रेलवे पास साठी लस घेणे बंधनकारक असल्याचा बेकायदेशीर नियम बनविणारे महाराष्ट्राचे मुख्य सचिव सीताराम कुंटे, महापालिका आयुक्त इकबा चहल, सुरेश काकाणी, लस निर्माता कंपनीचे आदर पूनावाला आदींविरोधात कट रचून फसवणूक, हत्या शासकीय मालमत्तेचा दुरुपयोग लस कंपन्यांच्या फायदासाठी करणे आदी गुन्हयासाठी **भादवि 52, 115, 302, 420, 409, 120(B), 109, 34** व आपत्ती व्यवस्थापन कायदा चे कलम **51(b), 55** आदी कलमांतर्गत कारवाई साठी केस दाखल

केली आहे. **[WP/6159/2021]**

Link:https://drive.google.com/file/d/1Owe7Ty9jhDr1Vfd6y7RIrmMt39BUu1CX/view?usp=sharing

63. इंडियन मेडिकल असोसिएशन चे पूर्व अध्यक्ष **के.के. अग्रवाल** व दिल्लीतील 60 डॉक्टर्स ज्यांनी कोरोना लसीचे दोन्ही डोस घेतले होते त्यांचा मृत्यू कोरोनानेच झाला होता.

1. https://www.ndtv.com/india-news/dr-kk-aggarwal-ex-chief-of-india-medical-association-ima-dies-of-covid-19-coronavirus-2443827

2. https://theprint.in/health/at-least-60-delhi-doctors-have-died-in-2nd-covid-wave-families-are-left-to-pick-up-pieces/661353/

64. लसीच्या दुष्परीणामामुळे लस घेणाऱ्यांचा जीव जावू शकतो. त्यांना बहिरेपणा, अर्धांगवायू, आंधळेपणा, रक्त गोठणे (Blood Clotting) असे गंभीर व जीवघेणे दुष्परीणाम होवू शकतात.

देशात आतापर्यंत 20,000 पेक्षा जास्त लोकांचा मृत्यू लसीच्या दुष्परिणामांमुळे झाला आहे. कोरोना लसीच्या दुष्परिणामामुळे मरण पावलेल्या लोकांची माहिती देणाऱ्या वर्तमानपत्रात प्रकाशीत बातम्या खालील लिंक वर उपलब्ध आहेत.

Link:https://drive.google.com/file/d/1uikc1a6_KDzUx7HNLrfwaI1NJRt0D_YP/view?usp=sharing

लसीच्या इतर दुष्परिनामाबाबत इंग्लंडच्या टेस लॉरी यांनी सरकारी रेकॉर्डवरून तयार केलेला अहवाल खालील लिंक वर उपलब्ध आहे.

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

65. ज्या व्यक्तींना कोरोना होवून गेला आहे किंवा ज्यांचा कोरोना विषाणूंशी संपर्क आला

आहे ती लोक सर्वात जास्त सुरक्षित असून त्यांना कोरोना होवू शकत नाही, ते कोरोनाचा प्रसार करू शकत नाही किंवा ते कोरोनाने मरु शकत नाही. त्यांची प्रतीकारशक्ती हि कोरोना लसींपेक्षा 27 पटींपेक्षा जास्त प्रभावी व गुणकारी असते. अश्या लोकांना लस देणे म्हणजे हा मूर्खपणा असून त्यामुळे त्यांच्या शरीरास नुकसान होवू शकते. दुष्परीणाम होवू शकतात. अश्या लोकांनी लस न घेणेच योग्य आहे. याबाबत AIIMS चे **Epidemiologist** डॉ. संजीव राय व इतर जगप्रसिद्ध डॉक्टर्स व शास्त्रज्ञाचे विविध शोध पत्र उपलब्ध आहे.

Link: i) https://youtu.be/-btDk0eSi5U

ii) https://awakenindiamovement.com/

iii)https://drive.google.com/file/d/1Cvzwu-jxnKbj0pnk6pxLx5HScq0wTW0F/view?usp=sharing

66. त्या व्यतिरिक्त ज्या लोकांच्या शरीरात कोरोनाविरोधी प्रतिकारशक्ती **(Antibodies)** तयार झाली आहे त्यांना कोरोना लसीच्या **Clinical Trial** वैद्यकीय चाचण्यामध्ये सहभागीच करण्यात आले नव्हते म्हणून त्यांना लस देताच येणार नाही हा शास्त्रीय वैज्ञानिक नियम आहे.

67. कोरोना लसीव्यक्तीरीक्त कोरोनाशी लढण्याकरीता इतरही अनेक प्रभावी व दुष्परीणाम रहित उपचार उपलब्ध आहेत.

68. नॅचरोपॅथी:- आयुष मंत्रालयाचे **National Institute of Naturopathy, Pune** यांनी डॉ. बिश्वरुप चौधरी यांनी दिलेल्या नॅचरोपॅथीची उपचार पद्धती व त्यांचे अहमदनगर येथील उपचार केंद्रावर भेट देवून ही कोरोना वर १०० टक्के प्रभावी असून कोणतेही दुष्परीणाम न होता तसेच कोणतेही बंधने न पाळता सुद्धा कोरोना रुग्ण बरा होत असल्याचा अहवाल सादर केला असून त्या पद्धतीचा वापर कोरोना बरा करण्याकरीता करण्यासाठी प्रभावी शिफारस केली आहे.

त्या शिफारसींमधील मुख्य भाग खालीलप्रमाणे आहे;

The observations of **National Institute of Naturopathy, Pune** are as under;

> ***"The enquiry report submitted by National Institute of Naturopathy of Ministry of AYUSH, Government of India regarding result of successful treatment of Covid-19 patients without any side effects.***
>
> *This is a report of some initial data gathered across a single center of Ahmednagar district; where people availed only Naturopathy treatment voluntarily for a week's time period from their day of COVID confirmation and were successfully treated.*
>
> *None of the cases took any medication for long term due to other systemic illnesses- like Diabetes, HTN or arthritis etc.*
>
> *None of the cases took any medication for COVID.*
>
> *No case reported of any untoward incident or adverse reaction to their fasting experience in Nature cure regime."*

Link:https://drive.google.com/file/d/1iTHtgezBUzoRRdGnqjfj975kx2hLolQK/view?usp=sharing

69. डॉ. बिस्वरुप चौधरी यांच्या उपायामध्ये फक्त फळांचा रस व **(Fluid Diet)** च्या माध्यमातून लाखो कोरोना रुग्ण घरीच बरे झाल्याचे पुरावे आहेत. त्यांना मास्क किंवा सोशल डिस्टंसींग वॅगेरे कोणतेही निर्बंध नव्हते.

70. आंध्र प्रदेश सरकार व उच्च न्यायालयातर्फे प्रमाणीत आनंदीया यांचे आयुर्वेदिक औषध:-

70.1. आंध्र प्रदेश मधील आयुर्वेदतज्ञ श्री. आनंदीय यांनी (A), (B) व (K) नावाचे आयुर्वेदिक औषधांचे मिश्रण तयार करून त्याद्वारे कोणतेही दुष्परीणाम न होता

कोरोनाच्या रुग्णांना ठीक केले आहे. ते औषध मोफत उपलब्ध आहे.

70.2. त्या औषधाच्या वापराला व्हॅक्सीन माफियांनी बदनाम करण्याचा व त्यावर सरकारी अधिकाऱ्यांकडून बंदी आणण्याचा प्रयत्न केला.

त्याविरोधात उच्च न्यायालयात सुनावणी होऊन न्यायालयाने सरकारला त्या औषधाची प्रभावकरीता तपासण्याचे आदेश दिले.

70.3. सरकारने उच्च न्यायालयात शपथपत्र सादर केले की, ते औषध शरीरावर कोणताही दुष्परीणाम करत नाही.

70.4. त्यानंतर उच्च न्यायालयाने श्री. आनंदीया यांना त्या औषधांद्वारे कोरोनाच्या रुग्णांचा इलाज करण्याची परवानगी दिली व सरकारी अधिकाऱ्यांनी त्यांच्या कामात अडथळा आणू नये अशी ताकीद दिली. ते आदेश **Ponnekanti Mallikarjuna Rao Vs. State of Andhra Pradesh, rep. by its Chief Secretary to Government 2021 SCC OnLine AP 2171,** नुसार प्रकाशित झाले आहे.

Link :

https://drive.google.com/file/d/1bwLsa7h9KRLJTp9azEYzcjT0UpQ00hz_/view?usp=sharing

71. भारतीय राज्यघटनेच्या **कलम 51 (A)** नुसार देशातील प्रत्येक जीवाचे व सरकारी मालमत्तेचे रक्षण करणे, भ्रष्टचार व गुन्हे करणाऱ्या अधिकाऱ्यांचे, मंत्र्यांचे गैरकारभार उघडकीस आणणे व त्यांना शिक्षा होण्यास न्यायालयाची मदत करने हे सर्व नागरिकांचे कर्तव्य आहे. त्याकरिता नागरिकांनी छुप्या कॅमेऱ्यांद्वारे 'स्टींग ऑपरेशन' आदी साधनांचा उपयोग करावा असा कायदा मा. सर्वोच्च न्यायालयाने ठरवून दिला आहे. **[Aniruddha Bahal Vs. State 2010 SCC OnLine Del 3365, Indirect Tax Practitioners' Association Vs. R.K. Jain (2010) 8 SCC 281]**

72. अश्याप्रकारे तुमचे कृत्य हे गुन्हेगारी स्वरूपाचे, सर्व नागरिकांचा जीव धोक्यात घालणारे

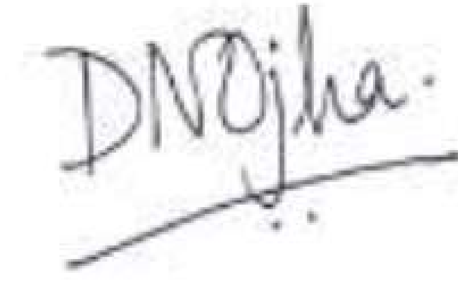
आणि अतिशय बेकायदेशीर असून मा. सर्वोच्च व उच्च न्यायालयाच्या आदेशाची अवमानना करणारे आहे.

73. तरी या नोटीसद्वारे आपणास कळविण्यात येते की आपण आपले गैरकायदेशीर कृत्य त्वरीत थांबवून सर्व जनतेची माफी मागावी आणि ह्याबाबत आम्हाला लेखी कळवावे.

74. सदरील नोटीस हि स्वतंत्र असुन आपणाविरुद्ध भादंवि **52, 109, 166, 336, 409, 115, 304-A, 120 (B), 34**, **कोर्ट अवमानना कायदा 1971** चे **कलम 2(b), 12,** व इतर कायदेशीर कारवाईचा आणि संबंधीत पिडीतांसाठी नुकसान भरपाई वसुलीचा अधिकार अबाधित राखून ही नोटीस दिली आहे याची आपण नोंद घ्यावी.

75. तसेच जर आपल्या प्रत्यक्ष व अप्रत्यक्ष कृतींमुळे जर एखाद्या नागरिकांचा, सरकारी कर्मचारी व अधिकाऱ्यांचा मृत्यु झाल्यास किंवा त्याला कोणतेही दुष्परीणाम झाल्यास त्याला आपण व्यक्तीशः जबाबदार राहाल याची नोंद घ्यावी.

सही/-



ॲड. दीपाली ओझा
लीगल सेल प्रमुख
इंडियन बार असोसिएशन

प्रत माहितीस्तव व योग्य त्या कारवाईसाठी सादरः-

1. मा. राष्ट्रपती, राष्ट्रपती भवन, नवी दिल्ली
2. मा. मुख्य न्यायमूर्ती, मा. सर्वोच्च न्यायालय, दिल्ली
3. मा. प्रधानमंत्री, प्रधानमंत्री कार्यालय, नवी दिल्ली
4. मा. मुख्य न्यायमूर्ती , मा. मुंबई उच्च न्यायालय, मुंबई
5. मा. मुख्यमंत्री, महाराष्ट्र राज्य, मंत्रालय, मुंबई-32
6. मा. उप मुख्यमंत्री, महाराष्ट्र राज्य, मंत्रालय, मुंबई-32