

**IN THE COURT OF LD. METROPOLITAN MAGISTRATE  
27TH COURT AT MULUND, MUMBAI  
COURT CASE NO. \_\_\_\_\_/\_\_\_\_\_/2023**

**AYUSH R. TIWARI** )

Having his address at B- 1501, Runwal Heights, )

L.B.S. Marg, Mulund (West), )

Mumbai- 400 080. )

**COMPLAINANT**

**VERSUS**

**(1) SHRI. ADAR POONAWALLA** )

Chief Executive Officer & Executive Director, )

Serum Institute of India Pvt. Ltd. )

Having it's registered office at: )

212/2, Off. Soli Poonawalla Road, )

Hadapsar, Pune, Maharashtra-411028. )

**(2) Dr. CYRUS POONAWALLA** )

Chairman-Serum Institute of India Pvt. Ltd. )

212/2, Off. Soli Poonawalla Road, )

Hadapsar, Pune - 411028, India. )

**(3) DR. RANDEEP GULERIA.** )

Ex-Director, AIIMS, New Delhi. )

All India Institute of Medical Sciences, )

Ansari Nagar, New Delhi-110029. )

**(4) DR. V. K. PAUL.** )

All India Institute of Medical Sciences, )

Ansari Nagar, New Delhi-110029. )

**(5) DR. V. G. SOMANI.** )

Drug Controller General of India, )

D. A. Bhawan, Kotla Road, )

New Delhi 110002. )

**(6) SHRI IQBAL CHAHAL.** )

Municipal Commissioner. )

M.C.G.M. Annex Building, )

Mahapalika Marg No. 1, )

Fort, Mumbai – 400 001. )

**(7) SHRI SITARAM KUNTE.** )

Ex-Chief Secretary, )

Room 37, 9<sup>th</sup> Floor, )

Avanti Ambar, Road No. 37, )

Narayan Dabholkar Marg, Malabar Hill, )

Mumbai – 400006. )

**(8) SHRI SURESH KAKANI.** )

Ex- Additional Commissioner, MCGM Mumbai. )

MIDC, Industrial Area, Mahakali Caves Road, )

Andheri – East, Mumbai – 400093. )

**(9) SMT. KISHORI KISHORE PEDNEKAR.** )

Ex-Mayor, Mumbai. )

2R5J+85V, NM Joshi Marg, )

Elphinstone, Danmil Naka, )

Mumbai – 400013. )

**(10) DR. SADHANA TAYADE.** )

Director of Health Services, Public Health )

Department, Mantralaya, Mumbai-400032. )

**(11) SMT. AMISHA BHOIR.** )  
AASHA Worker, )  
R/C APEX HOSPITALS, Mumbai, Maharashtra )

**(12) SMT. JOSLIN.** )  
AASHA Worker, )  
Ambedkar Nagar UPHC, Palghar, )

) **\_\_\_\_\_ ACCUSED**

**CHARGE:**

**(1) U/S - 34, 36, 37, 38, 109, 115, 153-A, 166, 167, 336, 337, 338, 341, 409, 417 and 418 r.w. 415, 420, 505 and 120B of the INDIAN PENAL CODE, 1860.**

**AND**

**(2) U/S - 4, 7 AND 9 OF THE DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT, 1954.**

**AND**

**(3) U/S - 27 OF THE DRUGS AND COSMETICS ACT, 1940.**

**COMPLAINT U/S - 190 R.W. S - 200, 202 AND 204**  
**OF CODE OF CRIMINAL PROCEDURE, 1973**

**MAY IT PLEASE YOUR HONOUR**

**MOST RESPECTFULLY IT IS SUBMITTED**

1. The Complainant is a student at Children Welfare Centre Law College at Malad having his family address at 102/Jal Nidhi Apt, Achole Road Nallasopara (East), Palghar; currently residing at family friend's residence at 1501, Runwal Heights, L.B.S. Marg, Mulund (West), Mumbai – 400 080.

1.1 All the above mentioned Accused persons are having the occupation as mentioned after their name against each Accused in the cause title of this Complaint, who are guilty of commission of offences in conspiracy with each other, **punishable U/S - 34, 36, 37, 38, 109, 115, 153-A, 166, 167, 336, 337, 338, 341, 409, 417 and 418 r.w. 415, 420, 505 and 120B of the Indian Penal Code, 1860, U/S – 4, 7 and 9 of The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and U/S - 27 of the Drugs and Cosmetics Act, 1940.**

1.2. The facts and circumstances leading to the filing of this Complaint are as under: -

2. The Complainant had suffered injury due to the administration of the vaccine, having amongst others, the death causing side effects and is the victim of vaccination by cheating, deception, fraud and also by force, by way of illegal vaccine mandates, illegally promulgated by the Accused persons in conspiracy with each other. The act of administering the vaccine was done as under: -

2.1 First Dose of Covishield vaccine on 19/08/2021 administered by Amisha Bhoir at R/C APEX HOSPITALS, Mumbai, Maharashtra and

the second dose of the Covishield vaccine on 11/11/2021 administered by Joslin at Ambedkar Nagar UPHC, Palghar, Maharashtra.

Annexed hereto and marked as Exhibit “A-1” collectively are the copies of the Certificates of both doses of Covid – 19 vaccination.

**[EXHIBIT “A-1”]**

**3.** As per law and directions issued by the Central Government, it was made clear that the vaccination is completely voluntary and no one can be compelled or forced to get vaccinated.

**4. The present Complaint is divided into following parts.**

<b>SR. NO.</b>	<b>PARTICULARS</b>	<b>PARA NO.</b>	<b>PAGE NO.</b>
<b>1</b>	Law laid down by Honourable Supreme Court of India & the Honourable High Court about the illegality and unconstitutionality of vaccine mandates stating that no one can be forced directly or indirectly to get vaccines.	<b>5</b>	<b>9</b>
<b>2</b>	Law of <b>Informed Consent</b> and Covid-19 vaccination guidelines issued by the Central Government mandating for giving information of death causing and other side effects of vaccines and only after obtaining written consent from person the Doctors/AASHA workers are permitted to give vaccines.	<b>6</b>	<b>14</b>
<b>3</b>	Proofs and Government’s admission that Covishield and other Covid vaccines are having death causing and other serious side effects.	<b>7</b>	<b>21</b>

<b>4</b>	Proofs that around 21 (Twenty-One) European countries have banned the Covishield vaccines since March, 2021 due to death causing side effects.	<b>8</b>	<b>28</b>
<b>5</b>	Warnings given by different Governments and World Health Organization about deadly side effects of Covishield vaccines.	<b>9</b>	<b>28</b>
<b>6</b>	False narrative run by the Accused persons that vaccines are completely safe and for any of its side effects there is definite treatment available.	<b>10</b>	<b>29</b>
<b>7</b>	False narrative run by Accused persons that unvaccinated people spread infection and are threat to society.	<b>11</b>	<b>36</b>
<b>8</b>	Research and Judgment of Honourable Supreme Court of India and Honourable High Court proving falsity of the claim of the Accused and making it clear that the vaccinated people are not protected and they can be a super spreader of corona virus.	<b>12</b>	<b>38</b>
<b>9</b>	Unlawful mandates brought by the Accused persons and confession by the Accused that the mandates were brought with intention of putting restriction on livelihood so that people should take vaccines.	<b>13</b>	<b>40</b>
<b>10</b>	Judgment of Honourable Supreme Court of India and Honourable Bombay High Court where the mandates issued by the Accused persons were specifically declared as unlawful, illegal and violating the fundamental and constitutional Rights of the citizens.	<b>14</b>	<b>42</b>

<b>11</b>	Liability and criminality of the Accused vaccine manufacturer company's CEO - Adar Poonawalla, Chairman - Cyrus Poonawalla & all the office bearers and employees of the Serum Institute of India Private Limited, in not calling back the faulty vaccines and hatching the conspiracy to earn profit by giving Indians the deadly vaccines by suppressing its deadly side effects and putting the life of citizens in danger.	<b>15</b>	<b>46</b>
<b>12</b>	Summary of charges against the Accused persons.	<b>16</b>	<b>50</b>
<b>13</b>	Applicability of the Provisions of offences punishable under Indian Penal Code, 1860, The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and the Drugs and Cosmetics Act, 1940 committed by the Accused persons.	<b>17</b>	<b>61</b>
<b>14</b>	Law laid down by Honourable Supreme Court of India and Honourable High Court regarding inference of conspiracy on the basis of circumstantial evidences as conspiracies are hatched in the secrecy.	<b>18</b>	<b>73</b>
<b>15</b>	Law settled by Honourable Supreme Court of India & Honourable High Court stating that no sanction u/s - 197 of Code of Criminal Procedure, 1973 is required to prosecute public servants involved in the offences of conspiracy, cheating, misappropriation of public property and Government machinery to serve ulterior and unauthorized purposes.	<b>19</b>	<b>77</b>

<b>16</b>	Section - 10 of Indian Evidence Act, 1872.	<b>20</b>	<b>83</b>
<b>17</b>	Government of India's declaration on Affidavit that there is no protection granted to the vaccine manufacturing companies.	<b>21</b>	<b>84</b>
<b>18</b>	Government of India's affidavit dated 23/11/2022 suggesting the citizen to file individual cases before trial Courts like this Honourable Court against vaccine companies and guilty officials responsible for wrong done in process of vaccination and against side effects due to vaccines.	<b>22</b>	<b>85</b>
<b>19</b>	Offer of compensation given by World Health Organization to the victims of side effects of Covid vaccines.	<b>23</b>	<b>86</b>
<b>20</b>	Cases, Judgments and orders granting compensation to the victims of side effects of Covid (Covishield) vaccines in India and across the world.	<b>24</b>	<b>86</b>
<b>21</b>	Law laid down by the Constitution Bench of the Supreme Court of India in <b><u>Anita Kushwaha V/s. Pushap Sadan (2016) 8 SCC 509</u></b> , case observing that the life and liberty of the Indians is not less than that of Americans or citizen of any country across the world.	<b>25</b>	<b>109</b>
<b>22</b>	Jurisdiction of this Honourable Court.	<b>27</b>	<b>110</b>
<b>23</b>	Cause of Action.	<b>28</b>	<b>111</b>
<b>24</b>	Since the unlawful mandates were implemented by the local authorities by taking the help of police department, therefore, the proper course & the principle of natural justice is that matter should not be inquired or	<b>29</b>	<b>112</b>

	investigated by the police. Therefore, the Complainant is requesting this Honourable court to conduct the inquiry itself as per section - 202 of Code of Criminal Procedure, 1973 and pass the appropriate order.		
<b>25</b>	<b>PRAYER</b>	<b>32</b>	<b>112</b>

**5. Law laid down by Honourable Supreme Court of India and the Honourable High Court about the illegality and unconstitutionality of vaccine mandates stating that no one can be forced directly or indirectly to get vaccines.**

**5.1.** That the Honourable Supreme Court of India and Honourable High Court had made it clear that all such mandates to force vaccination were unconstitutional, illegal, null and void. Following Cases are relied upon:-

**(i) Jacob Puliyel V/S Union of India and Ors.**

**2022 SCC OnLine SC 533.**

**(ii) Re: Dinthar Incident V/S State of Mizoram and Ors.**

**2021 SCC OnLine Gau 1313.**

**(iii) Madan Mili V/S Union of India.**

**2021 SCC OnLine Gau 1503.**

**(iv) Dr. Aniruddha Babar V/S State of Nagaland.**

**2021 SCC OnLine Gau 1504.**

**(v) Registrar General V/S State of Meghalaya.**

**2021 SCC OnLine Megh 130.**

**(vi) Feroze Mithiborwala V/S State of Maharashtra and Ors. 2022 SCC OnLine Bom 457.**

**5.2** That Honourable High Court of Meghalaya in **Registrar General V/S State of Meghalaya 2021 SCC OnLine Megh 130**, had clearly ruled that if any person is vaccinated under deception or coercion then the guilty officials, vaccine companies etc. can be prosecuted in civil & criminal proceedings and they are liable to pay compensation to the victims. It is ruled as under;

*“7. In this context, around one hundred and seven (107) years ago, in Schloendroff 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’. 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] A.C. 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.”*

**5.3** In the case of **Madan Mili V/S Union of India, 2021 SCC OnLine Gau 1503** it is ruled by Gauhati High Court as under;

*“13. [...] In the instant case, the classification sought to be made between the vaccinated and unvaccinated*

persons for Covid-19 by Clause 11 of the Order dated 30.06.2021 for the purpose of issuing a temporary permit for developmental works in both public and private sector in the State of Arunachal Pradesh is undoubtedly to contain Covid-19 pandemic and its further spread in the State of Arunachal Pradesh. **There is no evidence available either in the record or in the public domain that Covid-19 vaccinated persons cannot be infected with Covid-19 virus, or he/she cannot be a carrier of a Covid-19 virus and consequently, a spreader of Covid-19 virus.** In so far as the spread of Covid-19 Virus to others is concerned, the Covid-19 vaccinated and unvaccinated person or persons are the same. **Both can equally be a potential spreader if they are infected with Covid-19 Virus in them.** This aspect of the matter came up for consideration by this Court in WP(C)/37/2020 (In Re Dinthar Incident Aizawl v. State of Mizoram Aizawl; in which case, this Court vide Order dated 02.07.2021, in paragraph 14 thereof, had observed as follows -

“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. As such, the submission made by the learned Additional Advocate General that the restrictions made against the un-vaccinated persons vis-à-vis the vaccinated persons is reasonable does not hold any water. As the vaccinated and un-vaccinated persons would have to follow the covid proper behavior protocols as per the SOP, there is no justification for discrimination.”*

**5.4.** The law laid down by the Honourable Supreme Court of India in **Common Cause V/S Union of India, (2018) 5 SCC 1**, makes it clear that the right to refuse vaccine or any medical treatment is unconditional and no public servant, doctor or anyone can ask the question to person to disclose the reason for not getting treatment. It is ruled as under;

“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;**”

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.

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

**5.5.** Similar provisions are available under the International Covenant on Civil and Political Rights [ICCPR].

**Article 7** - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

**6. Law of Informed Consent and Covid-19 vaccination guidelines issued by the Central Government mandating for giving information of death causing and other side effects of vaccines and only after obtaining written consent from person the Doctors/ AASHA workers are permitted to give vaccines.**

**6.1.** That before being given the vaccines, the Complainant was not given any idea, information regarding any such side effects. In fact, as per COVID-19 vaccination guidelines issued by the Government of India it was mandatory for the Doctors, AASHA Workers and others who administered vaccines to give the details of the side effects associated along with the vaccines.

Annexed hereto and marked as Exhibit "A" is the copy of the relevant pages of said guidelines. **[EXHIBIT "A"]**

**6.2.** Union of India in its Affidavit dated **13/01/2021** in the matter before Supreme Court of India in **Writ Petition (Civil) No. 580 of 2021** titled as **Evara Foundation V/S Union of India & Ors.**, had said thus;

***"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:

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

Annexed hereto and marked as Exhibit "B" is the copy of the said Affidavit. **[EXHIBIT-"B"]**

A copy of the said Affidavit **[Exhibit-B]** can be downloaded at following link;

<https://drive.google.com/file/d/1dpTYMi-D6VerkgFDRxIAqDLuLpKa4hA7/view?usp=sharing>

**6.3.** That the law of Informed Consent is very well settled by UNO in **Universal Declaration on Bioethics and Human Rights 2005** and by the judgment in Montgomery.

Annexed hereto and marked as Exhibit “C” is the copy of the **Universal Declaration on Bioethics and Human Rights 2005 [EXHIBIT-“C”]**

**6.4.** Similar provisions are available under the International Covenant on Civil and Political Rights [ICCPR]. It is provided under Article -7 as under:-

**Article 7** - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, **no one shall be subjected without his free consent to medical or scientific experimentation.**

**6.5.** That Honourable Supreme Court of India in the case of **Ram Deo Chauhan V/S Bani Kanta Das [Ram Deo Chauhan V/S Bani Kanta Das, (2010) 14 SCC 209** had ruled that as per Human Rights Protection Act, 1993 Indian Citizen are entitled for all protections available under international covenants. Said judgment is further upheld by the Nine Judge Bench of the Supreme Court of India in **K. S. Puttaswamy V/S Union of India, (2017) 10 SCC 1.**

**6.6.** That, in **Montgomery V/S Lanarkshire Health Board [2015] UKSC 11,** it is ruled as under;

*“78. Another current document (Consent: patients and doctors making decisions together (2008))*

*describes a basic model of partnership between doctor and patient:*

**“The doctor explains the options to the patient, setting out the potential benefits, risks, burdens and side effects of each option, including the option to have no treatment. The doctor may recommend a particular option which they believe to be best for the patient, but they must not put pressure on the patient to accept their advice. The patient weighs up the potential benefits, risks and burdens of the various options as well as any non-clinical issues that are relevant to them. The patient decides whether to accept any of the options and, if so, which one.”** (para 5)

*In relation to risks, in particular, the document advises that **the doctor must tell patients if treatment might result in a serious adverse outcome, even if the risk is very small, and should also tell patients about less serious complications if they occur frequently (para 32)**. The submissions on behalf of the General Medical Council acknowledged, in relation to these documents, that an approach based upon the informed involvement of patients in their treatment, rather than their being passive and potentially reluctant recipients, can have therapeutic benefits, and is regarded as an integral aspect of professionalism in treatment.*

**89.** *Three further points should be made. First, it follows from this approach that the assessment*

of whether a risk is material cannot be reduced to percentages. The significance of a given risk is likely to reflect a variety of factors besides its magnitude: for example, the nature of the risk, the effect which its occurrence would have upon the life of the patient, the importance to the patient of the benefits sought to be achieved by the treatment, the alternatives available, and the risks involved in those alternatives. The assessment is therefore fact-sensitive, and sensitive also to the characteristics of the patient.

77. These developments in society are reflected in professional practice. The court has been referred in particular to the guidance given to doctors by the General Medical Council, who participated as interveners in the present appeal. One of the documents currently in force (Good Medical Practice (2013)) states, under the heading “The duties of a doctor registered with the General Medical Council”:

“Work in partnership with patients. Listen to, and respond to, their concerns and preferences. Give patients the information they want or need in a way they can understand. Respect patients’ right to reach decisions with you about their treatment and care.”

80. In addition to these developments in society and in medical practice, there have also been developments in the law. Under the stimulus of the

*Human Rights Act 1998, the courts have become increasingly conscious of the extent to which the common law reflects fundamental values. As Lord Scarman pointed out in Sidaway's case, these include the value of self-determination (see, for example, S (An Infant) v S [1972] AC 24, 43 per Lord Reid; McColl v Strathclyde Regional Council 1983 SC 225, 241; Airedale NHS Trust v Bland [1993] AC 789, 864 per Lord Goff of Chieveley). As well as underlying aspects of the common law, that value also underlies the right to respect for private life protected by article 8 of the European Convention on Human Rights. **The resulting duty to involve the patient in decisions relating to her treatment has been recognised in judgments of the European Court of Human Rights, such as Glass v United Kingdom (2004) EHRR 341 and Tysiac v Poland (2007) 45 EHRR 947**, as well as in a number of decisions of courts in the United Kingdom. The same value is also reflected more specifically in other international instruments: see, in particular, article 5 of the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, concluded by the member states of the Council of Europe, other states and the European Community at Oviedo on 4 April 1997.*

**82. In the law of negligence, this approach entails a duty on the part of doctors to take reasonable care to ensure that a patient is aware of material risks of injury that are**

**inherent in treatment. This can be understood, within the traditional framework of negligence, as a duty of care to avoid exposing a person to a risk of injury which she would otherwise have avoided, but it is also the counterpart of the patient's entitlement to decide whether or not to incur that risk.** *The existence of that entitlement, and the fact that its exercise does not depend exclusively on medical considerations, are important. They point to a fundamental distinction between, on the one hand, the doctor's role when considering possible investigatory or treatment options and, on the other, her role in discussing with the patient any recommended treatment and possible alternatives, and the risks of injury which may be involved.*

**83.** *The former role is an exercise of professional skill and judgment: what risks of injury are involved in an operation, for example, is a matter falling within the expertise of members of the medical profession. But it is a non sequitur to conclude that the question whether a risk of injury, or the availability of an alternative form of treatment, ought to be discussed with the patient is also a matter of purely professional judgment. The doctor's advisory role cannot be regarded as solely an exercise of medical skill without leaving out of account the patient's entitlement to decide on the risks to her health which she is willing to run (a decision which may be influenced by non-medical considerations). **Responsibility for determining the nature and extent of a person's***

**rights rests with the courts, not with the medical professions.**

87. The correct position, in relation to the risks of injury involved in treatment, can now be seen to be substantially that adopted in *Sidaway* by Lord Scarman, and by Lord Woolf MR in *Pearce*, subject to the refinement made by the High Court of Australia in *Rogers v Whitaker*, which we have discussed at paras 77-73. **An adult person of sound mind is entitled to decide which, if any, of the available forms of treatment to undergo, and her consent must be obtained before treatment interfering with her bodily integrity is undertaken. The doctor is therefore under a duty to take reasonable care to ensure that the patient is aware of any material risks involved in any recommended treatment, and of any reasonable alternative or variant treatments.** The test of materiality is whether, in the circumstances of the particular case, a reasonable person in the patient's position would be likely to attach significance to the risk, or the doctor is or should reasonably be aware that the particular patient would be likely to attach significance to it.

90. Secondly, the doctor's advisory role involves dialogue, the aim of which is to ensure that the patient understands the seriousness of her condition, and the anticipated benefits and risks of the proposed treatment and any reasonable alternatives, so that she is then in a position to make an informed decision. This role will only be performed effectively if the

*information provided is comprehensible. **The doctor's duty is not therefore fulfilled by bombarding the patient with technical information which she cannot reasonably be expected to grasp, let alone by routinely demanding her signature on a consent form.***

*116. As NICE (2011) puts it, "Pregnant women should be offered evidence-based information and support to enable them to make informed decisions about their care and treatment" (para 1.1.1.1). Gone are the days when it was thought that, on becoming pregnant, a woman lost, not only her capacity, but also her right to act as a genuinely autonomous human being."*

**6.7.** That in **Ajay Gautam V/S Amritsar Eye Clinic & Ors. 2010 SCC OnLine NCDRC 96**, guilty Doctor/Hospital were directed to pay compensation to the victim for not getting his signature on a WRITTEN FORM of informed consent.

**7. Proofs and Government's admission that Covishield and other Covid vaccines are having death causing and other serious side effects.**

**7.1.** In a recent publication by Health Ministry on 26/09/2022 i.e. the Frequently Asked Questions (**FAQs**), the following side effects are connected to Covid vaccines: -

(Annexed hereto and marked as Exhibit "D" is the copy of the recent publication by Health Ministry on 26/09/2022 of Frequently Asked Questions (**FAQs**)) **[EXHIBIT-"D"]**

<https://www.mohfw.gov.in/pdf/FAQsCOVID19vaccinesvaccinationprogramWebsiteupload27Sep.pdf>

**“Question: What are expected immediate and delayed side effects of this vaccine?”**

Covishield®: Some mild symptoms may occur like injection site tenderness, injection site pain, headache, fatigue, myalgia, malaise, pyrexia, chills and arthralgia, nausea. Very rare events of demyelinating disorders, thrombosis with thrombocytopenia syndrome (TTS) have been reported following vaccination with this vaccine.

**Any specific Information for vaccine beneficiaries in relation to Covishield® vaccine?**

A vaccine beneficiary vaccinated with any of the COVID-19 vaccines, particularly Covishield® and having one or more of the symptoms mentioned below should be suspected to have Thrombosis and Thrombocytopenia Syndrome (TTS). Persons taking Covishield should be vigilant for at least 30 days after taking vaccine for the following symptoms:

Severe and persistent headaches with or without vomiting (in the absence of previous history of migraine or chronic headache)

(i) Shortness of breath.

(ii) Chest Pain or Pain in limbs / pain on pressing the limbs or swelling in the limbs (arm or calf).

(iii) Multiple, pinhead size red spots or bruising of skin in an area beyond the injection site.

- (iv) Persistent abdominal pain with or without vomiting.
- (v) Seizures in the absence of previous history of seizures with or without vomiting.
- (vi) Weakness/paralysis of limbs or any particular side or part of the body (includes cranial nerve involvements).
- (vii) Persistent vomiting without any obvious reason.
- (viii) Blurred vision/ pain in eyes/Diplopia.
- (ix) Mental status change / encephalopathy/ depressed level of consciousness.
- (x) Any other symptom or health condition which is of concern to the recipient or the family

**Contraindications for the administration of COVISHIELD in the context of TTS:**

Past history of major venous and arterial thrombosis occurring with thrombocytopenia.

**Covaxin®:**

Some mild symptoms AEFIs may occur like injection site pain, headache, fatigue, fever, body ache, abdominal pain, nausea and vomiting, dizziness-giddiness, tremor, sweating, cold, cough and injection site swelling.

**Sputnik V:**

Short term general: Chills, fever, arthralgia, myalgia, asthenia, general discomfort, headache

- Local: injection site tenderness, hyperaemia, swelling
- Less common: nausea, dyspepsia, loss of appetite,
- Occasionally: enlarged regional lymph nodes

**CorBEvax:**

Systemic:

Common: Fever/Pyrexia, Headache, Fatigue, Body Pain, Myalgia, Nausea

Uncommon: Arthralgia, urticaria, Chills, Lethargy

Local: Common: Injection Site Pain (Very common), Injection site erythema

Uncommon: Injection site swelling, Injection site rash, Injection site pruritis

Rare: Injection site irritation

**Covovax:**

Very Common: Injection site pain, Injection site tenderness, Feeling tired (fatigue) , Malaise, Headache, Fever, Soreness of muscles, Joint pain, Nausea or vomiting.

Common: Chills, Injection site redness, Injection site swelling, Injection site induration (hardness), Pain in extremity (legs or arms), Body ache.

Uncommon: Asthenia (weakness or lack of energy), Injection site pruritus (itching) , Injection site rash, Rash, Skin redness, Itching, Hives, Enlarged lymph nodes, Back pain Rare: Dizziness (feeling dizzy), Sleepiness.

**ZyCoV-D:**

Pain at injection site, redness, swelling and itching, headache, fever, muscle pain, and fatigue, Arthralgia, Back pain, Muscle spasms, Myalgia, Musculoskeletal pain, Neck pain, Vertigo, Diarrhoea, Gastritis, Gastroesophageal reflux disease, Nausea, Vomiting, Asthenia, Chills, Eye irritation, Abdominal distension, Abdominal pain, Fatigue, Pain, Pyrexia, Nasopharyngitis, Pain in extremity, Ageusia, Anosmia, Cerebral infarction, Dizziness, Headache, Cough, Dyspnoea, Nasal dryness, Oropharyngeal pain, Rhinorrhoea, Sneezing.

**Source:** As per the data information provided by vaccine manufacturer”

**7.2.** That Government of India admitted that death of Dr. Snehal Lunawat and many others was due to side effects of Covid vaccines.

**7.3.** It is also part of the record that due to death causing side effects, the Covishield (Astrazeneca) vaccine was banned in around 21 European countries since March 2021.

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

Annexed hereto and marked as Exhibit “E” is the copy of the print of the above link.

**[EXHIBIT-“E”]**

**7.4.** The research from Harvard University had proved that the **Covid vaccines are 98 times worse than the Covid disease.**

**Link:** <https://www.thegatewaypundit.com/2022/09/ethically-unjustifiable-new-harvard-johns-hopkins-study-found-covid-19-vaccines-98-times-worse-disease/>

Annexed hereto and marked as Exhibit “F” is the copy of the print of the above link. **[EXHIBIT-“F”]**

**7.5.** Research proved that **the vaccine increases the chances of cancer by 10,000%.**

**Link:** <https://adversereactionreport.org/research/govt-database-shows-10000-increase-in-cancer-reports-due-to-covid-vaccines>

Annexed hereto and marked as Exhibit “G” is the copy of the print of the above link. **[EXHIBIT- “G”]**

**7.6.** That data and research had shown that every dose of vaccine increases chances of death.

**Link:-** <https://expose-news.com/2022/09/30/5-months-to-kill-covid-vaccination/>

Annexed hereto and marked as Exhibit “H” is the copy of the print of the above link. **[EXHIBIT- “H”]**

**7.7.** That there is a tremendous increase of deaths amongst young vaccinated people due to heart attacks. The research had proved that it is due to side effects of covid vaccines.

**Link: -** <https://expose-news.com/2022/05/17/covid-jabs-increase-risk-heart-attack-death-young-adults/>

Annexed hereto and marked as Exhibit “I” is the copy of the print of the above link. **[EXHIBIT-“I”]**

**7.8.** The Japan 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.

**Link:-** <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.**

**7.9.** That on **9<sup>th</sup> November, 2021** Canada’s Health Department also warned about side effects on Covishield.

**Link:-** <https://globalnews.ca/news/8362363/astrazeneca-covid-vaccine-autoimmune-disorder-health-canada-update/>

**“Health Canada adds autoimmune disorder warning to AstraZeneca, J&J COVID-19 vaccines**

*Health Canada is updating the labels for the AstraZeneca and Johnson & Johnson COVID-19 vaccines to add immune thrombocytopenia (ITP), an autoimmune condition, as a potential side effect.”*

**7.10.** That WHO on **26<sup>th</sup> July, 2021** also warned people about GBS caused due to Covishield.

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

**8. Proofs that around 21 (Twenty One) European countries have banned the Covishield vaccines since March, 2021 due to death causing side effects.**

**8.1.** It is also part of the record that due to death causing side effects the Covishield (Astrazeneca) vaccine was banned in around 21 European countries since March 2021.

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

**8.2.** That in March 2021 in an European country i.e. in Norway, one person died due to side effects of Covishield (Astrazeneca) vaccine.

**8.3.** That Dr. Aseem Malhotra, UK had in his recent tweet dated 03/01/2023 also requested our Honourable Prime Minister to ban Covishield vaccines. Said tweet reads thus;

*“BREAKING:*

*700 million Indians currently are yet to take covid vaccine booster amid concerns of major harms*

*I call on the Indian prime minister @narendramodi to immediately halt Covishield jab (Astra Zeneca)*

*because we suspended it in the U.K. due to “horrific side effects”*

**Link:**<https://twitter.com/draseemmalhotra/status/1610000507032018947>

**9. Warnings given by different Governments and World Health Organisation about deadly side effects of Covishield vaccines.**

**9.1.** The Japan 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.

Link:- <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.**

**9.2.** That on **9<sup>th</sup> November, 2021** Canada's Health Department also warned about side effects on Covishield:

**Link:-**<https://globalnews.ca/news/8362363/astrazeneca-covid-vaccine-autoimmune-disorder-health-canada-update/>

**“Health Canada adds autoimmune disorder warning to AstraZeneca, J&J COVID-19 vaccines**

*Health Canada is updating the labels for the AstraZeneca and Johnson & Johnson COVID-19 vaccines to add immune thrombocytopenia (ITP), an autoimmune condition, as a potential side effect.”*

**9.3.** That WHO on **26<sup>th</sup> July, 2021** also warned people about GBS caused due to Covishield.

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

**10. False narrative run by the Accused that vaccines are completely safe and for any of it's side effects there is definite treatment available.**

**10.1.** That Accused No. 1 Adar Poonawalla and Accused No. 2 Cyrus Poonawalla are holding responsible post in the company by name

“Serum Institute of India Pvt. Ltd.”. Said company is manufacturing ‘Covishield Vaccines.’

**10.2.** That both the Accused No.1, Accused No. 2 & their company “Serum Institute of India Pvt. Ltd.” since the beginning were running false narrative, that their Covishield vaccines are completely safe.

**10.3.** That on 3<sup>rd</sup> Jan 2021 the Accused No. 1 Adar Poonawalla made following tweet on social media platform ‘twitter.’

*“Happy new year, everyone! All the risks @SerumInstIndia took with stockpiling the vaccine, have finally paid off. COVISHIELD, **India’s first COVID-19 vaccine is approved, safe, effective and ready to roll-out in the coming weeks.**”*

Link <https://twitter.com/adarpoonawalla/status/1345605880381784067?s=20&t=aglDwkUDMdcigWooO81cbQ>

**10.4.** That on very same day i.e. on 3<sup>rd</sup> Jan 2021 accused no. 1 Adar Poonawalla gave interview to ABP News (in Hindi). In the said interview he again reiterated the said false narrative of safety of Covishield vaccines once again.

Said interview is available at following link: -

<https://youtu.be/5cVwAH-nYmE>

**10.5.** That since March 2021 around 21 European countries banned Covishield (Astrazeneca) vaccine due to death causing side effects such as blood clotting.

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

**10.6.** But Accused No.1 never came forward with any interview, press

release or tweet informing public at large about such death causing side effects.

**10.7.** The Accused No. 1 and the Accused No. 2 and all the responsible officials/employees of “Serum Institute of India Pvt. Ltd.” were duty bound to call back the faulty and deadly vaccines from the market to save further lives. But they did not call back their faulty and deadly vaccines. On the contrary the Accused No.1, Accused No.2 and “Serum Institute of India Pvt. Ltd.” keep on promoting said product by concealing/suppressing/hiding its death causing side effects.

**10.8.** The active role played by Accused No. 2 Cyrus Poonawalla can be seen from the very fact that even before any clinical trials, research and permission of third booster dose and even after knowing death causing side effects and ban of Covishield in European countries he promoted and requested public at large to get extra booster doses of Covishield vaccines. The relevant proofs are available at below link: -

(i) Third dose of Covid vaccine "a must" after 6 months, especially for those with weak immunity: Cyrus Poonawalla ET Now | 18 Aug 2021,

<https://economictimes.indiatimes.com/news/india/third-dose-of-covid-vaccine-a-must-after-6-months-especially-for-those-with-weak-immunity-cyrus-poonawalla/videoshow/85429114.cms>

(ii) **Booster Shot of Covishield must be taken, says Cyrus Poonawalla, claims Modi Govt Didn't Allow More**

<https://www.youtube.com/watch?v=eAmoaBfSTjI>

(iii) **SII's Chairman Cyrus Poonawalla Cautions Against Mixing Shots, Suggests Booster Doses.**

<https://news.abplive.com/health/sii-s-chairman-cyrus-poonawalla-cautions-against-mixing-shots-suggests-booster-doses-1476082>

Annexed hereto and marked as Exhibit "O" is the copy of the print of the above link. **[EXHIBIT-"O"]**

**(iv) Serum Institute of India Pvt. Ltd's Chairman Cyrus Poonawalla On Taking Third Covishield Dose**

**Cyrus Poonawalla said, "After six months, the antibodies go down and that is why I have taken the third dose".**

India NewsPress Trust of India Updated: August 13, 2021

<https://www.ndtv.com/india-news/serum-institute-chairman-cyrus-poonawalla-on-taking-third-covishield-dose-2509999>

Annexed hereto and marked as Exhibit "P" is the copy of the print of the above link. **[EXHIBIT-"P"]**

**10.9.** That the caller tune of the mobile which is set by the central Government is as under;

*“नमस्कार नया साल कोविड-19 वैक्सीन के रूप में आशा की नई किरण लेकर आया है, भारत में बनी वैक्सीन सुरक्षित और प्रभावी है और कोविड के विरुद्ध हमें प्रतिरोधक समता देती है इसीलिए भारतीय वैक्सीनो पर भरोसा रखें, अपनी बारी आने पर वैक्सीन अवश्य ले और अफवाहों पर विश्वास ना करें और हां याद रखें दवाई भी और कड़ाई भी वैक्सीन के साथ साथ ध्यान रखें की हमेशा मास्क पहने दुसरो से दो गज की दुरी बना के रखें और अपने हाथो को बार बार अच्छी तरीके से धोये। अधिक जानकारी के*

लिए <http://www.mohfw.gov.in> पर जाए या राष्ट्र हेल्प लाइन 1078.”

**10.10.** That in addition to such unlawful restrictions and unlawful mandates the Complainant was compelled to take the COVID-19 vaccines because of the false narrative run by the Health Ministry and the Accused No. 3 Dr. Randeep Guleria & Accused No. 5 Dr. V. G. Somani that the vaccines are completely safe and cause no serious side-effects; and that for any side effect there is a definite treatment available with them.

**10.11.** Similar claims were made via the Question and Answers prepared by the Central Government and the State Governments.

**10.12.** That the State Government through Accused No. 10 Sadhana M. Tayade, Director of Health Services, Public Health Department Mumbai have filed an affidavit dated 15/12/2021 before Honourable High Court Along with said affidavit one FAQ is also annexed.

Annexed hereto and marked as Exhibit “J” is the copy of the Affidavit filed by the State Government through Accused No. 10 Sadhana M. Tayade, Director of Health Services, Public Health Department Mumbai.

**[EXHIBIT- “J”].**

**10.13.** In the said FAQ the Question No.14 & 16 are ex-facie proof of cheating people to get vaccines by making blatantly false and misleading statements, Said Questions & Answers reads thus;

***“Question 14. I am young. I believe I have good immunity. Do I need to still take the Vaccine?”***

**Answer 14:** Yes. No one is safe from COVID-19, not even the fittest and healthiest of individuals. **Better safe, than sorry.**

**Question 16. What are the common side effects that I can expect after Vaccination?**

**Answer 16:** Fever, headaches, body aches, fatigue, injection site pain are the common side effects, and they are manageable by a short course of Paracetamol. Most resolve by 2-3 days. You are observed for 30 minutes after receiving the dose, **for any serious or severe effects, and even though they are rare to occur, there is definite treatment for each such serious effect.**”

**10.14.** A copy of the Questions and Answers published by the Union Health Ministry is it reads thus: -

Annexed hereto and marked as Exhibit “K” is the copy of the Questions and Answers published by the Union Health Ministry [**EXHIBIT –“K”**]

**“Ministry of Health and Family Welfare**

*Frequently Asked Questions Regarding the COVID-19-19 Vaccination*

*Posted On: 08 JUN 2021 10:17AM by PIB Mumbai*

**Can people with allergies take the covid-19 vaccine?**

**Dr. Paul:** A person with significant allergies should only get the COVID-19 vaccine after medical advice. However, if you have a minor allergy like cold, skin allergy, you should not hesitate to take the vaccine.

**Dr. Guleria:** People who are already taking medication for allergies should not stop taking it, they should continue their medication regularly even during the vaccination period. **It is important to know that all immunization centers have arrangements in place to manage vaccine allergy. That's why we advise you to continue taking the vaccine even if you have a severe allergy.**

**Can pregnant women take the COVID-19 vaccine?**

**Dr. Paul :** There are very clear guidelines on this and **the vaccine is completely safe for breastfeeding mothers.** There is no reason to fear. There is no need to stop breastfeeding the baby before or after vaccination. ( <https://pib.gov.in/PressReleasePage.aspx?PRID=1719972> )

**Is it normal to have a blood clot after receiving a dose of the vaccine?**

**Dr. Paul:** There have been a few cases of such complications, particularly with the AstraZeneca vaccine. In Europe, such cases were observed in part due to their youth, their lifestyle, physique and genetic makeup. But I would like to assure you that after a proper study of this data in India, the incidence of blood clots is found to be very negligible, **so there is no reason to worry about it.** Compared to our country, the rate of this complication is 30 times higher in European countries.

**Dr Guleria :** It has already been observed that the incidence of blood clots after surgery is lower in Indians compared to Americans and Europeans. **This side effect**

**called thrombosis or thrombocytopenia caused by the vaccine is very rare in India and much less than in Europe. Therefore, there is no reason to fear. Treatments are also available for this and can be used if diagnosed early.”**

**10.15.** That the mandates/restrictions/circulars/mobile caller tune etc. were not having any mention of the death causing and serious side effects or any side effects of the vaccines. This proves the malafide intention of the Accused officials.

**11. False narrative run by Accused persons that unvaccinated people spread infection and are threat to society.**

**11.1.** That in order to create pressure upon the citizen to compel them to get vaccinated the Accused run a false narrative that unvaccinated people are threat to society.

**11.2.** That the malafide intention of Accused No. 6 Shri Iqbal Chahal in bringing such mandates is clear from the book published by title 'Iqbal Singh Chahal, Covid Warrior'. Said book is authored by Shri Minhaz Merchant and published by Manjul Publications.

Annexed hereto and marked as Exhibit “L” is the copy of the relevant pages of the book of Accused No. 6 Shri Iqbal Chahal published by title 'Iqbal Singh Chahal, Covid Warrior'. **[EXHIBIT-“L”]**

**11.3.** At Page No. 258 & 259 of the **Exhibit-L** it is mentioned as under;

**“As mentioned on Page No. 258: [...] Now it has dropped significantly. “We have to educate everybody that if you do not**

ensure 100 per cent vaccination in a city like Mumbai, non-vaccinated people can be a threat to other citizens of the city and, when they travel, to citizens in the rest of the country.”

“As mentioned on Page No. 259: [...] Challenges, though, remained. One was safe local transportation. To get suburban trains moving again with vaccinated passengers, Chahal suggested a photo identity pass for those with two-dose certification. The CM embraced this solution as local train travel moved the city towards a semblance of normalcy. The advantage of a certified vaccine photo ID pass also encouraged train commuters to become eligible for it by getting themselves vaccinated with both doses.

'This is a weapon I used to remove vaccine hesitancy,' says Chahal, 'and to get commuters back on suburban trains as well. People know that the only way to get the railway photo ID pass is to get vaccinated. Many have got fully vaccinated just to be able to use suburban trains which are vital to their livelihoods. Further, we passed orders that shopping malls, shops, restaurants, gymnasiums, spas, etc. could open up in Mumbai provided their employees were fully vaccinated. Only fully vaccinated

*citizens could be their customers. This was strictly enforced over the next few months. It proved to be a game changer to crush vaccine hesitancy in Mumbai”*.

**12. Research and Judgment of Honourable Supreme Court of India and Honourable High Court proving falsity of the claim of the Accused and making it clear that the vaccinated people are not protected and they can be a super spreader of corona virus.**

12.1. That the Accused have also spread false narrative that the unvaccinated people are spreading infection and only vaccinated people are safe. This claim was found to be false by the Honourable Supreme Court of India and the High Courts. Relied upon following case laws :-

**(a) Jacob Puliyel V/S Union of India, 2022 SCC OnLine SC 533.**

**(b) Madan Mili V/S Union of India 20201 SCC OnLine Gau 1503.**

12.2. In the case of **Madan Mili V/S Union of India, 2021 SCC OnLine Gau 1503**, it is ruled by Gauhati High Court as under;

*“13. [...] In the instant case, the classification sought to be made between the vaccinated and unvaccinated persons for Covid-19 by Clause 11 of the Order dated 30.06.2021 for the purpose of issuing a temporary permit for developmental works in both public and private sector in the State of Arunachal Pradesh is undoubtedly to contain Covid-19 pandemic and its further spread in the State of Arunachal Pradesh. **There is no evidence available either in the record or in the public domain that Covid-19 vaccinated persons cannot be***

**infected with Covid-19 virus, or he/she cannot be a carrier of a Covid-19 virus and consequently, a spreader of Covid-19 virus.** In so far as the spread of Covid-19 Virus to others is concerned, the Covid-19 vaccinated and unvaccinated person or persons are the same. **Both can equally be a potential spreader if they are infected with Covid-19 Virus in them.** This aspect of the matter came up for consideration by this Court in WP(C)/37/2020 (In Re Dinthar Incident Aizawl v. State of Mizoram Aizawl; in which case, this Court vide Order dated 02.07.2021, in paragraph 14 thereof, had observed as follows -

“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. As such, the submission made by the learned Additional Advocate General that the restrictions made against the un-vaccinated persons vis-à-vis the vaccinated persons is reasonable does not hold any water. As the vaccinated and un-

*vaccinated persons would have to follow the covid proper behavior protocols as per the SOP, there is no justification for discrimination.”*

**12.3.** Similar observations are made by Honourable Supreme Court of India in the case of **Jacob Puliya V/S Union of India 2022 SCC OnLine SC 533.**

**13. Unlawful mandates brought by the Accused persons and confession by Accused that the mandates were brought with intention of putting restriction on livelihood so that people should take vaccines.**

**13.1.** That the Accused No. 7 Shri Sitaram Kunte had signed and issued the unlawful mandates on 10<sup>th</sup> & 11<sup>th</sup> August, 2021.

**13.2.** Further the malafide intention of Accused No. 6 Shri Iqbal Chahal in bringing such mandates is clear from the book published by title 'Iqbal Singh Chahal, Covid Warrior'. Said book is authored by Shri Minhaz Merchant and published by Manjul Publications.

At Page No. 258 & 259 it is mentioned as under;

***“As mentioned on Page No. 258: [...]***

***Now it has dropped significantly. “We have to educate everybody that if you do not ensure 100 per cent vaccination in a city like Mumbai, non-vaccinated people can be a threat to other citizens of the city and, when they travel, to citizens in the rest of the country.”***

**“As mentioned on Page No. 259:**

**[...] Challenges, though, remained. One was safe local transportation. To get suburban trains moving again with vaccinated passengers, Chahal suggested a photo identity pass for those with two-dose certification. The CM embraced this solution as local train travel moved the city towards a semblance of normalcy. The advantage of a certified vaccine photo ID pass also encouraged train commuters to become eligible for it by getting themselves vaccinated with both doses.**

**'This is a weapon I used to remove vaccine hesitancy,' says Chahal, 'and to get commuters back on suburban trains as well. People know that the only way to get the railway photo ID pass is to get vaccinated. Many have got fully vaccinated just to be able to use suburban trains Which are vital to their livelihoods. Further, we passed orders that shopping malls, shops, restaurants, gymnasiums, spas, etc. could open up in Mumbai provided their employees were fully vaccinated. Only fully vaccinated citizens could be their customers. This was strictly enforced over the next few months. It proved to be a game changer to crush vaccine hesitancy in Mumbai'”.**

**13.3.** Under these adverse circumstances, the Complainant was left with no option but to take the vaccine in order to avoid the further complications and harassments.

**14. Judgment of Honourable Supreme Court of India and Honourable Bombay High Court where the mandates issued by the Accused persons were specifically declared as unlawful, illegal and violating the fundamental and constitutional Rights of the citizens.**

**14.1.** That the Honourable Bombay High Court vide its order dated 22/02/2022 and 02/03/2022 had declared all the mandates promulgated by the Accused No. 7 - Sitaram Kunte as illegal, unlawful and violating of fundamental rights guaranteed under constitution of India.

**14.2.** In **Feroze Mithiborwala V/S State of Maharashtra 2022 SCC OnLine Bom 356**, it is ruled as under;

Annexed hereto and marked as Exhibit “M” is the copy of the Judgement of the Honourable Bombay High Court dated: 22/02/2022, in the case of Feroze Mithiborwala V/S State of Maharashtra 2022 SCC OnLine Bom 356. **[EXHIBIT-“M”]**

*“3. While we propose to adjourn hearing of these PIL petitions for a few days, it is necessary to briefly place on record what transpired in course of previous hearings. We had the occasion to consider the orders that were passed by the former Chief Secretary of the Government of Maharashtra. It was noticed and observed that the State Disaster Management Rules framed in terms of provisions contained in section 78 of the Act were observed in total breach. No decision was taken by the State Executive*

*Committee. On the contrary, orders were issued from time to time by the former Chief Secretary, in the capacity of the Chairperson of the State Executive Committee, imposing restrictions to be adhered to during the second wave of the pandemic without there being any deliberation with the other members of the Committee, who happened to be bureaucrats having their offices in the same building where the Chief Secretary has his office. Since there were no meetings of the State Executive Committee, minutes of meetings though required to be recorded in terms of statutory rules were not recorded. Although at an earlier stage it was submitted that as the Chairperson of the Committee the former Chief Secretary had certain emergency powers and to take decisions all by himself, we have observed from the records produced yesterday by Mr. Anturkar that none of the orders recorded any emergent like situation warranting the Chairperson of the Committee to pass an order without waiting for deliberations with the other members. Satisfied that Fundamental Rights of citizens guaranteed under Article 19(1)(d) of the Constitution were abrogated without giving primacy to the rule of law, we had made certain critical oral observations in open Court wondering how an order passed by the Chairperson of the Committee, without following the relevant law, could be passed off as the decision of the State Government. Orders having been passed in clear violation of the prescribed procedure notwithstanding, we had granted time to the Government to take an informed decision on the aspect of lifting the restrictions that were illegally imposed particularly giving due regard to the declining trend of infected cases as well as bearing in mind that earning a bad name at this stage would wash away the commendable work performed*

*by officials/staff at all levels in Maharashtra to keep the citizens safe and secure as much as possible during the second wave.*

*4. Be that as it may, we hope and trust that in keeping with the present situation and the observations made above, the State Executive Committee will take an appropriate decision for lifting of restrictions considering all aspects of the matter including the particular circumstance that Fundamental Rights of a section of the citizens were abrogated because of certain illegal orders passed by the Chairperson of the State Executive Committee earlier. Although it is not the function of the Court to direct the State Executive Committee to take a decision in any particular direction, it would be eminently desirable if the State Executive Committee takes a decision on 25<sup>th</sup> February, 2022 which effectively puts a quietus to the issues raised in these PIL petitions.”*

**14.3. In Feroze Mithiborwala V/S State of Maharashtra 2022 SCC OnLine Bom 457, it is ruled as under;**

Annexed hereto and marked as Exhibit “N” is the copy of the Judgement of the Honourable Bombay High Court dated: 02/03/2022, in the case of Feroze Mithiborwala V/S State of Maharashtra 2022 SCC OnLine Bom 457. **[EXHIBIT-“N”]**

*“3. In our order dated 22<sup>nd</sup> February 2022, we had in no uncertain terms observed that the previous orders of the State Government imposing restrictions on user of public transport had no sanction of law and that in keeping with the improving situation, it would be eminently desirable if the Committee takes a decision which would effectively put*

*a quietus to the issues raised in the PIL petitions. The hope and trust reposed by us in the Committee that it would take a decision, which is reasonable and not in derogation of the Fundamental Rights of the citizens guaranteed by Article 19(1)(d), stand belied. We were utterly mistaken. The Committee, instead of respecting the observations that were made in the order dated 22<sup>nd</sup> February 2022, has once again insisted on only those who are vaccinated to avail public transport despite the fact that presently in Mumbai and its adjoining areas almost every activity is being performed as in the pre-pandemic days and normalcy has been restored in fair measure. In hindsight, we feel that having regard to the gross violations of the Disaster Management Act, 2005 (hereafter “the Act”, for short) and the rules framed thereunder in imposing restrictions since 10<sup>th</sup> August 2021, it would have been appropriate if we had struck down the further orders passed in the name of the State Government post August, 2021 by the Chief Secretary, Government of Maharashtra in exercise of our suo motu powers instead of, in accordance with judicial discipline, permitting the Committee to take a fresh decision. This decision of the Committee, in the circumstances, is unexpected to say the least.”*

**14.4.** Similar order is passed by Honourable Supreme Court of India in the case of **Jacob Puliya V/S Union of India 2022 SCC OnLine SC 533.**

**15. Liability and Criminality of the Accused vaccine manufacturer company’s CEO - Adar Poonawalla, Chairman - Cyrus Poonawalla &**

**all the office bearers and employees of the Serum Institute of India Private Limited, in not calling back the faulty vaccines and hatching the conspiracy to earn profit by giving Indians the deadly vaccines by suppressing its deadly side effects and putting the life of citizens in danger.**

**15.1.** That the Accused No. 1 Shri Adar Poonawalla is CEO of Serum Institute of India Pvt. Ltd., which is manufacturer of Covishield vaccine.

**15.1.1** That in March, 2021 in an European country i.e. in Norway, one person died due to side effects of Covishield (Astrazeneca) vaccine.

**15.1.2** Considering this seriousness, the said Government and around 21 European Countries have banned the Covishield vaccines. On the contrary the Accused in conspiracy with the owners of the vaccine company hatched criminal conspiracy and they brought unlawful and unconstitutional mandates and thereby forced the Complainant to get vaccines.

**15.1.3** All the Accused persons deliberately suppressed the side effects of the vaccines and ran false narratives that the vaccines are completely safe. They went ahead to misuse the public machinery for giving wrongful profits worth thousands of crores to the Accused vaccine companies at the cruel cost of loss of life and money of the common man.

**15.1.4** This is a sufficient ground to prove the malafides of the Accused persons.

**15.1.5** That the Accused Adar Poonawalla and Serum Institute of India Pvt. Ltd. in their Affidavit dated 17/10/2022 filed before the Honourable High Court in the case of **Serum Institute V/S Yohan**

**Tengra & Ors [Civil Suit (L) No.3 3253 of 2022]**, also made false statement that the Covishield vaccine manufactured by them is safe and the person calling it as dangerous or causing death should be restrained from making any such statements.

**15.1.6.** The falsity of abovesaid version is ex-facie proved from the stand taken by the Central Government that the Covishield vaccine is causing deaths.

**15.2.** The active role played by Accused No.2 Cyrus Poonawalla can be seen from the very fact that even before any clinical trials, research and permission of third booster dose and even after knowing death causing side effects and ban of Covishield in European countries he promoted and requested public at large to get extra booster doses of Covishield vaccines. The relevant proofs are available at below link: -

**(i)** Third dose of Covid vaccine "a must" after 6 months, especially for those with weak immunity: Cyrus Poonawalla  
ET Now | 18 August, 2021,

<https://economictimes.indiatimes.com/news/india/third-dose-of-covid-vaccine-a-must-after-6-months-especially-for-those-with-weak-immunity-cyrus-poonawalla/videoshow/85429114.cms>

**(ii) Booster Shot of Covishield Must Be Taken, says Cyrus Poonawalla, claims Modi Govt Didn't Allow More**

<https://www.youtube.com/watch?v=eAmoaBfSTjI>

**(iii) SII's Chairman Cyrus Poonawalla Cautions Against Mixing Shots, Suggests Booster Doses.**

<https://news.abplive.com/health/sii-s-chairman-cyrus-poonawalla-cautions-against-mixing-shots-suggests-booster-doses-1476082>

Annexed hereto and marked as Exhibit “O” is the copy of the print of the above link. **[EXHIBIT- “O”]**

**(iv) Serum Institute Chairman Cyrus Poonawalla On Taking Third Covishield Dose.**

**Cyrus Poonawalla said, "After six months, the antibodies go down and that is why I have taken the third dose".**

India NewsPress Trust of India Updated: August 13, 2021

<https://www.ndtv.com/india-news/serum-institute-chairman-cyrus-poonawalla-on-taking-third-covishield-dose-2509999>

Annexed hereto and marked as Exhibit “P” is the copy of the print of the above link. **[EXHIBIT-“P”]**

**15.3.** That research had proved that the booster dose increases the chances of death.

Link: [https://www.theepochtimes.com/health/high-percentage-of-covid-deaths-had-3rd-shot-more-excess-deaths-after-4th-shot\\_4696054.html](https://www.theepochtimes.com/health/high-percentage-of-covid-deaths-had-3rd-shot-more-excess-deaths-after-4th-shot_4696054.html)

Annexed hereto and marked as Exhibit “Q” is the copy of the print of the above link. **[EXHIBIT-“Q”]**

**15.4.** That Sections 4, 7 & 9 of Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 reads thus;

**“4. Prohibition of misleading advertisements relating to drugs.**—Subject to the provisions of this Act, **no person shall take any part in the publication of any advertisement relating to a drug if the advertisement contains any matter which—**

**(a) directly or indirectly gives a false impression regarding the true character of the drug; or**

**(b) makes a false claim for the drug; or**

**(c) is otherwise false or misleading in any material particular.**

**7. Penalty.**—Whoever contravenes any of the provisions of this Act 1[or the rules made thereunder] shall, on conviction, be punishable—

(a) in the case of a first conviction, with imprisonment which may extend to six months, or with fine, or with both;

(b) in the case of a subsequent conviction, with imprisonment which may extend to one year, or with fine, or with both.

**9. Offences by companies.**—

(1) If the person contravening any of the provisions of this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if 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 company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or the officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*

*Explanation.—For the purposes of this section,—*

*(a) ‘company’ means any body corporate and includes a firm or other association of individuals, and*

*(b) ‘director’ in relation to a firm means a partner in the firm.*

*[9A. Offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence punishable under this Act shall be cognizable.]”*

## **16. Summary of charges against the Accused.**

**16.1.** The documentary proofs and public documents make it ex-facie clear that all the Accused persons were well aware about the death causing side effects of the COVID-19 Vaccines.

**16.2.** As per Central Government’s guidelines for COVID-19 vaccination, and also as per the law of **‘informed consent’**, as well as

the specific law laid down in the case of **Master Haridan Kumar V/S Union of India 2019 SCC OnLine Del 11929**, the Accused were duty bound to publish information regarding all the possible side effects of vaccines.

**16.3** Secondly, the person/ Doctors/ AASHA workers, etc. who were working at the vaccination centers were duty bound to give information about all possible side effects in simple and clear language understandable to the Complainant at the vaccination center before vaccinating him. This was clearly mentioned in the guidelines issued in the case of **Montgomery V/S Lanarkshire Health Board [2015] UKSC 11.**

But, the abovementioned rules and guidelines were not followed while administering the Covishield vaccine to the Complainant.

**16.4.** On the contrary, the Accused ran the false narrative that the COVID-19 Vaccines are completely safe and if there was any side effect, then there is a definite treatment available for the same. The Frequently Asked Questions (FAQ) published and circulated by the state government and the Accused No 3 Dr. Randeep Guleria, and Co Accused No.4 Dr. V.K. Paul (***PLZ SEE EXHIBIT-“K”***) are sufficient proofs of their malafides, falsity and dishonesty and offences committed by them in conspiracy with each other.

**16.5.** The above-mentioned public documents have ex-facie proved that the Accused have conspired with each other, with a common intention of illegally vaccinating the citizens, including Complainant under deception and cheating. In order to fulfil their ulterior purposes, the Accused persons had suppressed and concealed the death causing and other side effects of the COVID-19 vaccines and made false statements

as assurance to public that the said vaccines are completely safe and if there is any side effect, then there is a definite treatment available for it.

**16.6.** This assurance was made with a malafide intention to persuade people to get vaccines and to put their lives in danger, and to give wrongful profit to vaccine companies and also, to cause a loss of thousands of crores of money to public exchequer. They misappropriated public money and property for unlawful purposes.

**16.7.** In furtherance of the said malafide intention, the Accused No. 6 – Iqbal Chahal, Accused No.7 – Sitaram Kunte, Accused No. 8 – Suresh Kakani ran a false narrative that the unvaccinated people are a threat to the society and they also brought unlawful vaccine mandates, on 10<sup>th</sup> & 11<sup>th</sup> August 2021 [**PLEASE SEE EXHIBIT-R**] so that unvaccinated people should not be allowed to move freely in Maharashtra and thereby not be able to earn their livelihood.

Annexed hereto and marked as Exhibit “R” are the copies of the vaccine mandates brought by Accused No. 6 - Iqbal Chahal, Accused No.7 - Sitaram Kunte, Accused No. 8 - Suresh Kakani in conspiracy with each other. **[EXHIBIT-“R”]**

**16.8.** The Accused persons tried, to the best of their levels, to implement the said unlawful mandates so that many citizens including the Complainant were compelled to get the said COVID-19 vaccines against their wills and under the deception of its safety. The Accused persons were well aware about the falsity, dishonest, malafides, illegality and unconstitutionality of the said mandates and narratives.

**16.9.** Under force and deception, the Complainant having no option, took the said vaccines. The first dose of vaccine was administered on 19<sup>th</sup> August, 2021 and the second on 11<sup>th</sup> November, 2021.

**16.10.** That all such mandates issued by the Accused were declared unlawful, illegal and unconstitutional by the Honourable Supreme Court of India and the Honourable High Courts. The Honourable Bombay High Court passed strong strictures against the Accused No.7 Sitaram Kunte & Ors.:-

Cases relied Upon are :-

**(i) Feroze Mithiborwala V/S State of Maharashtra.**

**2022 SCC OnLine Bom 356.**

**(ii) Feroze Feroze Mithiborwala V/S State of Maharashtra.**

**2022 SCC OnLine Bom 457.**

**(iii) Madan Mili V/S Union of India.**

**2021 SCC OnLine Gau 1503.**

Annexed hereto and marked as Exhibit “S” is the copy of the Judgement of the Honourable Gauhati High Court dated: 19/07/2021, in the case above case. 2021 SCC OnLine Gau 1503. **[EXHIBIT-“S”]**

**(iv) Jacob Puliyeel V/S Union of India.**

**2022 SCC OnLine SC 533.**

Annexed hereto and marked as Exhibit “T” is the copy of the Judgement of the Honourable Supreme Court of India dated: 02/05/2022, in the case above case. 2022 SCC OnLine SC 533.

**[EXHIBIT-“T”]**

**16.11.** Soon after taking the first dose of the vaccine, the Complainant developed, Severe and persistent headache. He asked about it to the

local doctor, but he did not get any relief. The said head pain was further increased after the second dose.

**16.12.** After making an inquiry at various levels, the Complainant got to know that on 26<sup>th</sup> September, 2022, the Ministry of Health and Family Welfare had published new FAQs. Wherein it is mentioned that the continuous head pain is a side effect of the COVID-19 vaccine and that it can be considered to be a starting point of more severe side effects of TTS (Thrombosis with thrombocytopenia).

**16.13.** The Complainant also got to know that, one Doctor Snehal Lunawat died after taking the Covishield vaccine due to the side effects of TTS, and the Government of India also admitted that her death was due to the side effects of the Covishield vaccine.

**16.14.** It is also part of the record that due to death causing side effects the Covishield (Astrazeneca) vaccine was banned in around 21 European countries since March 2021. **[PLEASE SEE EXHIBIT-“E”]**

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

**16.15.** The surprising and shocking part for the Complainant is that the Accused have not adopted the same policy of banning and stopping said vaccines in our areas to safeguard the life and liberty of the citizen including Complainant. On the contrary the Accused have misused their position and public machinery, property and entire system to force the citizen to get said deadly vaccines. This is a worst kind of offence against entire humanity and requires severe punishment to the Accused. This is a clear offence of mass murders (genocide).

**16.16.** That Dr. Aseem Malhotra, UK had in his recent tweet also requested our Honourable Prime Minister to ban Covishield vaccines. Said tweet reads thus;

*“BREAKING:*

*700 million Indians currently are yet to take covid vaccine booster amid concerns of major harms*

*I call on the Indian prime minister @narendramodi to immediately halt Covishield jab (Astra Zeneca)*

*because we suspended it in the U.K. due to “horrific side effects”*

**Link:**

**<https://twitter.com/draseemmalhotra/status/161000507032018947>**

**16.17.** That the recent research had created further fear in the mind of the Complainant that because of possible side effects of vaccines the Complainant’s life is in danger and he may die anytime due to side effects of the Covishield vaccines such as cardiac arrests, myocarditis, heart attack, blood clotting, cancer etc.

**16.18.** The research from Harvard University had proved that the **covid vaccines are 98 times worse than the covid disease.**

**[PLEASE SEE EXHIBIT-“F”]**

**Link:** **<https://www.thegatewaypundit.com/2022/09/ethically-unjustifiable-new-harvard-johns-hopkins-study-found-covid-19-vaccines-98-times-worse-disease/>**

**16.19.** Research proved that **the vaccine increases the chances of cancer by 10,000%.**

**[PLEASE SEE EXHIBIT-“G”]**

**Link:** **<https://adversereactionreport.org/research/govt-database-shows-10000-increase-in-cancer-reports-due-to-covid-vaccines>**

**16.20.** That data and research had shown that every dose of vaccine increases chances of death. **[PLEASE SEE EXHIBIT-“H”]**

**Link:-** <https://expose-news.com/2022/09/30/5-months-to-kill-covid-vaccination/>

**16.21.** That there is a tremendous increase of deaths amongst young vaccinated people due to heart attacks. The research had proved that it is due to side effects of Covid vaccines and Covishield is one of them.

**[PLEASE SEE EXHIBIT-“I”]**

**Link: -** <https://expose-news.com/2022/05/17/covid-jabs-increase-risk-heart-attack-death-young-adults/>

**16.22.** The Japan 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.

**Link:-** <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.**

**16.23.** That on **9<sup>th</sup> November, 2021** Canada’s Health Department also warned about side effects on Covishield:

**Link:-** <https://globalnews.ca/news/8362363/astrazeneca-covid-vaccine-autoimmune-disorder-health-canada-update/>

**“Health Canada adds autoimmune disorder warning to AstraZeneca, J&J COVID-19 vaccines**

Health Canada is updating the labels for the AstraZeneca and Johnson & Johnson COVID-

*19 vaccines to add immune thrombocytopenia (ITP), an autoimmune condition, as a potential side effect.”*

**16.24.** That WHO on **26<sup>th</sup> July, 2021** also warned people about GBS caused due to Covishield.

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

**16.25.** But then also the Accused persons are promoting booster doses of vaccines. It shows that the Accused persons are having their loyalty and allegiance to the vaccine manufacturers and not to our nation and its citizens and for that purposes and also for some more ulterior purposes of killing people at mass level, the Accused persons are hell-bent upon vaccinating people with deadly vaccines by deception & force.

**16.26.** More surprising and shocking part of entire conspiracy is the callous criminal attitude of Accused No. 1 Adar Poonawalla, CEO of Serum Institute of India Pvt. Ltd., and all its directors, office bearers etc. as can be seen from the very fact that despite all these proofs and research, they have filed an affidavit before Honourable Bombay High Court on 17/10/2022, same is available at Link: <https://drive.google.com/file/d/1tTp6yK64rJH0tENBSwOFe14YjrD8jjo/view?usp=drivesdk>, stating that their vaccines are completely safe. This is a sufficient ground to prove their complicity in the entire conspiracy to kill people and put life of citizen in great trouble by vaccinating them by cheating, deception and force to serve their ulterior purposes.

**16.27.** Hence, the life of Complainant is put in danger by all the Accused persons and therefore, they are liable to be punished severely and are also liable to pay the compensation of Rs. 100,00,00,000/-

(Rupees One Hundred Crores Only) to the Complainant which is in tune with the compensation criteria and legal position as mentioned in foregoing paragraphs at Paragraphs No.24 herein.

**16.28.** Hence, all the Accused are liable to be prosecuted and punished **U/S - 34, 36, 37, 38, 109, 115, 153-A, 166, 167, 336, 337, 338, 341, 409, 417 and 418 r.w. 415, 420, 505 and 120B of the Indian Penal Code, 1860, U/S - 4, 7 and 9 of The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and U/S - 27 of the Drugs and Cosmetics Act, 1940.**

**16.29** The offences committed by the Accused are not the part of their official duty and in fact it is a breach of trust and fraud with the nation. Honourable Supreme Court of India had ruled that in such cases no sanction is required to prosecute such Accused officials. All the Judgments and precedents of Honourable Supreme Court are mentioned in the Paragraph No. 19.

**16.30.** That as per constitutional mandate and our democratic set up every citizen is paying tax to pay huge salary to all public servant with only expectation that they should work as per law and for the welfare of the public. But the Accused persons breached the said trust and by taking salary from citizen they worked for the welfare of vaccine companies and therefore they are liable to be punished more severely than any common Accused.

**16.31.** That from the various research papers, sero survey conducted by the government it was proved that: -

- (i)** More than 90% of the Indian got natural immunity due to their coming in contact with the virus either due to infection or otherwise.

**Link:**

<https://www.thehindubusinessline.com/data-stories/data-focus/high-natural-immunity-protects-indians-from-future-waves-of-covid-19/article65270014.ece>

(ii) The said immunity is 13 to 27 times (1300 to 2700%) better and robust than the vaccines.

**Link: -** <https://www.doublehelical.com/?p=5551>

(iii) The protection by natural immunity is life long while Covishield protection is only for three months.

**Link:-**

<https://www.moneycontrol.com/news/trends/health-trends/astrazeneca-covid-vaccine-protection-wanes-after-three-months-lancet-study-7850361.html>

(iv) Giving vaccines to persons with natural immunity is proved to be causing more harm to their body. It is providing no additional benefit.

**Link:**

<https://www.mdpi.com/20751729/11/3/249/html>

(v) Hence recommending or giving Covid vaccines to the people with natural immunity is misappropriation of thousands of crores of public money, property and machinery. It is also offence of

intentionally causing grievous hurt or putting life of that person in danger. It is a clear-cut act of commission of offences punishable **U/S - 34, 36, 37, 38, 109, 115, 153-A, 166, 167, 336, 337, 338, 341, 409, 417 and 418 r.w. 415, 420, 505 and 120B of the Indian Penal Code, 1860, U/S - 4, 7 and 9 of The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and U/S - 27 of the Drugs and Cosmetics Act, 1940.**

**(vi)** But, then also Accused officials were issuing circulars, orders, directions, etc to ensure 100% vaccination. Thus, it is a sufficient proof of bigger conspiracy at higher level and involvement of officials up to highest level.

**(vii)** The conspiracy and nexus of officials of Indian Council of Medical Research (ICMR), DCGI and vaccine mafia is exposed by the Government of India in a Parliamentary Committee in its 72<sup>nd</sup> report.

**16.32.** It is also shocking and surprising that when the vaccines were given only Emergency Use Authorization, then how and why the Accused persons were pressurizing all the citizens for complete vaccination. This is a clear case of putting the lives of the masses into danger by way of nonsensical acts.

**16.33.** The plan to vaccinate 100% of the population is an offence of destroying evidence. It is to be noted here that, the control groups are required for medical research, and to show that, whether unvaccinated people are doing better or what is the actual efficacy of vaccines or if

there are side effects then possible harm to majority population can be saved by banning further vaccination.

**16.34.** The research had proved that the countries/districts/areas having people with less or no vaccination were more safe than the countries/districts/areas having vaccinated people. It shows that the areas with more vaccinated people are having more corona waves and more deaths.

**Link:** <https://www.naturalnews.com/2021-11-22-africa-6percent-vaccinated-covid-disappeared-scientists-baffled.html>

**16.35.** That is the reason that more than 77 Crore Indians refused to get their booster doses.

**16.36.** Hence, the offence committed by the Accused is the most heinous crime in the entire history and all the Accused persons are liable to be punished for maximum punishment.

**17. Applicability of the Provisions of offences punishable under Indian Penal Code, 1860, Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and the Drugs and Cosmetics Act, 1940, committed by the Accused persons.**

**17.1. Under Indian Penal Code, 1860;**

**(i) S - 34. Acts done by several persons in furtherance of common intention.**— When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

**(ii) S- 36. Effect caused partly by act and partly by omission.—**

Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

**(iii) S- 37. Co-operation by doing one of several acts constituting an offence.—**

When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

**(iv) S- 38. Persons concerned in criminal act may be guilty of different offences. —**

Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

**(v) S - 109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.—**

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

**(vi) S - 115. Abetment of offence punishable with death or imprisonment for life—if offence not committed.—**

Whoever abets the commission of an offence punishable with death or [imprisonment

for life], shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

**If act causing harm be done in consequence.**—and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

**(vii) S- 153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—**

(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, ~~2[or] 2~~(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be

likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,] shall be punished with imprisonment which may extend to three years, or with fine, or with both. Offence committed in place of worship, etc.—(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

**(viii) S - 166. Public servant disobeying law, with intent to cause injury to any person.**—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

**(ix) S - 167. Public servant framing an incorrect document with intent to cause injury.**—Whoever, being a public servant, and being, as [such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record] in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**(x) S - 336. Act endangering life or personal safety of others. —**

Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

**(xi) S- 337. Causing hurt by act endangering life or personal safety of others.—**

Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**(xii) S - 338. Causing grievous hurt by act endangering life or personal safety of others. —**

Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

**(xiii) S- 341. Punishment for wrongful restraint.—**

Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

**(xiv) S- 409. Criminal breach of trust by public servant, or by banker, merchant or agent.—**

Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in

respect of that property, shall be punished with 1 [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**(xv) S- 415. Cheating.**—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

*Explanation.*—A dishonest concealment of facts is a deception within the meaning of this section.

**(xvi) S - 417. Punishment for cheating.**—Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

**(xvii) S- 418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.**—Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**(xviii) S- 420. Cheating and dishonestly inducing delivery of property.**—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a

valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**(xix) S- 505. Statements conducing to public mischief.—**

(1) ] Whoever makes, publishes or circulates any statement, rumour or report,—

(a) with intent to cause, or which is likely to cause, any officer, soldier, 3[sailor or airman] in the Army, 4[Navy or Air Force] 5[of India] to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to 6[three years], or with fine, or with both. 7[(2) Statements creating or promoting enmity, hatred or ill-will between classes.—Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) Offence under sub-section (2) committed in place of worship, etc.—Whoever commits an offence specified in sub-section (2) in any place of

worship or in an assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

(Exception) —It does not amount to an offence, within the meaning of this section when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it 8[in good faith and] without any such intent as aforesaid.

**(xx) S- 120B. Punishment of criminal conspiracy. —**

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 2[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

**17.2. The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.**

**(i) S - 4. Prohibition of Misleading Advertisements Relating to Drugs.**— Subject to the provisions of this Act, no person shall take any part in the publication of any advertisement relating to a drug if the advertisement contains any matter which a) directly or indirectly gives a false impression regarding the true character of the drug; or b) makes a

false claim for the drug; or c) is otherwise false or misleading in any material particular.

**(ii) S-7. Penalty.**— Whoever contravenes any of the provisions of this Act [or the rules made there under] shall, on conviction, be punishable – a) in the case of a first conviction, with imprisonment which may extend to six months, or with fine, or with both; b) in the case of a subsequent conviction, with imprisonment which may extend to one year, or with fine, or with both.

**(iii) S-9. Offences By Companies.**— (1) If the person contravening any of the provisions of this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if 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 company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or the officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

a) ‘company’ means any body corporate and includes a firm or other association of individuals, and

b) ‘director’ in relation to a firm means a partner in the firm.

### **17.3 The Drugs and Cosmetics Act, 1940.**

**(i) S - 27. Penalty for manufacture, sale, etc., of drugs in contravention of this Chapter.** —Whoever, himself or by any other person on his behalf, manufactures for sale or for distribution, or sells, or stocks or exhibits or offers for sale or distributes, —

(a) any drug deemed to be adulterated under section 17-A or spurious under section [17-B and which] when used by any person for or in the diagnosis, treatment, mitigation, or prevention of any disease or disorder is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code (45 of 1860), solely on account of such drug being adulterated or spurious or not of standard quality, as the case may be, shall be [punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than ten lakh rupees or three times value of the drugs confiscated, whichever is more:]

[Provided that the fine imposed on and released from, the person convicted under this clause shall be paid, by way of compensation, to the person who had used the adulterated or spurious drugs referred to in this clause:

Provided further that where the use of the adulterated or spurious drugs referred to in this clause has caused the death of a person who

used such drugs, the fine imposed on and realised from, the person convicted under this clause, shall be paid to the relative of the person who had died due to the use of the adulterated or spurious drugs referred to in this clause.

*Explanation.*—For the purposes of the second proviso, the expression “relative” means—

- (i) spouse of the deceased person; or
- (ii) a minor legitimate son, and unmarried legitimate daughter and a widowed mother; or
- (iii) parent of the minor victim; or
- (iv) if wholly dependent on the earnings of the deceased person at the time of his death, a son or a daughter who has attained the age of eighteen years; or
- (v) any person, if wholly or in part, dependent on the earnings of the deceased person at the time of his death,—
  - (a) the parent; or
  - (b) a minor brother or an unmarried sister; or
  - (c) a widowed daughter-in-law; or
  - (d) a widowed sister; or
  - (e) a minor child of a pre-deceased son; or
  - (f) a minor child of a pre-deceased daughter where no parent of the child is alive; or
  - (g) the paternal grandparent if no parent of the member is alive;]

(b) any drug—

- (i) deemed to be adulterated under section 17-A, but not being a drug referred to in clause (a), or
- (ii) without a valid license as required under clause (c) of section 18, shall be punishable with imprisonment for a term which shall [not be less than three years but which may extend to five years and with fine

which shall not be less than one lakh rupees or three times the value of the drugs confiscated, whichever is more]:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of [less than three years and of fine of less than one lakh rupees];

(c) any drug deemed to be spurious under section 17-B, but not being a drug referred to in clause (a) shall be punishable with imprisonment for a term which shall [not less than seven years but which may extend to imprisonment for life and with fine which shall not be three lakh rupees or three times the value of the drugs confiscated, whichever is more]:

Provided that the Court may, for any adequate and special reasons, to be recorded in the judgment, impose a sentence of imprisonment for a term of [less than seven years but not less than three years and of fine of less than one lakh rupees];

(d) any drug, other than a drug referred to in clause (a) or clause (b) or clause (c), in contravention of any other provision of this Chapter or any rule made thereunder, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to two years [and with fine which shall not be less than twenty thousand rupees]:

Provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than one year.

**18. Law laid down by the Honourable Supreme Court of India and the Honourable High Court regarding the inference of conspiracy on the basis of circumstantial evidences as conspiracies are hatched in the secrecy.**

**18.1.** The Honourable High Court in the case of **Raman Lal V/S State of Rajasthan, 2000 SCC OnLine Raj 226** it is stated as: -

*“**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 omission 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.”*

**18.2.** Similar law has been laid down by the Honourable Bombay High Court in the case of **CBI V/S Bhupendra Champaklal Dalal 2019 SCC OnLine Bom 140** wherein it is ruled as under;

**CHARGE FOR THE OFFENCE OF CRIMINAL BREACH OF TRUST :-**

*Honourable Apex Court in the case of **Ram Narain Poply Vs. Central Bureau of Investigation, AIR 2003 SC 2748**, wherein the Honourable Apex Court has, at length, dealt with the charge of criminal*

conspiracy, in the backdrop of the similar allegations, in a case arising out of the decision of this Court in the matter of Harshad Mehta and others. While dealing with the essential ingredients of the offence of criminal conspiracy, punishable u/s. 120B IPC, the **Honourable Court was, in paragraph No.349 of its Judgment, pleased to hold that, "349. Privacy and secrecy are more characteristics of a conspiracy, than of a loud discussion in an elevated place open to public view.** Direct evidence in proof of a conspiracy is seldom available, offence of conspiracy can be proved by either direct or circumstantial evidence. It is not always possible to give affirmative evidence about the date of the formation of the criminal conspiracy, about the persons who took part in the formation of the conspiracy, about the object, which the objectors set before themselves as the object of conspiracy, and about the manner in which the object of conspiracy is to be carried out, all this is necessarily a matter of inference."

[Emphasis Supplied]

177. This Court can also place reliance on another landmark decision of the Honourable Apex Court in the case of State of Maharashtra Vs. Som Nath Thapa, (1996) 4 SCC 659, wherein the Honourable Apex Court was pleased to observe as follows :-

"24. The aforesaid decisions, weighty as they are, lead us to conclude that to establish a charge of conspiracy knowledge about indulgence in either an illegal act or a legal act

*by illegal means is necessary. In some cases, intent of unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or service in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do, so long as it is known that the collaborator would put the goods or service to an unlawful use." [See State of Kerala v. P. Sugathan, (2000) 8 SCC 203, SCC p. 212, para 14]." [Emphasis Supplied]*

178. While dealing with the offence of criminal conspiracy in respect of the financial frauds, the Honourable Apex Court in the case of Ram Narain Poply (*supra*), in paragraph No.344, was pleased to observe that,

"344. .... The law making conspiracy a crime, is designed to curb immoderate power to do mischief, which is gained by a combination of the means. The encouragement and support which co-conspirators give to one another rendering enterprises possible which, if left to individual effort, would have been impossible, furnish the ground for visiting conspirators and abettors with condign punishment. The

*conspiracy is held to be continued and renewed as to all its members wherever and whenever any member of the conspiracy acts in furtherance of the common design."*

*[Emphasis Supplied]*

179. *In the context of Section 10 of the Indian Evidence Act, it was held by the Honourable Apex Court, in paragraph No.348, that, the expression "in furtherance to their common intention" in Section 10 is very comprehensive and appears to have been designedly used to give it a wider scope than the words "in furtherance of" used in the English Law : with the result anything said, done or written by co-conspirator after the conspiracy was formed, will be evidence against the other before he entered the field of conspiracy or after he left it. Anything said, done or written is a relevant fact only.*

186. *The Honourable Apex Court has further quoted with approval in paragraph No.101, the observations made in the case of State (NCT of Delhi) Vs. Navjot Sandhu @ Afsan Guru, (2005) 11 SCC 600, wherein it was held that, "The cumulative effect of the proved circumstances should be taken into account in determining the guilt of the Accused rather than adopting an isolated approach to each of the circumstances."*

**19. Law settled by Honourable Supreme Court of India & Honourable High Court stating that no sanction u/s - 197 of Code of Criminal Procedure, 1973 is required to prosecute public servants involved in the offences of conspiracy, cheating, misappropriation of public property and Government machinery to serve ulterior and unauthorized purposes.**

**19.1.** The Honourable Supreme Court in the case of **S. Shivakumar and Others V/S State of Karnataka 2021 SCC OnLine Kar 12526,** ruled as under;

*“29. This Court also would like to refer to the judgment of the Apex Court in the case of Choudhury Parveen Sultana v. State of West Bengal reported in (2009) 2 SCC (Cri) 122 regarding Section 197 of Cr.P.C, wherein the object, nature and scope of Section 197 of Cr.P.C. has been reiterated. Wherein it is held that all acts done by a public servant in the purported discharge of his official duties cannot as a matter of course be brought under the protective umbrella of Section 197 of Cr.P.C. Further, there can be cases of misuse and/or abuse of powers vested in a public servant which can never be said to be a part of the official duties required to be performed by him. The underlying object of Section 197 Cr.P.C. is to enable the authorities to scrutinize the allegations made against a public servant to shield him/her against frivolous, vexatious or false prosecution initiated with the main object of causing embarrassment and harassment to the said official. However, as indicated hereinabove, **if the authority vested in a public servant is misused for doing things which are not otherwise permitted under the law, such acts cannot claim the protection of Section 197***

**Cr.P.C. and have to be considered de hors the duties which a public servant is required to discharge or perform.** Hence, in respect of prosecution for such excesses or misuse of authority, no protection can be demanded by the public servant concerned.”

**19.2.** The Honourable Supreme Court in the case of **Noorula Khan V/S Karnataka State Pollution Control board & Anr. 2021 SCC OnLine SC 601**, it is ruled as under;

“9. The decision relied upon by the High Court in Writ Petition No. 30610 of 2008 was directly under challenge before this Court in *V.C. Chinnappa Goudar v. Karnataka State Pollution Control Board*<sup>1</sup>. In that decision, this Court considered the scope and applicability of Section 48 of the Water Act and found that “the Head of the Department” by virtue of deeming provision would be deemed to be guilty and, as such, the protection under Section 197 of the Code would stand excluded. The relevant discussion on the point was:

“6. As against the above submission, Mr. A. Mariarputham, learned Senior Counsel for the respondent by drawing our attention to Section 5 Cr P C and Section 48 of the 1974 Act, contended that under Section 48 there is a rebuttable presumption insofar as the guilt of the offence is concerned as against the Head of the Department in respect of any offence said to have been committed by any department of the Government and that, if Section 197 sanction is held to be mandatory even for proceeding against Head of the Department of Government

*Department, the same would directly conflict with Section 5 Cr P C and consequently Section 60 of the 1974 Act gets attracted. According to the learned Senior Counsel, if the application of Section 197 is held to be attracted and in the event of the sanction being refused by prosecution that by itself would be an impediment for the operation of the deemed fiction contained in Section 48 of the 1974 Act. The learned Senior Counsel, therefore, contended that in such an event there would be a direct conflict of Section 48 of the 1974 Act with Section 197 Cr P C and consequently Section 60 of the 1974 Act would come into play which has an overriding effect on any other enactment other than the 1974 Act.*

*7. Having considered the respective submissions, we find force in the submission of Mr. A. Mariarputham, learned Senior Counsel for the respondents. As rightly pointed out by the learned Senior Counsel under Section 48, the guilt is deemed to be committed the moment the offence under the 1974 Act is alleged against the Head of the Department of a government department. It is a rebuttable presumption and under the proviso to Section 48, the Head of the Department will get an opportunity to demonstrate that the offence was committed without his knowledge or that in spite of due diligence to prevent the commission of such an offence, the same came to be committed. It is far different from saying that the safeguard provided under the proviso to Section 48 of the 1974 Act would in any manner enable the Head of the Department of the government department to seek umbrage under*

*Section 197 Cr P C and such a course if permitted to be made that would certainly conflict with the deemed fiction power created under Section 48 of the 1974 Act.*

*8. In this context, when we refer to Section 5 Cr P C, the said section makes it clear that in the absence of specific provisions to the contrary, nothing contained in the Criminal Procedure Code would affect any special or local laws providing for any special form or procedure prescribed to be made applicable. There is no specific provision providing for any sanction to be secured for proceeding against a public servant under the 1974 Act. If one can visualise a situation where Section 197 Cr P C is made applicable in respect of any prosecution under the 1974 Act and in that process the sanction is refused by the State by invoking Section 197 Cr P C that would virtually negate the deeming fiction provided under Section 48 by which the Head of the Department of a government department would otherwise be deemed guilty of the offence under the 1974 Act. In such a situation the outcome of application of Section 197 Cr P C by resorting to reliance placed by Section 4 (2) Cr P C would directly conflict with Section 48 of the 1974 Act and consequently Section 60 of the 1974 Act would automatically come into play which has an overriding effect over any other enactment other than the 1974 Act.”*

**11.** *What emerges from these decisions of this Court is:*

a. *If the violation of the provisions of the Water Act was at the hands of a Department, subject to the satisfaction of the requirements under Section 48 of the Water Act, “the Head of the Department” would be deemed to be guilty. This would of course be subject to the defences which are available to him to establish whether the offence in question was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.*

b. *By virtue of the decision of this Court in V. C. Chinnappa Goudar (Supra), because of deeming fiction under Section 48 of the Water Act, the protection under Section 197 of the Code would not be available and the matter ought to be considered de hors such protection.*

c. *If the concerned public servant happens to be a Chief Officer or Commissioner of a Municipal Council or Town Panchayat, he cannot strictly be called “the Head of the Department of the Government”. Therefore, in terms of decision of this Court in B. Heera Naik (Supra), the matter would not come under Section 48 of the Water Act. But the matter would come directly under Section 47 of the Water Act. According to said decision, even in such cases, the deeming fiction available under Section 47 of the Water Act would dis-entitle the public servant from the protection under Section 197 of the Code.*

*d. If the offenders are other than public servants or where the principal offenders are corporate entities in private sectors, the question of protection under Section 197 would not arise.”*

**19.3.** The Honourable Supreme Court in the case of **D. Rajagopal V/S Ayyappan & others 2021 SCC OnLine Ker 3227**, has ruled as under;

*“33. Sanction contemplated under Section 197 Cr. P. C. is not meant to protect a public servant dealing with the life or personal liberty of a man out of purview of law or procedure established by law. Therefore, a Policeman has to act within the limits of the legal domain recognized by the Code of Criminal Procedure or any other enactments. Sanction as a protective measure is incorporated in Cr. P. C. to save a public servant acting bonafidely without exceeding the jurisdictional limits and also duly exercising the authority recognized by law. What is intended by the incorporation of Section 197 in Cr. P. C. is an assurance to a public servant that for whatever things bonafide done by him in the lawful exercise of the authority conferred on him, protection would be afforded to him.*

*34. Therefore, they cannot take the advantage of Section 197 Cr. P. C. after committing mischievous acts under the guise of lawful discharge of official duties as in the case on hand. The fact that the incident was occurred within the Police Station and during the course of discharge of official duty by the Policemen will not legalise it, if it turns out as an exercise of excess power by them for illegal gain. Exercise of power by a public servant in the course of lawful discharge*

*of his official duty, though in excess, will be given protection under Section 197 Cr. P. C.*

*35. Viewed in the above perspective, the Accused in the case on hand can only be taken to have exercised their authority for committing some illegal acts, under the guise of exercise of lawful discharge of their official duties and therefore are not liable to be afforded with the protection envisaged under Section 197 Cr. P. C. Sanction contemplated under the above provision is not intended to safeguard illegal acts. Therefore, this Court has no hesitation to hold that sanction is absolutely unwarranted in the context for taking cognizance of the offence against the Accused and prosecuting them.”*

## **20. Section 10 of Indian Evidence Act, 1872.**

Section 10 of the **Indian Evidence Act, 1872** reads thus:

### **“Section 10 in The Indian Evidence Act, 1872**

**“10.** *Things said or done by conspirator in reference to common design -Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them is a relevant fact as against each of the persons believed to be so conspiring. as well as for the purpose of proving the existence of the conspiracy*

*as for the purpose showing that any such persons was a party to it.*

**Illustration: -**

***Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the [Government of India].***

*The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Calcutta for a like object, D persuaded persons to join the conspiracy in Bombay, E published writings advocating the object in view at Agra, and F transmitted from Delhi to G at Kabul the money C had collected at Calcutta, and the contents of a letter written by H giving which an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.*

**21. Government of India's declaration on Affidavit that there is no protection granted to the vaccine manufacturing companies.**

**21.1.** That, the Central Government, in its Affidavit dated **28/11/2021** submitted before the Honourable Supreme Court of India in the case of **Jacob Puliyeel V/S Union of India in Writ Petition (Civil) No. 607 of 2021** had made it clear that as per Indian Law there is no immunity available to the vaccine manufacturing companies.

The relevant para of the affidavit reads thus;

**“INDEMNIFICATION OF VACCINE MANUFACTURERS**

*65. No indemnity has been granted and the current legal regime under the New Drugs and Clinical Trials Rules, 2019 and Drugs and Cosmetics Act, 1940 does not contain any such provisions.”*

**22. Government of India’s affidavit dated 23/11/2022 suggesting the citizen to file individual cases before trial courts like this Honourable Court against vaccine companies and guilty officials responsible for wrong done in process of vaccination and against side effects due to vaccines.**

**22.1.** That Union of India in its Affidavit dated **23/11/2022** filed before Honourable Supreme Court of India in the case of **Rachana Gangu V/S Union of India WP (c) No. 1220 of 2021** had made it clear that, the citizen can file cases before local Civil & other courts. The relevant para reads thus;

*“47. At the vaccine administration stage, after marketing authorization has been obtained from the Government of India and the vaccine is available to the public, if a person suffers physical injury or death from an AEFI, appropriate remedies in law are open to the vaccine beneficiary or their family including approaching civil courts for a claim of damages / compensation for negligence **malfesance** or misfeasance. Such claims may be determined on a case-to-case basis in an appropriate forum.*

**51.10.** *If a person suffers physical injury or death from an AEFI, appropriate remedies in law are open to the vaccine*

*beneficiary or their family including approaching civil courts for a claim of damages/compensation for negligence, **malfeasance** or misfeasance. Such claims may be determined on a case-to-case basis in an appropriate forum.”*

**23. Offer of compensation given by World Health Organization to the victims of side effects of Covid vaccines.**

**23.1.** That the WHO had offered compensation to the victims of vaccine injuries on a condition of not filing any claims against vaccine manufacturer companies.

Link: - <https://www.who.int/news/item/22-02-2021-no-fault-compensation-programme-for-covid-19-vaccines-is-a-world-first>

**23.2.** However, the offences committed by the vaccine companies are so heinous and there is no clarity about the exact amount of compensation, therefore, no one from India or entire world had applied for the same.

**24. Cases, Judgments and orders granting compensation to the victims of side effects of Covid (Covishield) vaccines in India and across the world.**

**24.1.** That on 20/09/2022 the Korean Court ordered state Government to pay compensation of 3.62 Million to the victim who suffered dumbness in leg after getting Covishield (Astrazeneca) vaccines.

**24.1.1** In the said case the state agency had refused to recognize a causal relationship between his diseases and vaccination. But Court rejected states submission and observed that before vaccination, the plaintiff was very healthy and had no medical history and therefore it is

reasonable to consider that there is a causal relationship between the diseases and vaccination.

Source: The Korea Times Dt. 20.09.2022

Link:

[https://www.koreatimes.co.kr/www/nation/2022/10/113\\_336369.html](https://www.koreatimes.co.kr/www/nation/2022/10/113_336369.html)

**24.2.** The man in his 30s claimed he had a fever one day after he got an AstraZeneca shot in April last year, and felt dizziness and numbness in his legs on the second day.

**24.2.1** He went to a university hospital and was diagnosed with intracerebral hemorrhage, cerebral cavernous malformation and mononeuropathy.

**24.2.2** His family applied for compensation of 3.62 million won (\$2,607) with the Korea Disease Control and Prevention Agency (KDCA) but was denied payment.

**24.2.3.** The state agency refused to recognize a causal relationship between his diseases and vaccination, saying numbness in the legs is the main symptom of cerebral cavernous malformation.

**24.2.4.** The patient filed a lawsuit against the KDCA's decision with the Seoul Administrative Court, and the Court sided with him. "It is reasonable to consider there is a causal relationship between the diseases and vaccination," the Court said.

**24.2.5.** "Before vaccination, the plaintiff was very healthy and had no neurological symptoms or medical history," it added.

**24.2.6.** The Court said it is not known when he developed cerebral cavernous malformation and that he showed no related symptoms before he got vaccinated.

**24.3.** Annexed hereto and marked as Exhibit “U” is the copy of the said news. **[EXHIBIT-“U”]**

**24.4.** As per data with Australian government, 37.8 million vaccine doses had been administered till November 7, 2021 and 78,880 adverse events linked to vaccination were recorded. A portal was being made to enable people to claim damages. At least 10,000 people have registered interest to make a claim, till the report came on news portal.

**Link:** <https://www.wionews.com/world/thousands-of-australians-want-compensation-for-covid-vaccine-side-effects-report-429883>

**24.5.** In UK, up to 920 compensation applications have been filed by people who were left seriously injured after getting the Covid-19 vaccine as claims could hit £110 million. Vikki Spit, from Alston, Cumbria, hopes to qualify for financial support after her fiancé Zion, 48, died of a brain hemorrhage two weeks after getting the AstraZeneca vaccine in May 2021. She claimed his death certificate named the AstraZeneca vaccine but said she has been left in ‘limbo’ after applying for the scheme in June.

**Link:** <https://www.dailymail.co.uk/news/article-10556213/Covid-vaccine-claims-hit-110m-920-compensation-applications-filed.html>

So, the compensation mechanism exists in most developed countries and many of the vaccine adverse events injuries have been compensated appropriately.

**24.6.** In a recent case of vaccine injury the Government of Singapore granted a compensation of Rs. 1.78 Crore (SGD 2, 25,000) to the victim as vaccine had caused increase in heart beats.

**Link:** <https://greatgameindia.com/pfizer-heart-attack-compensation/>

**24.7.** In **Devilal V/S M.P State Through Chief Secretary 2017 SCC OnLine MP 2322**, Honourable Madhya Pradesh High Court granted compensation of argued 30 Lacs to children who suffered paralysis due to polio vaccines.

Annexed hereto and marked as Exhibit “V” is the copy of the Judgement of the Honourable Madhya Pradesh High Court dated: 29/06/2017, in the above case. **2017 SCC OnLine MP 2322.**

**[EXHIBIT- “V”]**

It is ruled as under;

*“11. The research conducted by WHO also establishes that the paralysis can be one of the side effects of Oral Polio Vaccine. The Doctor examined before the trial Court has also supported the aforesaid view and, therefore, the appeal filed by the plaintiff, keeping in view the facts and circumstances of the case, deserves to be allowed.*

*12. This Court is of the considered opinion that once the factum of side effect of Polio drops was established on the basis of statement given by the defence witness, in all fairness, the proper compensation towards treatment and mental sufferings should have been granted in the peculiar facts and circumstances of the case.*

**13.** ..... The plaintiff shall be entitled for a sum of Rs. 10,00,000/- (Rs. Ten lacs) along with interest @ 12% p.a., w.e.f. 20/11/1996, towards the treatment and the mental sufferings and the amount shall be paid by the State of Madhya Pradesh within a period of 90 days from the date of receipt of certified copy of this order. In case the amount is not paid within a period of 90 days, it shall carry interest @ 15% p.a., w.e.f. 20/11/1996.”

**24.8.** The principle of res ipsa loquitur explained in a medical negligence case can be found in **V. Kishan Rao V/S Nikhil Super Speciality Hospital, 2011 ACJ 500 (SC)**, where paras 47 to para 50 read as under:

**“47.** In *Postgraduate Institute of Medical Education and Research v. Jaspal Singh* [(2009) 7 SCC 330 : (2009) 3 SCC (Cri) 399] also the Court held that mismatch in transfusion of blood resulting in the death of the patient after 40 days, is a case of medical negligence. Though the learned Judges have not used the expression res ipsa loquitur but a case of mismatch blood transfusion is one of the illustrations given in various textbooks on medical negligence to indicate the application of res ipsa loquitur.

**48.** In the treatise on *Medical Negligence* by Michael Jones, the learned author has explained the principle of res ipsa loquitur as essentially an evidential principle and the learned author opined that the said principle is intended to assist a claimant who, for no fault of his own, is unable to adduce evidence as to how the accident occurred. The principle has been explained in *Scott v. London & St. Katherine Docks Co.* [(1865) 3 H&C 596 : (1861-73) All ER

*Rep 246] by Erle, C.J. in the following manner : (All ER p. 248 C-D)*

*... where the thing is shown to be under the management of the defendant or his servants, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of explanation by the defendants, that the accident arose from want of care.*

**49.** *The learned author at p. 314, para 3-146 of the book, Medical Negligence gave illustrations where the principles of res ipsa loquitur have been made applicable in the case of medical negligence. All the illustrations which were given by the learned author were based on decided cases. The illustrations are set out below:*

- *“Where a patient sustained a burn from a high frequency electrical current used for ‘electric coagulation’ of the blood (see Clarke v. Warboys [The Times, 18-3-1952 (CA)] );*
- *Where gangrene developed in the claimant's arm following an intramuscular injection (see Cavan v. Wilcox [(1973) 44 DLR 3d 42] );*
- *When a patient underwent a radical mastoidectomy and suffered partial facial paralysis (see Eady v. Tenderenda [(1975) 2 SCR 599 : (1974) 51 DLR 3d 79 (Can SC)] );*
- *Where the defendant failed to diagnose a known complication of surgery on the patient's hand for Paget's disease [see Rietz v. Bruser (No. 2) [(1979) 1 WWR 31 (Man QB)] ];*
- *Where there was a delay of 50 minutes in obtaining expert obstetric assistance at the birth of twins when the*

*medical evidence was that at the most no more than 20 minutes should elapse between the birth of the first and the second twin (see Bull v. Devon Area Health Authority [(1993) 4 Med LR 117 (CA)] , Med LR at p. 131);*

- *Where, following an operation under general anaesthetic, a patient in the recovery ward sustained brain damage caused by hypoxia for a period of four to five minutes (see Coyne v. Wigan Health Authority [(1991) 2 Med LR 301 (QBD)] );*

- *Where, following a routine appendicectomy under general anaesthetic, an otherwise fit and healthy girl suffered a fit and went into a permanent coma (see Lindsay v. Mid-Western Health Board [(1993) 2 IR 147] , IR at p. 181);*

- *When a needle broke in the patient's buttock while he was being given an injection (see Brazier v. Ministry of Defence [(1965) 1 Lloyd Rep 26] , Lloyd Rep at p. 30);*

- *Where a spinal anaesthetic became contaminated with disinfectant as a result of the manner in which it was stored causing paralysis to the patient [see Roe v. Minister of Health [(1954) 2 QB 66 : (1954) 2 WLR 915 : (1954) 2 All ER 131 (CA)] . See also Brown v. Merton, Sutton and Wandsworth Area Health Authority (Teaching) [(1982) 1 All ER 650 (CA)] ];*

- *Where an infection following surgery in a “well-staffed and modern hospital” remained undiagnosed until the patient sustained crippling injury (see Hajgato v. London Health Assn. [(1982) 36 OR 2d 669 (Ont Sup Ct)] , OR at p. 682); and*

- *Where an explosion occurred during the course of administering anaesthetic to the patient when the*

*technique had frequently been used without any mishap (Crits v. Sylvester [(1956) 1 DLR 2d 502 (Ont CA)] ).”*

*50. In a case where negligence is evident, the principle of res ipsa loquitur operates and the Complainant does not have to prove anything as the thing (res) proves itself. In such a case it is for the respondent to prove that he has taken care and done his duty to repel the charge of negligence.”*

**24.9.** In **Municipal Corporation of Delhi V/S Association of Victims of Uphaar Tragedy, 2012 ACJ 48 (SC)**, the Apex Court has held that right to life guaranteed under Article - 21 of the Constitution of India is the most sacred right preserved and protected under the Constitution, violation of which is always actionable and there is no necessity of statutory provision as such for preserving that right.

**24.10.** The Apex Court in **Chameli Singh V/S State of U.P., (1996) 2 SCC 549**, observed that the right guaranteed under Article - 21 of the Constitution of India cannot be exercised without the basic human rights including the right to medical care.

**24.11.** That in a case of side effects of vaccines, the United States Government has set up the **‘National Vaccine Injury Compensation Program’**. In a case of side effects of MMR vaccines, the court granted a settlement of 101 Million U.S Dollars (7,50,34,31,400 Crores).

Annexed hereto and marked as Exhibit “W” is the copy of the news article published in **“mctlaw”** **[EXHIBIT-“W”]**.

**24.12.** Needless to mention here that, in a recent case of vaccine injury the Government of Singapore granted a compensation of **Rs. 1 Crore 78 Lakhs** to the victim as vaccine cause increase in heart beats.

**Link:-** <https://greatgameindia.com/pfizer-heart-attack-compensation/>

**24.13.** That, there is another case related with misrepresentation by pharma companies by suppressing the side effects of medicines. The company's failure to report certain safety data was also taken into consideration. The investigating agency of US at their own investigated and recovered an amount **10.2 Billion** U.S. Dollars which is around **7,57,71,92,40,000/-** Crore Rupees. The excerpts from the news published on **July 2, 2012** in The United State' Department of Justice.

**24.14. GLAXOSMITHKLINE TO PLEAD GUILTY AND PAY \$3 BILLION TO RESOLVE FRAUD ALLEGATIONS AND FAILURE TO REPORT SAFETY DATA**

Largest Health Care Fraud Settlement in U.S. History

***“1. The United States alleges that GSK stated that Avandia had a positive cholesterol profile despite having no well-controlled studies to support that message.*** *The United States also alleges that the company sponsored programs suggesting cardiovascular benefits from Avandia therapy despite warnings on the FDA-approved label regarding cardiovascular risks. GSK has agreed to pay \$657 million relating to false claims arising from misrepresentations about Avandia. The federal share of this settlement is \$508 million and the state share is \$149 million.*

2. In addition to the criminal and civil resolutions, GSK has executed a five-year Corporate Integrity Agreement (CIA) with the Department of Health and Human Services, Office of Inspector General (HHS-OIG). The plea agreement and CIA include novel provisions that require that GSK implement and/or maintain major changes to the way it does business, including changing the way its sales force is compensated to remove compensation based on sales goals for territories, one of the driving forces behind much of the conduct at issue in this matter. Under the CIA, GSK is required to change its executive compensation program to permit the company to recoup annual bonuses and long-term incentives from covered executives if they, or their subordinates, engage in significant misconduct. GSK may recoup monies from executives who are current employees and those who have left the company. Among other things, the **CIA also requires GSK to implement and maintain transparency in its research practices and publication policies and to follow specified policies in its contracts with various health care payors.**

Federal employees deserve health care providers and suppliers, including drug manufacturers, that meet the highest standards of ethical and professional behavior,” said Patrick E. McFarland, Inspector General of the U.S. Office of Personnel Management. Assistant Director of the FBI’s Criminal, Cyber, Response and Services Branch. “Together, we will continue to bring to justice those engaged in illegal

schemes that threaten the safety of prescription drugs and other critical elements of our nation's healthcare system.

**This matter was investigated by agents from the HHS-OIG; the FDA's Office of Criminal Investigations; the Defense Criminal Investigative Service of the Department of Defense; the Office of the Inspector General for the Office of Personnel Management; the Department of Veterans Affairs; the Department of Labor; TRICARE Program Integrity; the Office of Inspector General for the U.S. Postal Service and the FBI.**

This resolution is part of the government's emphasis on combating health care fraud and another step for the Health Care Fraud Prevention and Enforcement Action Team (HEAT) initiative, which was announced in May 2009 by Attorney General Eric Holder and Kathleen Sebelius, Secretary of HHS. The partnership between the two departments has focused efforts to reduce and prevent Medicare and Medicaid financial fraud through enhanced cooperation. Over the last three years, the department has recovered a total of more than \$10.2 billion in settlements, judgments, fines, restitution, and forfeiture in health care fraud matters pursued under the False Claims Act and the Food, Drug and Cosmetic Act.

**The company's unlawful promotion of certain prescription drugs, its failure to report certain safety data, and its civil liability for alleged false price reporting practices.**

**GSK did not make available data from two other studies in which Paxil also failed to demonstrate efficacy in treating depression in patients under 18. The United States further alleges that GSK sponsored dinner programs, lunch programs, spa programs and similar activities to promote the use of Paxil in children and adolescents. GSK paid a speaker to talk to an audience of doctors and paid for the meal or spa treatment for the doctors who attended.**

**Between 2001 and 2007, GSK failed to include certain safety data about Avandia, a diabetes drug.**

**The missing information included data regarding certain post-marketing studies, as well as data regarding two studies undertaken in response to European regulators' concerns about the cardiovascular safety of Avandia. Since 2007, the FDA has added two black box warnings to the Avandia label to alert physicians about the potential increased risk of (1) congestive heart failure, and (2) myocardial infarction (heart attack).**

*GSK has agreed to plead guilty to failing to report data to the FDA and has agreed to pay a criminal fine in the amount of \$242,612,800 for its unlawful conduct concerning Avandia.*

*It also includes allegations that GSK paid kickbacks to health care professionals to induce them to promote and prescribe these drugs as well as the drugs Imitrex, Lotronex, Flovent and Valtrex. The United States*

*alleges that this conduct caused false claims to be submitted to federal health care programs.*

*GSK has agreed to pay \$1.043 billion relating to false claims arising from this alleged conduct. The federal share of this settlement is \$832 million and the state share is \$210 million.”*

Annexed hereto and marked as Exhibit –“X” is the copy of the details of abovesaid report.

**[EXHIBIT-“X”]**

**24.15.** That, Honourable Civil Court in Pune has granted a compensation of Rs. 100 Crores for defamation for half an hour’s news mistaken identity. Said fact was also taken into consideration by Honourable Bombay High Court in granting interim compensation in the case of **Veena Sippy V/S Mr. Narayan Dumbre 2012 SCC OnLine Bom 339**. It is observed as under;

*“20.... We must state here that the Petitioner in person has relied upon an interim order passed by this Court in First Appeal arising out of a decree passed in a suit. The decree was passed in a suit filed by a retired Judge of the Apex Court wherein he claimed compensation on account of act of defamation. Considering the evidence on record, the Trial Court passed a decree for payment of damages of **Rs. 100/- crores**. While admitting the Appeal and while considering the prayer for grant of stay, this Court directed the Appellant-Defendant to deposit a sum of Rs. 20/- crores in the Court and to furnish Bank Guarantee for rest of the decretal amount as a condition of grant of stay. However, this Court directed investment of the amount of Rs. 20/- crores till the disposal of the Appeal. The interim order of this Court has been confirmed by the Apex Court.*

**23....**

**i.** We hold that the detention of the Petitioner by the officers of Gamdevi Police Station from 5<sup>th</sup> April, 2008 to 6<sup>th</sup> April, 2008 is illegal and there has been a gross violation of the fundamental right of the Petitioner guaranteed by Article 21 of the Constitution of India.

**ii.** We direct the 5<sup>th</sup> Respondent-State of Maharashtra to pay compensation of Rs. 2,50,000/- to the Petitioner together with interest thereon at the rate of 8% per annum from 5<sup>th</sup> April, 2008 till the realization or payment. We direct the State Government to pay costs quantified at Rs. 25,000/- to the Petitioner. We grant time of six weeks to the State Government to pay the said amounts to the Petitioner by an account payee cheque. It will be also open for the fifth Respondent - State Government to deposit the amounts in this Court within the stipulated time. In such event it will be open for the Petitioner to withdraw the said amount.

**iii.** We clarify that it is open for the State Government to take proceedings for recovery of the amount of compensation and costs from the officers responsible for the default, if so advised.

**iv.** Petition stands dismissed as against the Respondent No. 4.

**vi.** We make it clear that it will be open for the Petitioner to adopt a regular remedy for recovery of compensation/damages in addition to the amount directed to be paid under this Judgment.

24.16. The Honourable Bombay High Court in the case of **Sanjeevani V/S State MANU/MH/0469/2021**, has ruled as under;

*“13... Apex Court in the case of D.K. Basu Vs. State of West Bengal reported in MANU/SC/0157/1997: AIR 1997 Supreme Court 610(1) wherein it has been held thus: -*

*55. Thus, to sum up, it is now a well-accepted proposition in most of the jurisdiction, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrong doer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. **The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the Criminal Courts in which the offender is prosecuted, which the State in law, is duly bound to do. The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State. The quantum of compensation will, of course,***

*depend upon the peculiar facts of each case and no strait-jacket formula can be evolved in that behalf. The relief to redress the wrong for the established invasion of the fundamental rights of the citizens, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them.* The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit.”

**24.17.** That, the law is very well settled by the Honourable Supreme Court of India and the Honourable Bombay High Court in catena of judgment that whenever fundamental rights of any persons are violated or if any person lost his/her life due to act of commission and omission on the part of a public servant then such Accused public servants are liable personally for civil & criminal action and are personally liable to pay compensation.

**CASES RELIED ON ARE: -**

**(i) Nambi Narayan V/S Siby Mathews.**

**(2018) 10 SCC 804.**

**(ii) Veena Sippy V/S Narayan Dumbre.**

**2012 SCC OnLine Bom 339.**

**(iii) Chairman Railway Board V/S Mrs. Chandrima Das.**

**(2000) 2 SCC 465.**

**(iv) Nina Rajan Pillai V/S Union of India.**

**2011 (5) AD (Del) 36.**

**24.18.** That, Honourable Supreme Court in the case of **Balram Prasad V/S Kunal Saha, (2014) 1 SCC 384** granted Rs. **11 Crore compensation for medical negligence.**

The criteria for compensation set out in the said case is as under;

***“A. Consumer Protection- - Services Medical practitioner’s/ services Medical negligence- Compensation- Apportionment of liability between Hospital and doctors Hospital, held, vicariously liable for conduct of its doctors Hence, liable to pay entire compensation minus compensation payable by each doctor to extent of his/her liability.***

***B. Treatment of patient contrary to established medical protocols resulting in death -Patient (US resident) suffering from Toxic Epidermal Necrolysis (TEN), a skin disease Dr M failed to diagnose the disease at f initial stage and prescribed high dose of medicine (steroid) -Dr H though diagnosed TEN and stopped use of medicine prescribed by Dr M but administered to patient another steroid without considering harmful effect of earlier steroid already accumulated in patient's body -Dr P though a junior doctor stood as second fiddle who did not apply his own mind-All three doctors thus found guilty of medical negligence - Compensation of Rs 6 crores for medical negligence awarded to husband of deceased patient --Dr M and H. both senior doctors, maligned their profession firstly by the way they treated deceased patient and secondly on being charged, by***

*shifting blame onto other doctors Both, held, liable to pay Rs 10 lakhs -- each However, Dr P being a junior doctor whose contribution to negligence is less than senior doctors, held, liable to pay Rs 5 lakhs Balance compensation of Rs 5.8 crores, held, payable by Hospital with interest 6% p.a. from date of Complaint (1998) till its payment.*

**C. Medical negligence Compensation - Loss of income of deceased - Relevant factors to be taken into consideration - Determination of income has to be only on basis of evidence on record**

*Held, status, future prospects and educational qualifications of deceased must be considered- Appropriate addition towards future loss of income also to be made along with deduction for personal expenses of deceased Total loss of income is then to be determined by multiplying annual loss with expected years of life deceased would have worked*

*Death of 36 yr old US based NRI woman due to medical negligence of doctors in India Deceased was graduate in Psychology from highly -- prestigious institution in New York US. Record showing deceased's earnings of \$30,000 p.a. as graduate student --As earnings were not from regular source of income, earnings of deceased on regular job taken at \$40,000-- Addition of 30% made towards future loss of income (ie. \$12,000) Further deduction of 1/3rd made - towards personal expenditure of deceased (i.e. \$17,333)*

*Estimating life expectancy of healthy person as 70 yrs, total loss of income determined by multiplying net annual loss (\$34,667) with 30 (assuming she would have worked till age of 66) --Taking current value of Indian rupee at Rs 55 per d*

\$1, total loss of income of deceased in Indian rupees computed at Rs 5.7 crores.

**D.** *Additional (unanticipated) claim Non-inclusion in original claim through amendment-- Held, no ground to reject additional claim-It is the duty of Tribunals, Commissions and Courts including Supreme Court to award just and reasonable compensation even if the same is more than what was originally claimed*

**E.** *Claim of Rs 77 crores filed in 1998 for medical negligence before National Commission (NC) -- Additional claim of Rs 20 crores made in 2011-- Rejection of such additional claim by NC without consideration simply on ground that the same was not pleaded earlier or included in pleadings by way of amendment, held, not justified – Additional damages/losses suffered by claimant during these years could not have been anticipated with original claim in 1998- Additional claim considered by Supreme Court for determining Just compensation On facts, total a - compensation of Rs 6 crores awarded.*

**F.** *Relevant factors - Inflation of money Exchange rate of currency Date on which to be reckoned Date of award in appeal - Held, inflation should be considered while deciding quantum of compensation - Medical negligence claim of Rs 77 crores filed in 1998 remained pending for 15 yrs Devaluation of money in these years to great extent Claim of Rs 77 -- crores in 1998 equivalent to Rs 188.6 crores in 2013 as per Cost Inflation Index (CII) - Hence, enhanced claim by claimant on current value of - money is maintainable.*

**G.** *No record of air fare produced However, considering that claimant - husband being resident of US must have incurred some expenses to come to India to attend proceedings, amount of Rs 10 lakhs awarded for such travel expenses - Consumer Forums - Exercise of power Compensation-Quantum-Determination*

**H.** *Consumer Protection-Services-Medical practitioners/ Services - Medical negligence Compensation Pecuniary damages - Legal expenses Claimant himself appearing and arguing his case Consideration of, while awarding damages under this head Medical negligence case filed by husband (claimant) for death of his wife Both - foreign residents - Claimant, a doctor by profession appeared in person to argue his case though he might have required assistance of lawyers to prepare his case and produce evidence in order - Claim for Rs 1.65 crores towards litigation expenses over the past 12 yrs, held on higher side- Compensation of Rs 1.5 lakhs appropriate.*

**I.** *Consumer Protection--Services-Medical practitioners/ services --Medical negligence -- Compensation -- Pecuniary damages -- Medical expenses incurred for treatment of deceased patient—Enhancement -- Death of foreign resident due to medical negligence of doctors in India -- Treatment of deceased at two hospitals for which claim of Rs 12 lakhs made Medical bill of only Rs 2.5 lakhs pertaining to one hospital on record National Commission quantified expenses at Rs 5 lakhs -- Award insufficient Deceased remained as in-patient at the other hospital for about a week-- Compensation under this head enhanced to Rs 7 lakhs*

*J. Consumer Protection-Services- Medical practitioners/ services - Medical negligence Compensation Interest on compensation Held. has to be awarded from date of filing Complaint up to date of payment of compensation-Death of US based woman, a child Psychologist in 1998- Claim for compensation for Rs 97 crores remained pending for 15 yrs National Commission (NC) while awarding compensation (Rs 1.5 crores) granted no interest for this long period when case was pending Held, unjustified Supreme Court while enhancing compensation to Rs 6 crores awarded interest @ 6% p.a. from date of Complaint till date of payment of such compensation.”*

**24.19.** That in the present case the Complainant was also doing part-time job and was earning handsome amount per month. But after taking vaccines, the Complainant is unable to do the work in a normal way. He is unable to concentrate on his work and study. This caused much loss, hardship, inconvenience, harassment to the Complainant. Said loss can never be compensated by any means.

**24.20.** The Honourable Kerala High Court in the case of **Sayeeda K.A. V/S Union of India, 2022 SCC OnLine Ker 4514** has ruled as under;

*“1. The documents on record prima facie shows that the petitioner's husband died due to adverse events following immunization. This writ petition is filed seeking the following reliefs;*

*“i) Set aside Exhibit P9 issued by the 5<sup>th</sup> respondent in response to Exhibit P8.*

*ii) Issue a writ in the nature of mandamus or any other writ, direction or order directing the respondents to grant ex gratia compensation*

*offered to families of deceased who have succumbed to Covid 19 to the petitioner and her children.”*

**2.** *When the matter was taken up on previous occasion, learned ASG was directed to get instructions as to whether the Government of India has formulated any policy for compensating the victims of adverse events, following Covid- 19 vaccination. Learned ASG submitted that no such policy has so far been formulated.*

**3.** *Sitting in this jurisdiction, I have come across at least three cases where pleadings are to the effect that the person who had undergone Covid-19 immunization vaccination had succumbed to the after effects of vaccination. Therefore, even if the numbers are very few, there are instances where persons are suspected to have succumbed to the after effects of immunization. In such circumstances, respondents 2 and 8 are bound to formulate a policy for identifying such cases and compensating the dependants of the victim. The second respondent is hence directed to formulate policy/guidelines for identifying cases of death due to the after effects of Covid-19 vaccination and for compensating the dependants of the victim. The needful in this regard shall be done as expeditiously as possible and at any rate, within three months.*

**4.** *Post after three months.”*

**24.21.** Further the Honourable Kerala High Court in the case of **Sayeeda K.A. V/S Union of India, 2022 SCC OnLine Ker 4531** has observed as under;

*“1. Learned CGC submits that, identical issues pertaining to adverse effect of Covid Vaccination has been reported from some other States also and the Ministry of Health & Family Welfare is in the process of formulating comprehensive guidelines for granting compensation to such persons.*

*2. Learned counsel for the petitioner submits that the process has to be hastened since the family members of the victims, like the petitioner herein, are facing extreme difficulties consequent to the death of the earning member in the family.*

*3. I find the request to be well founded. No doubt, the situation requires urgent action from the part of the second respondent.*

*4. Learned CGC submits that a detailed statement, containing the steps so far taken for formulating the guidelines and the time limit within which the guidelines will be implemented, will be placed on record within two weeks.*

*5. Post on 30/8/2022.”*

**24.22.** The Complainant is ready to examine the witnesses to prove his case.

**25. Law laid down by the Constitution Bench of the Supreme Court of India in Anita Kushwaha V/S Pushap Sadan (2016) 8 SCC 509, case observing that the life and liberty of the Indians is not less than that of Americans or citizen of any country across the world.**

25.1. The Honourable Supreme Court of India in the case of **Anita Kushwaha V/S Pushap Sadan (2016) 8 SCC 509**, has ruled that the life of Indian Citizen is not less pricy than the life of people in England or anywhere. But in India the rights are more precious.

It is ruled that;

*“18... Bose, J. emphasised the importance of the right of any person to apply to the court and demand that he be dealt with according to law. He said: (Prabhakar Kesheo case [Prabhakar Kesheo Tare v. Emperor, AIR 1943 Nag 26 : 1942 SCC OnLine MP 78] , SCC OnLine MP para 1)*

*“1. ... **The right is prized in India no less highly than in England, or indeed any other part of the Empire**, perhaps even more highly here than elsewhere; and it is zealously guarded by the courts.”*

**25.2. As per section 52 of Indian Penal Code, 1860 the Accused have no defence of act done in good faith.**

25.3. Section 52 of IPC reads thus;

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

**25.4. In Noor Mohammad V/S Nadirshah Ismailshah Patel 2004 ALL MR (Cri) 42; it is ruled as under;**

*“11. 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.”*

**26.** Under the circumstances it is most humbly submitted by the Complainant that all the above acts of all the above mentioned accused persons committed against the Complainant amounts to commission of the offences punishable **U/S - 34, 36, 37, 38, 109, 115, 153-A, 166, 167, 336, 337, 338, 341, 409, 417 and 418 r.w. 415, 420, 505 and 120B of the Indian Penal Code, 1860, U/S - 4, 7 and 9 of The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and U/S - 27 of the Drugs and Cosmetics Act, 1940.**

**27. Jurisdiction of this Honourable Court:**

That the Complainant is residing within the Jurisdiction of Mulund Police Station, the act of administering the vaccine was done as under:-  
First Dose of Covishield vaccine on 19/08/2021 administered by Amisha **Bhoir** at **R/C APEX HOSPITALS, Mumbai, Maharashtra** and the second dose of the Covishield vaccine on 11/11/2021 administered by **Joslin** at **Ambedkar Nagar UPHC, Palghar, Maharashtra**. The consequences of the side effects of administering the vaccine has ensued at Mulund within the Jurisdiction of the Mulund Police Station. Further the various offences alleged herein are committed by the all the Accused persons in conspiracy with each other at various places within the territory of India including at the place where the Complainant is at present residing and the offence are the continuing one, which comes

under the Jurisdiction of the Mulund Police station, Hence this Honourable Court has Jurisdiction to entertain, try and dispose off this Complaint.

**28. Cause of action:**

**28.1.** Cause of action first arose when Accused persons conspired with each other and published false narratives with the same intention & conspiracy with each other that Covid vaccines are completely safe and if any minor or severe side effect happens, then there is definite treatment for it. **[PLEASE SEE - "J" & EXHIBIT - "K"]**

**28.2.** The cause of action arose on **19/08/2021 & 11/11/2021**, when Complainant took vaccine due to false representation made by Accused in conspiracy with each other that vaccines are completely safe and he got cheated as he developed severe side effects of continuous head pain for which there is no treatment available.

**28.3.** The cause of action also arose when unlawful and unconstitutional vaccine mandates were issued by Accused No. 7 Sitaram Kunte on 10<sup>th</sup> & 11<sup>th</sup> August 2021, in conspiracy with other Accused person especially the Accused No.6 – Iqbal Chahal and Accused No.8 – Suresh Kakani. **[PLEASE SEE EXHIBIT-"R"]**

**28.4.** The cause of action also arose when Central Government in their revised FAQ dated 26/09/22 have admitted that the Covid vaccines are having death causing and other serious side effects which may cause health injury causing lifetime disability. **[PLEASE SEE EXHIBIT-"D"]**

**28.5.** The cause of action also arose when research had proved that the vaccinated young people are dying due to heart attacks, cardiac arrests, myocarditis etc. and they are due to the side effects of Covid vaccines

and hence, the life of Complainant is in danger and he is in constant fear of death.

**28.6.** The cause of action also arose on 17/10/2022 when Accused No.1 Shri. Adar Poonawalla in his affidavit had again made false statement that his vaccine (Covishield) is completely safe.

**29. Since the unlawful mandates were implemented by the local authorities by taking the help of local police officials, who may in turn become co-Accused, and therefore, the proper course as per the principle of natural justice is that matter should not be inquired or investigated by the police. Therefore, the Complainant is requesting this Honourable court to conduct the inquiry itself as per Section - 202 of Code of Criminal Procedure, 1973 and pass the appropriate order.**

**30.** The Complainant craves leave of this Honourable Court to add, alter, amend or modify the contents of this Complaint as and when necessary.

**31.** The Complainant shall rely on Documents the list of which is hereto annexed.

**32. PRAYER:** Under the circumstances the Complainant prays :

It is therefore humbly requested that this Honourable Court may please to: -

**(a)** Conduct enquiry u/s- 202 of Code of Criminal Procedure, 1973 and allow the Complainant to produce witness, evidence etc.

**(b)** Pass an order of issue of process u/s- 204 of Code of Criminal Procedure, 1973 against all the Accused for offences Punishable **U/S - 34, 36, 37, 38, 109, 115, 153-A, 166, 167, 336, 337, 338, 341, 409, 417 and 418 r.w. 415, 420, 505 and 120B of the Indian Penal Code, 1860, U/S - 4, 7 and 9 of The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and U/S - 27 of the Drugs and Cosmetics Act, 1940.**

**(c)** Issue warrant of arrest (Non-Bailable) against all the Accused persons u/s - 204 (1) (b) of Code of Criminal Procedure, 1973.

**(d)** Try and punish all the Accused for maximum punishment for offences Punishable **U/S - 34, 36, 37, 38, 109, 115, 153-A, 166, 167, 336, 337, 338, 341, 409, 417 and 418 r.w. 415, 420, 505 and 120B of the Indian Penal Code, 1860, U/S - 4, 7 and 9 of The Drugs and**

**Magic Remedies (Objectionable Advertisements) Act, 1954 and U/S - 27 of the Drugs and Cosmetics Act, 1940.**

**(e)** Grant the compensation of Rs. 100,00,00,000/- (Rupees One Hundred Crores Only) to the Complainant u/s - 357(3) of Code of Criminal Procedure, 1973.

**(f)** Grant any other relief to the Complainant which this Honourable Court deems fit and proper in the facts and circumstances of the case;

**(g)** Any other further orders in favour of the Complainant as this Honourable Court may deem fit and proper in the interest of justices, facts and circumstances of the case and to meet the end of justice otherwise the aggrieved Complainant will be put to further irreparable loss, grave sufferings, great hardship, heavy injury and serious loss.

**(h)** The cost of this Complaint be provided for.

And for this act of kindness and justice the Complainant shall ever be duty bound and shall ever pray.

Submitted at Mumbai on this \_\_\_\_ day of January, 2023.

---

**AYUSH R. TIWARI**  
**COMPLAINANT**

---

**ADV. ISHWARLAL S. AGARWAL**  
**M.PHIL. (LAW), LL.M. (CRIMINAL LAW), LL.M. (CONST. LAW),**  
**LL.M.(INTL. LAW),P.G.D.(I&C. LAW.),P.G.D.(CONS. LAW.),LL.B.(I.P.R. &**  
**L&M), LL.B-G. (C'LOGY), M.Sc. (FORENSIC Sc.), M.Sc. (FORENSIC PSY.),**  
**M.B.A. (H.R.), M.A. (M.C.J.), M.A. (PUB. ADMN.), M.A. (S'LOGY),**  
**M.A. (GAND. THGT.), M.A. (P&R), M.L.I.Sc., B.A., B.L.I.Sc.**  
**ADVOCATE SUPREME COURT**  
**(ADVOCATES FOR COMPLAINANT)**

**VERIFICATION**

I, **Ayush R. Tiwari**, aged - 21 years old, OCCU: Law Student, Residing at: B- 1501, Runwal Heights, L.B.S. Marg, Mulund (West), Mumbai-400 080, do hereby state on solemn affirmation and declare that whatever is stated in the foregoing Paragraphs are true to my personal knowledge and belief, whereas, the legal submissions are made as per legal advice given and I believe the same to be true.

Solemnly affirmed at Mumbai on this \_\_\_\_\_ day of January, 2023.

---

**AYUSH R. TIWARI**  
**COMPLAINANT**

---

**ADV. ISHWARLAL S. AGARWAL**  
**M.PHIL. (LAW), LL.M. (CRIMINAL LAW), LL.M. (CONST. LAW),**  
**LL.M.(INTL. LAW),P.G.D.(I&C. LAW),P.G.D.(CONS. LAW),LL.B.(I.P.R. &**  
**L&M), LL.B-G. (C'LOGY), M.Sc. (FORENSIC Sc.), M.Sc. (FORENSIC PSY.),**  
**M.B.A. (H.R.), M.A. (M.C.J.), M.A. (PUB. ADMN.), M.A. (S'LOGY),**  
**M.A. (GAND. THGT.), M.A. (P&R), M.L.I.Sc., B.A., B.L.I.Sc.**  
**ADVOCATE SUPREME COURT**  
**(ADVOCATES FOR COMPLAINANT)**