

**IN THE COURT OF THE HON'BLE**  
**CIVIL JUDGE (SENIOR DIVISION), NAGPUR**

MISC. CRIMINAL APPLICATION No. ....../2024  
(ARISING OUT OF SPECIAL CIVIL SUIT NO. 417 of 2023)

**APPLICANT** : Shri. Prakash S/o Gopalrao Pohare  
Aged about 60 yrs, Occ. Editor in  
Chief, Dainik Deshonnati,  
R/o Nishant Tower, 3<sup>rd</sup> Floor, M.G.  
Road, Nagpur.

**VERSUS**

**NON-APPLICANTS :** 1) Serum Institute of India Pvt.  
**ACCUSED** Ltd.  
  
2) Shri Adar Poonawalla  
Aged about 42 yrs,  
Occ. CEO, Serum Institute of  
India.  
  
3) Shri Vivek Pradhan  
Aged about – Major, Occ.  
Service,  
(Authorised Signatory of Serum  
Institute of India  
Pvt. Ltd.)



Address of Non-applicants Nos.  
1 to 3 – 212/2, Soli Poonawalla  
Road, JJC Colony, Sutyalok  
Nagri, Hadapsar, Pune,  
Maharashtra-411028.

**APPLICATION UNDER SECTION 340 R/W 195 OF CR.P.C  
FOR DIRECTION TO INITIATE PROSECUTION UNDER  
SECTION 115, 191, 192, 193, 199, 200, 201, 420, 471, 474  
R/W 120 (B) & 34 ETC OF IPC AND SECTION 27 OF DRUGS  
AND COSMETIC ACT AND SECTION 4, 7, & 9 OF DRUGS  
AND MAGIC REMEDIES ACT AGAINST ALL THE  
DIRECTORS OF SERUM INSTITUTE INCLUDING SHRI  
ADAR POONAWALLA & SHRI CYRUS POONAWALLA FOR  
FILING FALSE AND MISLEADING AFFIDAVIT DATED  
29<sup>TH</sup> APRIL 2023 IN THE COURT**

The Plaintiff above named, humbly submits as under;

1. That, the present Application is filed for initiating action as per provisions of Section 340 of Cr.P.C. against the accused directors of Serum Institute for filing false & misleading affidavit on 29<sup>th</sup> April 2023.
2. That, the present application is sub – divided in to following parts for the sake of convenience.

Sr. No.	Particulars	Para No.	Page No.
1.	SYNOPSIS of facts and events in filing present application.	3	
2.	Summary of false and misleading affidavit and overruled pleas by the defendants with ulterior motives	4	





3.	Brief Facts and background of the Case	5	
4.	Duty of accused Serum Institute to tell side effects of covid vaccines to all the citizen before promoting their vaccines & failure to tell side effects attracts criminal and civil action in courts	6	
5.	Proofs and Government's admission that Covishield and other Covid vaccines are having death causing and other serious side effects	7	
6.	Proofs that around 21 (Twenty-One) European countries have banned the Covishield vaccines since March, 2021 due to death causing side effects.	8	
7.	Warnings given by different Governments and World Health Organisation about deadly side effects of Covishield vaccines.	9	
8.	Research and Judgment of Honourable Supreme Court of India and Honourable High Court proving	10	



	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.		
9.	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.	11	
10.	Summary of charges of serious criminal offences against humanity committed by Serum Institute	12	
11.	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	13	





	conspiracies are hatched in the secrecy.		
12.	Government of India's declaration on Affidavit that there is no protection granted to the vaccine manufacturing companies.	14	
13.	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.	15	
14.	As per section 52 of Indian Penal Code, 1860 the Accused have no defence of act done in good faith.	16	
15.	Under the circumstances 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,	17	



	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.	Summary of falsity in the affidavit dated 29.04.2023 given by the accused Serum Institute of India Pvt. Ltd.	18	
17.	False statement in para no. 2 of the affidavit	19	
18.	False & twisted Statement with dishonest concealment of fact in para no. 4 & 5 by the defendant with ulterior motive to misled this Hon'ble Court.	20	
19.	Legal position settled by Hon'ble Supreme Court & Hon'ble High Court that the evasive and vague denial or not disputing the facts by specific pleading is sufficient to prove malafides of accused serum institute.	21	





20	Overruled pleading is a gross contempt of court on the part of defendant and their advocates	22	
21.	The defendant also took an overruled plea that the plaintiff had not given details of the damages caused.	23	
22	Settled legal position proving overruled and misleading submissions of defendants	24	

### 3. **SYNOPSIS of facts and events in filing present application.**

3.1. That the accused company Serum Institute of India Pvt. Ltd. had tried their level best to hide, suppress & conceal the death causing side effects of their vaccine Covishield (Astrazeneca). They vaccinated people by misrepresentation and cheating. Many people died and many suffered and still suffering from serious side effects of vaccines manufactured by accused.

3.2. The enquiry conducted by Government of India's AEFI Committee and research across the world had proved the death causing & other serious side effects



of Covishield Vaccine manufactured by accused Serum Institute.

- 3.3. Therefore, in order to save the life of people, the members of Awaken India Movement (AIM) including plaintiff started awakening people by telling truth. This was done by them as per their duty under Article. 51 (A) of the Constitution of India as explained by Hon'ble Supreme Court & High Court in catena of decisions. [Indirect Tax Practitioners' Assn. v. R.K. Jain, (2010) 8 SCC 281, Aniruddha Bahal v. State, 2010 SCC OnLine Del 3365]
- 3.4. After knowing truth, around 70 crore Indians refused to take booster doses of covid vaccines. Many citizens started filing cases against accused Serum Institute seeking compensation and prosecution under murder and other penal charges. This caused annoyance & inconvenience to the accused Serum Institute.
- 3.5. The list of the cases filed against accused Serum Institute is given in **"Exhibit-A"**.
- 3.6. In order to settle that score and out of malice & ill will, the Serum Institute filed a false and misleading complaint on 01.10.2022 against members of AIM





and requested police for taking action against members of AIM.

- 3.7. Said complaint dated **01.10.2022** of Serum Institute was found to be false by the police and no action was taken by the police means it was closed.
- 3.8. The malafide intention of Serum Institute was to defame and harass the AIM members including plaintiffs, so that the members of AIM should deter from performing their duty towards humanity and the accused will be able to continue with their criminal activity.
- 3.9. Therefore, the plaintiff had filed the present suit for injuncting the defendant Serum Institute from making false claims and also for getting compensation from accused.
- 3.10. This Hon'ble Court issued summons/ show cause notice to accused on 12.04.2023.
- 3.11. The accused instead of coming with fair and true submissions, once again created false and fabricated documents and filed a false and misleading affidavit before this Hon'ble Court on **29<sup>th</sup> April 2023** and made blatant false, vague and evasive statements



that they (Serum Institute) deny all the above allegations.

3.12. Since the falsity of affidavit dated **29.04.2023** filed by Serum Institute through authorized representative Sh. Rajesh Bhagwat is ex-facie proved from the enquiry reports of Government of India's investigation committee (AEFI) and other research and also from the fact that the Covishield vaccine was banned in around 21 European Countries due to death causing side effects.

3.12. Hence the attempt by accused Serum Institute is not only to play fraud upon the court but to continue with their unlawful act of selling the said deadly vaccines by misrepresentation and cheating and earn money by making false claims and also to silence the voice of vigilant and honest citizen.

Therefore, the Plaintiff/Applicant is filing present Application for taking immediate and strict action to save humanity and administration of Justice.

4. **Summary of false and misleading affidavit and overruled pleas by the defendants with ulterior motives:**





24.1. The falsity and frivolousness of accused company in their overruled pleadings in affidavit dated 29.04.2023 is ex-facie clear from following table.

Sr. No	Statement made in Affidavit dated 29.04.2023	Record of the court proving falsity of affidavit filed by accuse company
1	<p>Para 5 of the Affidavit dated 29.04.2023, reads thus;</p> <p><i>“5. The said complaint failed by the Defendant No.1 is not made against the Plaintiff but against Mr. Ajinkya, Mr. Chetan, Mr. Hemant, Mr. Yusuf and Mr. Yohan Tengra, therefore, in the aforesaid circumstances, the Plaintiff has no locus and cause of action to file the present suit</i></p>	<p>1.1. The Subject of the complaint dated 1.10.2022 reads thus;</p> <p><i>“To register an offence against Group called ‘Awaken India Movement’ and its Team members for organizing an illegal march on 1<sup>st</sup> October 2022 towards Serum Institute to handover Hamdast to Adar Poonawala and to take precautionary measures.”</i></p> <p>1.2. Furthermore Hon’ble High Court had made it clear that when there is a defamation of organization</p>



	<p>against the Defendants.”</p>	<p>then any member of the organization can file the case <b><u>[Rahul Gandhi Vs Rajesh 2015 SCC OnLine Bom 522, Mathrubhoomi Illustrated Weekly Vs P. Gopalankutty &amp;Anr. (2022) SCC OnLine Ker 137]</u></b></p>
2	<p>Para 2, of the Affidavit dated 29.04.2023, reads thus;</p> <p><i>“2. At the outset, I deny all and any singular statement, averment; allegation and contention against Defendant No.1 contained in the said Complaint save and except those which have been specifically admitted herein. I say that nothing contained in the said Complaint is or should be</i></p>	<p>2.1. Here accused company denied all the Government records and other proofs of sterling natures. Such denial itself is an offence under section. 209 of IPC.</p> <p>In <b><u>H.S. Bedi Vs. National Highway Authority of India 2016 SCC OnLine Del 432</u></b> it is ruled that;</p> <p><i>“15.5. The word ‘claim’ for the purposes of Section 209 of the Penal Code would also include the defence adopted by a defendant in the suit.</i></p>





	<p><i>deemed to have been admitted by Defendant No.1, for want of specific denials or otherwise.”</i></p>	<p><i>The reason for criminalising false claims and defences is that the plaintiff as well as the defendant can abuse the process of law by deliberate falsehoods, thereby perverting the course of justice and undermining the authority of the law.”</i></p>
3	<p>Para 4. [...] The Plaintiff has failed to highlight in the plaint the purported specific words/sentences/ paragraphs of the said complaint which according to him are defamatory per se.</p>	<p>3.1. The falsity of this statement is ex-facie clear from para 19 of the Plaint where the entire complaint dated 1.10.2022 is reproduced and in further paras the proofs were given to show that the entire complaint is false and defamatory. The para 20 &amp; 21 of plaint reads thus;</p> <p><i>“20. That, all the above allegations made by the defendants Nos. 1 to 3</i></p>





		<p>against members of AIM are <i>ex-facie</i> false and defamatory and deliberately made with an ulterior motive to defame AIM and ultimately to defame the plaintiff also in the eyes of public and government officials.</p> <p><b>21.</b> It is a matter of record that after enquiry by the police, they did not accept the abovesaid version in the letter dated 1.10.2022 and no action was initiated against the plaintiff and the members of AIM as the allegations made by the defendants Nos. 1 to 3 were found extremely false and bogus.”</p> <p>3.2. Furthermore law is very well settled that when words are itself defamatory and</p>
--	--	--



		<p>said words are reproduced then there is no need to give further details as to what is meaning of those defamatory allegations. <b>[Essel Infraprojects Ltd Vs Devendra Prakash Mishra MANU/MH/2159/2014]</b></p>
4	<p>4. [...] Further, the lodging of police complaint with police authorities could not be considered to be a publication of alleged defamatory statement.</p>	<p>4.1. This is a clear case of false dishonest and misleading pleadings.</p> <p>(a) The suit is not only based on the complaint given to police but also for the publication of same allegations everywhere and repeating said defamatory allegations even if said allegations are false and police have rejected their prayer.</p> <p>Para 33 of the Suit reads thus;</p> <p><b><i>“33. That, despite the exposure of the falsity of</i></b></p>



	<p><i>the defendants Nos. 1 to 3 before the police, the defendants Nos. 1 to 3 repeated the said allegations many a times using the said letter dated 1.10.2022 everywhere including the court proceedings.”</i></p> <p>4.2.Law is also settled that filing of case also amounts to publication and defamation action is maintainable for such publication.</p> <p><b><u>[Prabhakaran Vs Gangadharan 2006 SCC OnLine Ker 302; Joy Anto Vs C. R. Jaison MANU/KE/0632/2021; M. N. Damani Vs S.K. Sinha &amp; Ors. (2001) 5 SCC 156; Rosario Colaco Vs Amelia Mariquinha Zuzarte &amp; Anr 2009 SCC OnLine Bom 110; Sopullo Datta Naik Vs Yashwant</u></b></p>
--	---





		<p><b><u>2009 SCC OnLine Bom 1400]</u></b></p> <p>4.3. The accused company deliberately suppressed the very fact that their complaint was rejected by the police.</p> <p>4.4. Even otherwise law is very well settled that when any person acts with malice and ill will then they cannot claim any privilege and action under defamation cannot be challenged on this ground. <b><u>[Ram Jethmalani Vs Subramanian Swamy, 2006, SCC OnLine Del 14].</u></b></p>
5	<p>Para 4, (...) Plaintiff have not produced letter of authorization from AIM (NGO)</p>	<p>5.1. The suit is filed in the individual capacity. The prayer clause (iii) is sufficient to dislodge the point of defendant. The Prayer clause (iii) of plaint reads thus;</p> <p><i>“(iii)pass a decree and thereby direct the</i></p>



		<p><i>defendants Nos. 1 to 3 to pay sum of Rs. 10,000 Crores to the plaintiff in the form of damages and compensation as quantified in the instant suit and also direct the defendants Nos. 1 to 3 to pay the plaintiff cost of instant litigation;”</i></p> <p>Furthermore the authority of AIM if required can be filed subsequently and this cannot be a ground for objecting the suit.</p> <p>5.2. In <b><u>M.M.T.C. Ltd. v. Medchl Chemicals and Pharma (P) Ltd., (2002) 1 SCC 234</u></b> Hon’ble Supreme Court ruled as under;</p> <p>“12[...] It has been held that it is open to the de jure complainant company to seek permission of the court for sending any other</p>
--	--	---



		<p>person to represent the company in the court. <u>Thus, even presuming, that initially there was no authority, still the company can, at any stage, rectify that defect.</u> At a subsequent stage the company can send a person who is competent to represent the company. The complaints could thus not have been quashed on this ground.”</p>
--	--	--

24.2 Hence it is ex-facie clear that in the affidavit dated 29.04.2023 filed on behalf of accused company Serum Institute of India Pvt. Ltd denied the sound proofs of Government of India’s investigation reports and other evidences of sterling nature and therefore the company is guilty of perjury and the deponent Rajesh Bhagwat alongwith all directors of Serum Institute are liable for prosecution as per Section 340 of Criminal Procedure Code for offences punishable





under Section 191, 192, 193, 199, 200, 201, 209, 471, 474, r/w 120 (B) and 34 of the IPC.

- 24.3. Law is very well settled in this regard, that false reply or denial by defendant also comes under the provisions of Section 209 etc., of Indian Penal Code, 1860. **[H.S. Bedi Vs. National Highway Authority of India 2016 SCC OnLine Del 432]**
- 24.4. Since the affidavit is filed on behalf of company therefore every director and responsible officers, employees etc. of accused company are liable for action under perjury. **[Godrej & Boyce Manufacturing Co. Pvt. Ltd. v. Union of India, 1991 SCC OnLine Bom 496]**
- 24.5. Law is also settled that the vague and evasive denial by defendants is not permissible and in fact it proves the adverse allegations to be true and admitted. It should be used against the defendant. **[Gian Chand Vs Ratan Lala 2013 SCC OnLine SC 31, Vivek Sharma Vs Cargill MANU/DE/4559/2018, Manohar Lal Sharma Vs Union of India and Ors. (2021) SCC OnLine SC 985, MHADA & Ors. Vs Mahesh Jaggumal Sacchani & Ors.]**



**(2007) 5 Mh.L.J. 297, Express Newspaper Vs UOI (1986) 1 SCC 133]**

24.6. It is also clear that the affidavit dated 29.04.2023 filed by accused company is drafted by dishonestly concealing and suppressing the material facts and false and misleading statements are made by twisting and moulding the facts on record. Law is very well settled by the Supreme Court and High Court that suppression, jugglery of words, maneuverings and misrepresentation are punishable under perjury and contempt. The court is duty bound to take actions against the accused company. Suppression itself amounts to fraud upon the court. **[ABCD Vs. Union of India (2020) 2 SCC 52; In Re: Perry Kansagra, 2022 SCC OnLine SC 858; Samson Arthur v. Quinn Logistic India Pvt. Ltd., 2015 SCC OnLine Hyd 403; Arun B. Mishra v. Nilesh Shah, 2020 SCC OnLine Bom 11703].**

24.7. The Hon'ble Supreme Court had made it clear that such frivolous litigants who makes false & misleading statement should be saddled with heavy cost. The amount of cost should be in proportion with the amount of stakes involved in the dispute.





In Dr. Sarvapalli Radhakrishnan vs Union of India (2019) 14 SCC 761 Hon'ble Supreme Court had ordered prosecution under perjury and saddled a cost of Rs. 5 Crores.

Following are other binding precedents:-

- (i) Sciemed Overseas Inc. Vs. BOC India Limited and Ors. (2016) 3 SCC 70,
- (ii) Badhuvan Kunhi Vs. K.M. Abdulla 2016 SCC OnLine Ker 2360,
- (iii) New Delhi Municipal Council v. Prominent Hotels Limited, 2015 SCC OnLine Del 11910

24.8. Law is also settled that the person like defendant and their advocates who took false, frivolous and overruled pleas are also liable for prosecution under perjury and contempt. Advocates will also be guilty of gross professional misconduct for relying on overruled pleadings/ citations and suppressing binding precedents and relevant documents. [State of Orissa v. Nalinikanta Muduli, (2004) 7 SCC 19, Sajid Khan Moyal v. State of Rajasthan, 2014 SCC OnLine Raj 1450, Heena Nikhil Dharia v. Kokilaben Kirtikumar Nayak, 2016 SCC OnLine Bom 9859, E. S. Reddy vs. Chief





**Secretary of A.P. (1987) 3 SCC 258, Hindustan Organic Chemicals Ltd. v. ICI India Ltd., 2017 SCC OnLine Bom 74, Kusum Kumaria Vs. Pharma Venture (India) Pvt. Ltd. 2015 SCC OnLine Del 13042]**

24.9. Hence the application under order 7 Rule 11 filed by defendant accused company Serum Institute is liable to be dismissed with heavy cost Rs.50 Crores under Section 342 of the Criminal Procedure Code and appropriate prosecution under perjury and contempt should be ordered against all the directors of accused company.

24.10. The reply affidavit of accused company denies all the allegations which includes the death causing side effects of their Covishield vaccine meaning thereby that their vaccines are safe and this false claim of safety in their affidavit also attract the offences under Section 115, 120 (B), 34 etc. of Indian Penal Code and Section 4, 7 and 9 of Drugs and Magic Remedies Act.

Therefore, in view of specific law laid down by Hon'ble Supreme Court in **M/s. Bandekar Brothers Pvt. Ltd Vs Prasad Vassudev Keni 2020 Cri.L.J.4515** this Hon'ble Court is duty



bound to order prosecution under all other penal provisions also.

5. **Brief Facts and background of the Case: -**

- 5.1. That the defendant company, Serum Institute of India is in the business of manufacturing of various vaccines.
- 5.2. That during the recent pandemic caused by COVID-19 Corona virus, the Defendant company had manufactured a vaccine going by the name of 'Covishield' in India.
- 5.3. That the company "Serum Institute of India Pvt. Ltd." since the beginning were running false narrative, that their Covishield vaccines are completely safe.
- 5.4. That on 3<sup>rd</sup> Jan 2021 the Accused Adar Poonawalla made CEO of Serum Institute 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>

- 5.5. That on very same day i.e. on 3<sup>rd</sup> Jan 2021 accused 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>

- 5.6. That with few days i.e. since March 2021 European countries banned Covishield (Astrazeneca) vaccine due to death causing side effects such as blood clotting. Total 21 countries banned said vaccine.

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

- 5.7. But Accused Adar Poonawalla & Cyrus Poonawalla never came forward with any interview, press release or tweet informing public at large about such death causing side effects.





5.8. The 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 "Serum Institute of India Pvt. Ltd." keep on promoting said product by concealing/suppressing/hiding its death causing side effects.

5.9. The active role played by Accused 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-](https://economictimes.indiatimes.com/news/india/third-dose-of-covid-vaccine-a-must-after-6-months-especially-for-those-with-weak-immunity-cyrus-poonawalla/articleshow/85484511.cms?from=prx_ctx)



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>

- (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>

6. **Duty of accused Serum Institute to tell side effects of covid vaccines to all the citizen before promoting their vaccines & failure to tell side effects attracts criminal and civil action in courts: -**

- 6.1. 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>

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>

- 6.2. 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.”*

- 6.3. 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. Dollors 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.

- 6.4. **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**

NOT  
RECEIVED  
U.S. DEPT. OF JUSTICE

**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."*

6.5. 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.

6.6. 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.**

6.7. 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** and Nine Judge Bench of the Supreme Court of India in **K. S. Puttaswamy V/S Union of India, (2017) 10 SCC 1**, had ruled that as per Human Rights Protection Act, 1993, Indian Citizen are entitled for all protections available under international covenants.

6.8. 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."

6.9. 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.

6.10. That, it is proved that the claims of accused defendant Serum Institute of India were false and misleading. The research had proven that the Covishield (Astrazenecca) is having various side-effects including death.



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: -

<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. That Division Bench of Hon'ble High Court had issued notices to accused Serum Institute on the claim of Shri Dilip Lunawat that a compensation of Rs. 1000 Crores should be paid for death of her daughter due to side effects of covishield vaccines. [Writ Petition (C) No. 5767 of 2022]

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/>**

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>**

7.6. That data and research had shown that every dose of vaccine increases chances of death. Means if you take



second dose then chances of death are increased and if you take booster dose then it again increases the death risk.

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

- 7.7. 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>**

- 7.8. That there is a tremendous increase of deaths amongst young vaccinated people due to heart attacks. Said heart attack is also called as myocarditis. 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/>**





- 7.9. 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/drseemmalhotra/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 (type of heart attack). 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. **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.**

10.1. 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 Puliye V/S Union of India, 2022**  
**SCC OnLine SC 533.**

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



10.2. 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 unvaccinated 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.”*

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

11. **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.**

11.1. That the Accused Shri Adar Poonawalla is CEO of Serum Institute of India Pvt. Ltd., which is manufacturer of Covishield vaccine.

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

11.1.2 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.

11.1.3 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.





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

11.1.5 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.

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

11.2. The active role played by another Accused 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.

- 11.3. 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)

- 11.4. 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.]”*

- 11.5. That Section 27 of Drugs & Cosmetic Act 1940, reads thus;

**“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."*

**12. Summary of charges of serious criminal offences against humanity committed by Serum Institute: -**

12.1. 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.

12.2. 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.

- 12.3. But, the abovementioned rules and guidelines were not followed while administering the Covishield vaccine to the citizen.
- 12.4. On the contrary, the Accused ran the false narrative that the COVID-19 Vaccines are completely safe.
- 12.5. The above-mentioned public documents have ex-facie proved that the Accused have conspired with each other, with a common intention of vaccinating the citizens, 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.
- 12.6. 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.

12.7. More surprising and shocking part of entire conspiracy is the callous criminal attitude of Accused 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, 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.

12.8. Hence, the accused are guilty of offences of many murders and also the life of many citizen is put in danger by the Accused persons and therefore, they are liable to be punished severely and are also liable to pay the compensation to everyone.

12.9. From the proofs available on record 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.**

12.10. 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 were involved in the conspiracy to ensure 100% vaccination. Thus, it is a sufficient proof of bigger conspiracy and involvement of some officials up to highest level.

(vii) The conspiracy and nexus of officials of Indian Council of Medical Research (ICMR), DCGI and vaccine

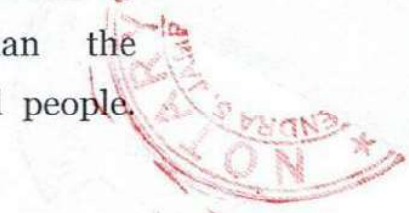


mafia is exposed by the Government of India in a Parliamentary Committee in its 72<sup>nd</sup> report. [Exhibit \_\_\_\_]

12.11. 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.

12.12. The plan to vaccinate 100% of the population is also 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. This concern was raised by many epidemiologists.

12.13. 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>**

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

12.15. 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.

**13. 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.**

13.1. 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.”*

**13.2.** 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."





### 13.2. 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.*



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

14.1. That, the Central Government, in its Affidavit dated **28/11/2021** submitted before the Honourable Supreme Court of India in the case of **Jacob Puliye 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."*

15. **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.**

15.1. 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 **malfeasance** 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, **malfesance** or misfeasance. Such claims may be determined on a case-to-case basis in an appropriate forum."*

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

16.1. 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."*



17. Under the circumstances 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.
18. Summary of falsity in the affidavit dated 29.04.2023 given by the accused Serum Institute of India Pvt. Ltd. Is given in detail in following paras.
19. **False statement in para no. 2 of the affidavit:**
- 19.1. That in the Paragraph No. 2 affidavit dated 29.04.2023, the Defendant No. 1 Serum Institute of India made a positive statement that they are denying all the allegations in the plaint.
- The said paragraph reads thus;

*"2. At the outset, I deny all and any singular statement, averment;*





*allegation and contention against Defendant No. 1 contained in the said Plaintiff save and except those which have been specifically admitted herein. I say that nothing contained in the said Plaintiff is or should be deemed to have been admitted by Defendant No. 1, for want of specific denials or otherwise."*

19.2. That the clear meaning of the abovesaid statement is that the Defendant Serum Institute of India is denying all the adverse allegations against them such as the enquiry reports made by the Government of India's AEFI Committee that the vaccines are causing deaths, the order passed by Division Bench of Hon'ble Bombay High Court in the case of death of Dr. Snehal Lunawat where notice is issued by Hon'ble High Court to the defendant etc.

19.3. This is a clear case of making false, frivolous and bogus clamis on affidavit by the defendant Serum Institute.

19.4. That, Hon'ble High Court settled the law in this regard in the case of **H.S. Bedi Vs. National**



**Highway Authority of India 2016 SCC OnLine**

**Del 432.**It is ruled as under;

*“15.5. The word ‘claim’ for the purposes of Section 209 of the Penal Code would also include the defence adopted by a defendant in the suit. The reason for criminalising false claims and defences is that the plaintiff as well as the defendant can abuse the process of law by deliberate falsehoods, thereby perverting the course of justice and undermining the authority of the law.*

*15.1. Section 209 of the Indian Penal Code makes dishonestly making a false claim in a Court as an offence punishable with imprisonment upto two years and fine.*

*15.2. The essential ingredients of an offence under Section 209 are : (i) The accused made a claim; (ii) The claim was made in a Court of Justice; (iii) The claim was false, either wholly or in part; (iv) That the accused knew that the claim was false; and (v) The claim was made fraudulently, dishonestly, or with intent to injure or to annoy any person.*

*15.12. Whether the litigant's ‘claim’ is false, is not considered merely from whatever he pleads (or omits to plead) : that would be to*





*elevate form over substance. To make out the offence, the Court does not merely inspect how a litigant's pleadings have been drafted or the case has been presented. The real issue to be considered is whether, all said and done, the litigant's action has a proper foundation which entitles him to seek judicial relief.*

**15.15.** *Section 209 was enacted to preserve the sanctity of the Court of Justice and to safeguard the due administration of law by deterring the deliberate making of false claims. Section 209 was intended to deter the abuse of Court process by all litigants who make false claims fraudulently, dishonestly, or with intent to injure or annoy.*

**15.16.** *False claims delay justice and compromise the sanctity of a Court of justice as an incorruptible administrator of truth and a bastion of rectitude.*

**15.17.** *False claims cause direct injury to honest litigants. But this injury appears to us to be only part, and perhaps not the greatest part, of the evil engendered by the practice. If there be any place where truth ought to be held in peculiar honor, from which falsehood ought to be driven with peculiar severity, in*





*which exaggerations, which elsewhere would be applauded as the innocent sport of the fancy, or pardoned as the natural effect of excited passion, ought to be discouraged, that place is Court of Justice.*

**15.21.** *Filing of false claims in Courts aims at striking a blow at the rule of law and no Court can ignore such conduct which has the tendency to shake public confidence in the judicial institutions because the very structure of an ordered life is put at stake. It would be a great public disaster if the fountain of justice is allowed to be poisoned by anyone resorting to filing of false claims.*

**15.22.** *The Courts of law are meant for imparting justice between the parties. One who comes to the Court, must come with clean hands. More often than not, process of the Court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the Court-process a convenient lever to retain the illegal gains indefinitely. A person, who's case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation.*



**15.23.** *The disastrous result of leniency or indulgence in invoking Section 209 is that it sends out wrong signals. It creates almost a licence for litigants and their lawyers to indulge in such serious malpractices because of the confidence that no action will result.*

**15.24.** *Unless lawlessness which is all pervasive in the society is not put an end with an iron hand, the very existence of a civilized society is at peril if the people of this nature are not shown their place. Further if the litigants making false claims are allowed to go scot free, every law breaker would violate the law with immunity. Hence, deterrent action is required to uphold the majesty of law. The Court would be failing in its duties, if false claims are not dealt with in a manner proper and effective for maintenance of majesty of Courts as otherwise the Courts would lose its efficacy to the litigant public.*

**15.25.** *Truth is foundation of Justice. Dispensation of justice, based on truth, is an essential and inevitable feature in the justice delivery system. Justice is truth in action.*

**15.26.** *It is the duty of the Judge to discover truth to do complete justice. The entire judicial*





*system has been created only to discern and find out the real truth.*

**15.28.** *Every trial is a voyage of discovery in which truth is the quest. Truth should be reigning objective of every trial. The Judge has to play an active role to discover the truth and he should explore all avenues open to him in order to discover the truth.*

**15.30.** *Section 165 of the Indian Evidence Act, 1872 invests the Judge with plenary powers to put any question to any witness or party; in any form, at any time, about any fact relevant or irrelevant. Section 165 is intended to arm the Judge with the most extensive power possible for the purpose of getting at the truth. The effect of this Section is that in order to get to the bottom of the matter before it, the Court will be able to look at and inquire into every fact and thus possibly acquire valuable indicative evidence which may lead to other evidence strictly relevant and admissible. The Court is not, however, permitted to found its judgment on any but relevant statements.*

**15.31.** *The Judge contemplated by Section 165 is not a mere umpire at a wit-combat between the lawyers for the parties whose only duty is*





*to enforce the rules of the game and declare at the end of the combat who has won and who has lost. He is expected, and indeed it is his duty, to explore all avenues open to him in order to discover the truth and to that end, question witnesses on points which the lawyers for the parties have either overlooked or left obscure or wilfully avoided. A Judge, who at the trial merely sits and records evidence without caring so to conduct the examination of the witnesses that every point is brought out, is not fulfilling his duty.*

**15.32.** *The Trial Judge is the key-man in the judicial system and he is in a unique position to strongly impact the quality of a trial to affect system's capacity to produce and assimilate truth. The Trial Judge should explore all avenues open to him in order to discover the truth. Trial Judge has the advantage of looking at the demeanour of the witnesses. In spite of the right of appeal, there are many cases in which appeals are not filed. It is mostly with the Trial Judge rather than with the appellate Judge that the members of the general public come in contact, whether as parties or as witnesses."*



**20. False & twisted Statement with dishonest concealment of fact in para no. 4 & 5 by the defendant with ulterior motive to misled this Hon'ble Court.**

20.1. That the defendant in his application under O.7. R.11 had falsely mentioned in para 4 that;

- (i) The cause of action for filling suit for damages is only the police complaint lodged by the defendant on 1<sup>st</sup> October, 2022.
- (ii) The Plaintiff has failed to highlight in the plaint the purported specific words/ sentences/ paragraphs of the said complaint which are defamatory.
- (iii) The said complaint dated 1<sup>st</sup> October, 2022 was not made against the plaintiff. Since the complaint does not concern with the plaintiff therefore there is no cause of action for the plaintiff to file the present suit.
- (iv) The plaintiff had not produced any authorization letter of NGO AIM to file the present Suit.



(v) Therefore defendant requested for dismissal of Suit.

(vi) Complaint to police does not amount to publication and only on the basis of complaint to the police.

20.2. The falsity, dishonesty, sophistry and strawman fallacy of the defendant Serum Institute is ex-facie clear from the records of the case itself.

20.3. That important & relevant paras of the plaint reads thus;

*“32. That, during the enquiry by police of the said complaints made by the defendants Nos. 1 to 3 in the light of records and documents available with them, the police did not find any substance in the allegations made by the defendants Nos. 1 to 3. The police therefore did not arrest the plaintiff and other activists of AIM. The plan made by the defendants Nos. 1 to 3 to get the plaintiff arrested got failed as the said complaint found to be malafide and bogus. This proved the malicious and malafide conduct of defendants Nos. 1 to 3. The*





defendants Nos. 1 to 3 for the said acts are liable to be prosecuted and punished under Section 109, 220, 211, 499, 500, 471, 474, 469, 120(B) and 34 etc. of I.P.C.

**33.** That, despite the exposure of the falcity of the defendants Nos. 1 to 3 before the police, the defendants Nos. 1 to 3 repeated the said allegations many a times using the said letter dated 1.10.2022 everywhere including the court proceedings.

**35.** It is of relevance to mention here that many people are continuously asking the plaintiff and the plaintiff has to answer everyone about the false complaint made to the police by the defendants Nos. 1 to 3 against the said NGO Awaken India Movement.

**38.** At the cost of repetition it is submitted that the abovesaid defamatory, scandalous, false, frivolous, reckless statement made by the defendants Nos. 1 to 3 and the news items circulated and read by public at large have lowered the very reputation, dignity of the plaintiff and the AIM in the eyes of the public. The names of the witnesses are as under: (1) Adv. S.R. Narnaware, (2) Shri Ravindra Bhuyar and (3) Shri Purushottam Thakre etc.



**19.** That, in the said letter dated 1.10.2022 the defendant No. 3 on behalf of the defendants Nos. 1 & 2 had made false and highly defamatory allegations against NGO AIM of which the plaintiff is a member. The said letter dated 1.10.2022 reads thus :

"1. A group namely Awaken India Movement (hereinafter referred to as the 'said Group') has organized a march from Kanyadan Mangal Karyalaya Hall, Hadapsar to Serum Institute. Hadapsar on 1 Oct. 2022 to handover Hamdast to Adar Poonawala issued by Hon'ble Bombay High Court. The said Group has sent WahtsApp messages as well as made tweets on Twitter making an appeal to large number of people to join the march to give Hamdast to Adar Poonawala

2. The said Group has organized buses from Kolambali, Mumbai to Kanyadaan Mangal Karyala Hall, Hadapsar and thereafter they are planning to march towards Serum Institute. The WhatsApp messages contain the name and mobile numbers of following members for assistance for bus booking –

1. Ajinkya, Mobile Number 9321234861, 2. Chetan, Mobile Number 8879592924, 3.





Hemant, Mobile Number 8830398392, 4. Yusuf, Mobile Number 9321232620, Pune  
Contacts : 1. Suyash, Mobile Number 9923454589, 2. Aditya, Mobile Number 9922919377.

3. The said march is completely illegal and unauthorized and completely frustrates the purpose of serving Hamdast issued by the Hon'ble Bombay High Court. The said march is planned with an intention and motive to create a law and order situation at the venue i.e. Serum Institute of India, Hadapsar Pune. The said march is organized with an intention and motive to cause unlawful restraint to the directors and the employees of the Serum Institute of India. Through Whatsapp messages the said group is instigating and promoting enmity against Serum Institute of India by sending false and defamatory messages. There is a possibility that the people involved in the said march may damage and destroy the property of Serum Institute of India. A law and order situation will be created if the said march is allowed to be held on 1.10.2022. The said march will also cause inconvenience, nuisance and annoyance to





*people staying in and around that area. This is nothing but a planned and organized act done with an intention and oblique motive to damage the image of Serum Institute of India and its directors worldwide.*

*5. On behalf of Serum Institute of India, I Vivek Pradhan, Authorised Signatory, hereby request you to take all precautionary measures by issuing notices u/S. 149 of Cr.P.C. to Ajinkya, Mobile Number 9321234861, Chetan, Mobile Number 8879592924, Hemant, Mobile Number 8830398392, Yusuf, Mobile Number 9321232620 as well as Mr. Yohan Tengra, Mobile Number 8097333845 or arrest them u/S. 151 of Cr.P.C. to prevent them from committing cognizable offence u/S. 143 Punishment for unlawful assembly, 147 – Punishment for rioting, 149-Offence committed with Common Object, 341- Punishment for Wrongful Restraint, 425- Mischief, 426-Punishment for Mischief, 441- Criminal Trespass, 447-Punishment for Criminal Trespass, 499-Defamation, 500- Punishment for Defamation, 506-Punishment for Criminal Intimidation of Indian Penal Code for organizing the march as well as*

*NOT  
A  
T  
I  
O  
N*

*sending false and defamatory messages. Hence, thereby request you to take all the precautionary measures and provide adequate security to Serum Institute of India and register offence against the abovementioned persons as per the provisions of law in order to avoid outbreak of law and order situation or any unwanted situation.”*

**20.** *That, all the above allegations made by the defendants Nos. 1 to 3 against members of AIM are ex-facie false and defamatory and deliberately made with an ulterior motive to defame AIM and ultimately to defame the plaintiff also in the eyes of public and government officials.*

**21.** *It is a matter of record that after enquiry by the police, they did not accept the abovesaid version in the letter dated 1.10.2022 and no action was initiated against the plaintiff and the members of AIM as the allegations made by the defendants Nos. 1 to 3 were found extremely false and bogus.*

**22.** *That, when various victims and activist citizens went to Pune for serving the High Court’s ‘Hamdast’ that time they had followed all the legal procedure and had made*





*application to the police seeking their permission.*

**24.** *That, the record shows that all the member of Awaken India Movement are law abiding citizen and they have acted within the four corners of law. In fact they were performing their constitutional duty under Article 51(A) by informing the public at large that the covishield vaccine is having death causing and other serious side effects which may cause life time disabilities.”*

20.4. Furthermore, the subject of complaint dated 1.10.2022 is itself proof of falsity of accused.

The subject of the Complaint dated 1.10.2022 given by Serum Institute to Pune Police reads thus;

*“To register an offence against Group called ‘Awaken India Movement’ and its Team members for organizing an illegal march on 1<sup>st</sup> October 2022 towards Serum Institute to handover Hamdast to Adar Poonawala and to take precautionary measures.”*

20.5. This ex-facie proves that the complaint given by the Defendant to the Police was not only against the four persons named, but also against the group of Awaken India Movement (AIM).





20.6. The Plaintiff has made a specific averment in the Complaint that the Complaint dated 01.10.2022 given by the Defendant was found to be false, unsubstantiated, malafide and bogus and therefore, the police rejected the request of the Defendant.

These averments are not denied by the Defendant with a specific denial and except the vague denial, jugglery of words, maneuvering, twisting, concealing and suppression along with strawman drafting and dishonesty, the defendant is not able to produce any counter version that the police had not rejected their request.

Hence in the view of the law of Pleadings, the false, aversive and vague version of the Defendant is liable to be outrightly rejected.

20.7. That the Plaintiffs claim is not based only on the complaint to the Police but it is based on the specific pleading in Paragraph No. 33, 37, & 38 that, even after the Police found the complaint of the Defendant bogus, they kept on repeating the said allegations everywhere.



The defendant had given wide publicity to the said allegations. The defendant had also used said false

allegations in different court proceedings also and due to said different publications the image of plaintiff and also the NGO AIM has been lowered down. This ex-facie proves the malafides and dishonesty of the version put forth by the defendant.

20.8. That the presentsuit is filed by the plaintiff in his personal capacity for his defamation.

He had not sought compensation for NGO AIM. Hence, there is no requirement in law that the plaintiff has to produce the authority letter for his personal claims as a part of NGO. Furthermore, the law is very well settled that the authorization if any required can be filed even at subsequent stage and suit cannot be dismissed on this ground. But then also defendant had taken such a frivolous and overruled ground.

21. **Legal position settled by Hon'ble Supreme Court & Hon'ble High Court that the evasive and vague denial or not disputing the facts by specific pleading is sufficient to prove malafides of accused serum institute.**



21.1. Hon'ble Supreme Court in the case of **Gian Chand and Brothers and another vs Ratan Lal 2013 SCC OnLine SC 31**, has ruled as under;

*“23. The said aspect can be looked from another angle. Rules 3, 4 and 5 of Order 8 form an integral code dealing with the manner in which allegations of fact in the plaint should be traversed and the legal consequences flowing from its non-compliance. It is obligatory on the part of the defendant to specifically deal with each allegation in the plaint and when the defendant denies any such fact, he must not do so evasively but answer the point of substance. It is clearly postulated therein that it shall not be sufficient for a defendant to deny generally the grounds alleged by the plaintiffs but he must be specific with each allegation of fact (see Badat and Co. v. East India Trading Co. [AIR 1964 SC 538] ).*

*24. Rule 4 stipulates that a defendant must not evasively answer the point of substance. It is alleged that if he receives a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part*





thereof, or else set out how much he received, and that if an allegation is made with diverse circumstances, it shall not be sufficient to deny it along with those circumstances. Rule 5 deals with specific denial and clearly lays down that every allegation of fact in the plaint, **if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted against him.**

**25.** We have referred to the aforesaid Rules of pleading only to highlight that in the written statement, there was absolutely evasive denial. We are not proceeding to state whether there was admission or not, **but where there is total evasive denial and an attempt has been made to make out a case in adducing the evidence that he was not aware whether the signatures were taken or not, it is not permissible.**

In this context, we may profitably refer to a two-Judge Bench decision in *Sushil Kumar v. Rakesh Kumar* [(2003) 8 SCC 673] wherein, while dealing with the pleadings of election

case, this Court has held thus : (SCC p. 693, para 73)

*“73. In our opinion, the approach of the High Court was not correct. It failed to apply the legal principles as contained in Order 8 Rules 3 and 5 of the Code of Civil Procedure. The High Court had also not analysed the evidence adduced on behalf of the appellant in this behalf in detail but merely rejected the same summarily stating that vague statements had been made by some witnesses. Once it is held that the statements made in Para 18 of the election petition have not been specifically denied or disputed in the written statement, the allegations made therein would be deemed to have been admitted, and, thus, no evidence contrary thereto or inconsistent therewith could have been permitted to be laid.”*

*We may state with profit that in the said case, reliance was placed on Badat and Co. v. East India Trading Co. [AIR 1964 SC 538]*

**26.** *Scrutinised thus, the irresistible conclusion would be that the defendants could not have been permitted to lead any evidence when nothing was stated in the pleadings. The courts below had correctly rested the burden*





of proof on the defendant but the High Court, in an erroneous impression, has overturned the said finding.

**27[...]** That apart, it does not take him by any kind of surprise. In *Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar* [(2010) 1 SCC 217 : (2010) 1 SCC (Civ) 69] the High Court had non-suited the landlord on the ground that he had not pleaded that the business of the firm was conducted by its partners, but by two other persons and that the tenant had parted with the premises by sub-letting them to the said two persons under the garb of deed of partnership by constituting a bogus firm. This Court observed that there is substantial pleading to that effect. The true test, the two-Judge Bench observed, was whether the other side has been taken by surprise or prejudice has been caused to him. In all circumstances, it cannot be said that because of variance between pleading and proof, the rule of *secundum allegata et probata* would be strictly applicable. In the present case, we are inclined to hold that it cannot be said that the evidence is not in line with the pleading and in total variance with it or there is virtual



contradiction. Thus, the finding returned by the High Court on this score is unacceptable.”

21.2. In **Vivek Sharma vs. Cargill Global Trading India Pvt. Ltd and Ors (MANU/DE/4559/2018)**, it is ruled as under;

“17. This rule came to be interpreted very recently in *Jaspal Kaur Cheema v. Industrial Trade Links*, MANU/SC/0760/2017 : 2017 (8) SCC 592 and following its earlier judgments in *Badat and Co. v. East India Trading Co.*, MANU/SC/0011/1963 : AIR 1964 SC 538, *Sushil Kumar vs. Rakesh Kumar*, MANU/SC/0826/2003 : (2003) 8 SCC 673 and *M. Venkataramana Hebbar v. M. Rajagopal Hebbar*, MANU/SC/7278/2007 : 2007 (6) SCC 401, the Hon'ble Supreme Court held that 'In terms of Order 8 Rule 3 of the Code of Civil Procedure, 1908 (for short "the Code"), a defendant is required to deny or dispute the statements made in the plaint categorically, **as evasive denial would amount to an admission of the allegation made in the plaint in terms of Order 8 Rule 5 of the Code. In other words, the written statement must**



*specifically deal with each of the allegations of fact made in the plaint. The failure to make specific denial amounts to an admission.*

- 21.3. Three-Judge Bench of Hon'ble Supreme in a recent judgment in the Case of **Manohar Lal Sharna Vs. Union of India 2021 SCC OnLine SC 985**, has also ruled that omnibus and vague denial by state in reply affidavit is not sufficient. In such case Court will accept the contention of the petitioner. The opposite party is bound to place all the information before the court when the question is about violation of fundamental rights of the citizen. It is ruled as under;

*“53. In the present matter, as we have indicated above, the Petitioners have placed on record certain material that prima facie merits consideration by this Court. There has been no specific denial of any of the facts averred by the Petitioners by the Respondent-Union of India. There has only been an omnibus and vague denial in the “limited affidavit” filed by the Respondent-Union of India, which cannot be sufficient. In such*



circumstances, we have no option but to accept the *prima facie* case made out by the Petitioners to examine the allegations made.

**48.** Such a course of action taken by the Respondent-Union of India, especially in proceedings of the present nature which touches upon the fundamental rights of the citizens of the country, cannot be accepted. As held by this Court in *Ram Jethmalani v. Union of India*, (2011) 8 SCC 1, the Respondent-Union of India should not take an adversarial position when the fundamental rights of citizens are at threat. This Court in that case observed as follows:

**“75.** In order that the right guaranteed by clause (1) of Article 32 be meaningful, and particularly because such petitions seek the protection of fundamental rights, it is imperative that in such proceedings the petitioners are not denied the information necessary for them to properly articulate the case and be heard, especially where such information is in the possession of the State. To deny access to such information, without citing any constitutional principle or enumerated grounds of constitutional





prohibition, would be to thwart the right granted by clause (1) of Article 32.

**76.** Further, inasmuch as, by history and tradition of common law, judicial proceedings are substantively, though not necessarily fully, adversarial, **both parties bear the responsibility of placing all the relevant information, analyses, and facts before this Court as completely as possible.**

21.4. In **Maharashtra Housing & Area Development Authority Vs. Mahesh Jaggumal Sacchani (2007) 5 Mh.L.J. 297**, where it is ruled as under;

**“22.** The Supreme Court has also observed in respect of un rebutted pleadings in the case of Smt. Naseem Bano v. State of U.P., reported in 1993 Supp (4) SCC 46 : AIR 1993 SC 2592 in paragraph No. 11 as follows:

**“Since no dispute was raised on behalf of respondents 1 to 4 in their reply to the averments made by appellant in writ petition that 40% of total number of posts had not been filled by promotion inasmuch as the said averments had not been controverted the High Court should have proceeded on the basis that**



*the said averments had been admitted by the respondents."*

**21.** *The pronouncement made by the Apex Court in respect of un rebutted pleadings in the case reported in AIR 1964 SC 962 is reproduced below:*

*"The next question is as regards the inference to be drawn from these facts which in the absence of their denial have to be taken as true. It is here that we have felt the greatest uneasiness, because if the facts which serves as the foundation for the plea of mala fides are made out, the only question would be whether the inference of mala fides on the part of the Chief Minister would be a reasonable one to draw. It is at this point that we are faced with necessity of having to proceed without there being any effective answer to the propriety of drawing the inference which the appellants desire. There has been no denial by the Chief Minister nor an affidavit by any person who claims or can claim to know personally about the truth about the allegations. The Secretary to the Home Department-one Mr. S.A. Iyengar has filed a counter-affidavit in which the*





*allegations we have set out earlier have been formally denied. He says,*

*“I have been expressly instructed and authorised by the Hon'ble the Chief Minister to state that the allegations suggesting personal animus and giving mandate are false and mischievous and have been deliberately made to create an atmosphere of sympathy.”*

*The learned Advocate General did not suggest that the Court could act upon this secondhand denial by the Chief Minister, as the statement by Shri S.A. Iyengar is merely heresay. We are, therefore, constrained to hold that the allegations that the Chief Minister was motivated by bias and personal ill-will against the appellants, stand un rebutted.”*

21.5. In **Express Newspapers (P) Ltd. v. Union of India, (1986) 1 SCC 133**, it is ruled as under;

**“116.** *It is somewhat strange that although definite allegations of mala fides on the part of the respondents particularly the Government for the day at the Centre were made with sufficient particulars and though the respondents had ample time to file their affidavits in reply, none of the respondents*

NOT A



except respondent No. 2, the Lt. Governor of Delhi and respondent No. 5. Land and Development Officer have chosen to deny the allegations. The counter- affidavit of respondent No. 2 purporting to be on behalf of all the respondents is that the allegations made by the petitioners in paras 11, 12, 13 are not 'relevant' to the matter in issue. In *C. S. Rowjee v. A. P. State Road Transport Corporation*. (1964) 6 SCR 330 (AIR 1964 SC 962) the Court in a matter arising out of the Motor Vehicles Act, 1939 where certain allegations against the Minister went uncontrovered, had occasion to administer a word of caution. Where mala fides are alleged, it is necessary that the person against whom such allegations are made should come forward with an answer refuting or denying such allegations. For otherwise such allegations remain unrebutted and the Court would in such a case be constrained to accept the allegations so remaining unrebutted and unanswered on the test of probability. That precisely is the position in the present case, in the absence of any counter-affidavit by any of the respondents."



21.6. In Essel Infraprojects Limited vs. Devendra Prakash Mishra MANU/MH/2159/2014, it is ruled as under;

*“38. In Halsbury's Laws of England, emphasis is laid that in an action for defamation, the actual words complained of and not merely their substance, must be set out verbatim in the statement of claim. Where the plaintiffs complain of a book or a long article, he must specify the passages which he alleges to be defamatory rather than merely pleading the whole book or article. Calcutta High Court in the case of W. Hay and Ors. (supra) has held that in a libel action, the defamatory words must be set out in the plaint. **Where the words are per se or prima facie defamatory, only the words need to be set out.** Where, however, the defamatory sense was not apparent on the face of the words, the defamatory meaning, or the "innuendo" must also be set out in clear and specific terms.”*



22. Overruled pleading is a gross contempt of court on the part of defendant and their advocates:

22.1. In Prominent Hotels Case 2015 SCC OnLine Del 11910, it is ruled as under;

*“30.26[...] It cannot be gainsaid that the judgments mentioned below are binding on the Licensee who could not have bypassed or disregarded them except at the peril of contempt of this Court. This cannot be said to be a mere lapse.”*

22.2. That, in Kusum Kumaria Vs. Pharma Venture (India) Pvt. Ltd. 2015 SCC OnLine Del 13042 it is ruled as under;

*A) Pressing pleas contrary to settled legal positions tantamount to the grossest abuse of the judicial process.*

*242. Filing of frivolous application, adopting dilatory tactics by taking adjournments time and again, pleading contradictory stands before this court, non-payment of costs imposed and pressing pleas contrary to settled*





legal positions tantamount to the grossest abuse of the judicial process. More so, the entirety of this litigation is misconceived and without any merit. It has had the effect of entangling valuable rights of the defendants in this legal tussle.

New creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

22.3. In Priya Gupta Vs. Additional Secretary (2013) 11 SCC 404, it is ruled as under;

"21[...] the law declared by this Court is deemed to be known to all



concerned. The violation of general directions issued by this Court would attract the rigours of the provisions of the Act.

**22[...]** One should ensure respect for law as its breach will demolish public faith in accepted constitutional institutions and weaken the peoples' confidence in the rule of law. It will destroy respect for the rule of law and the authority of Courts and will thus seek to place individual authority and strength of principles above the wisdom of law.

**23.** The provisions of the Act do not admit any discretion for the initiation of proceedings under the Act with reference to an order being of general directions or a specific order inter se the parties. The sine qua non to initiation of proceedings under the Act is an order or judgment or direction of a Court and its wilful disobedience. Once these ingredients are satisfied, the machinery under the Act can be invoked by a party or even by the Court suo motu.



[...]

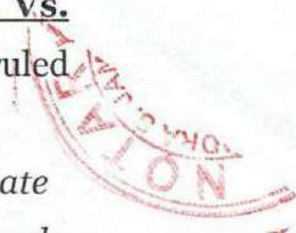
*Looked at from a wider perspective, contempt power is also a means for ensuring participation in the judicial process and observance of rules by such participants. Once the essentials for initiation of contempt proceedings are satisfied, the Court would initiate an action uninfluenced by the nature of the direction i.e. as to whether these directions were specific in a lis pending between the parties or were of general nature or were in rem.”*

22.4. That in **Sajid Khan Moyal v. State of Rajasthan, 2014 SCC OnLine Raj 1450** it is ruled as under;

*“(...)citing of overruled judgment by learned counsel for the petitioner is a contempt, therefore, second contention is also rejected.”*

22.5. That this Hon’ble Court in **State of Orissa Vs. Nalinikanta Muduli (2004) 7 SCC 19**, had ruled as under;

*“6(...)It is a very unfortunate situation that learned*





counsel for the accused who is supposed to know the decision did not bring this aspect to the notice of the learned single Judge. Members of the Bar are officers of the Court. They have a bounden duty to assist the Court and not mislead it. Citing judgment of a Court which has been overruled by a larger Bench of the same High Court or this Court without disclosing the fact that it has been overruled is a matter of serious concern. It is one thing that the Court notices the judgment overruling the earlier decision and decides on the applicability of the later judgment to the facts under consideration on it - It was certainly the duty of the counsel for the respondent before the High Court to bring to the notice of the Court that the decision relied upon by the petitioner before the High Court has been overruled by this Court. Moreover, it was duty of the learned counsel appearing for the petitioner



*before the High Court not to cite an overruled judgment -We can only express our anguish at the falling standards of professional conducts.”*

22.6. That in **Lal Bahadur Gautam Vs. State (2019) 6 SCC 441** it is ruled as under;

*“9. Before parting with the order, we are constrained to observe regarding the manner of assistance rendered to us on behalf of the respondent management of the private college. Notwithstanding the easy access to information technology for research today, as compared to the plethora of legal Digests which had to be studied earlier, reliance was placed upon a judgment based on an expressly repealed Act by the present Act, akin to relying on an overruled judgment. This has only resulted in a waste of judicial time of the Court, coupled with an onerous duty on the judges to do the necessary research. We would not be completely wrong in*



opining that though it may be negligence also, but the consequences could have been fatal by misleading the Court leading to an erroneous judgment.

10. Simply, failure in that duty is a wrong against the Justice delivery system in the country. Considering that over the years, responsibility and care on this score has shown a decline, and so despite the fact that justice is so important for the Society, it is time that we took note of the problem, and considered such steps to remedy the problem. We reiterate the duty of the parties and their Counsel, at all levels, to double check and verify before making any presentation to the Court. The message must be sent out that everyone has to be responsible and careful in what they present to the Court. Time has come for these issues to be





considered so that the citizen's faith in the justice system is not lost. It is also for the Courts at all levels to consider whether a particular presentation by a party or conduct by a party has occasioned unnecessary waste of court time, and if that be so, pass appropriate orders in that regard. After all court time is to be utilized for justice delivery and in the adversarial system, is not a licence for waste.

11. As a responsible officer of the Court and an important adjunct of the administration of justice, the lawyer undoubtedly owes a duty to the Court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as a mouthpiece of his client as observed in State of Punjab & Ors. vs. Brijeshwar Singh Chahal & Ors., (2016) 6 SCC 1:

“34....relationship between the lawyer and his client is one of




trust and confidence. As a responsible officer of the court and an important adjunct of the administration of justice, the lawyer also owes a duty to the court as well as to the opposite side. He has to be fair to ensure that justice is done. He demeans himself if he acts merely as mouthpiece of his client.....”

**12.** The observations with regard to the duty of a counsel and the high degree of fairness and probity required was noticed in **D.P. Chadha vs. Triyugi Narain Mishra and others, (2001) 2 SCC 221:**

“**22.** A mere error of judgment or expression of a reasonable opinion or taking a stand on a doubtful or debatable issue of law is not a misconduct; the term takes its colour from the underlying intention. But at the same time misconduct is not necessarily something involving moral turpitude. It is a relative



*term to be construed by reference to the subject matter and the context wherein the term is called upon to be employed. A lawyer in discharging his professional assignment has a duty to his client, a duty to his opponent, a duty to the court, a duty to the society at large and a duty to himself. It needs a high degree of probity and poise to strike a balance and arrive at the place of righteous stand, more so, when there are conflicting claims. While discharging duty to the court, a lawyer should never knowingly be a party to any deception, design or fraud. While placing the law before the court a lawyer is at liberty to put forth a proposition and canvass the same to the best of his wits and ability so as to persuade an exposition which would serve the interest of his client so long as the issue is capable of that resolution*





by adopting a process of reasoning. However, a point of law well settled or admitting of no controversy must not be dragged into doubt solely with a view to confuse or mislead the Judge and thereby gaining an undue advantage to the client to which he may not be entitled. Such conduct of an advocate becomes worse when a view of the law canvassed by him is not only unsupportable in law but if accepted would damage the interest of the client and confer an illegitimate advantage on the opponent. In such a situation the wrong of the intention and impropriety of the conduct is more than apparent. Professional misconduct is grave when it consists of betraying the confidence of a client and is gravest when it is a deliberate attempt at misleading the court or an attempt at practicing



*deception or fraud on the court. The client places his faith and fortune in the hands of the counsel for the purpose of that case; the court places its confidence in the counsel in case after case and day after day. A client dissatisfied with his counsel may change him but the same is not with the court. And so the bondage of trust between the court and the counsel admits of no breaking.*

**24.** *It has been a saying as old as the profession itself that the court and counsel are two wheels of the chariot of justice. In the adversarial system, it will be more appropriate to say that while the Judge holds the reigns, the two opponent counsel are the wheels of the chariot. While the direction of the movement is controlled by the Judge holding the reigns, the movement itself is facilitated by the wheels without*



*which the chariot of justice may not move and may even collapse. Mutual confidence in the discharge of duties and cordial relations between Bench and Bar smoothen the movement of the chariot. As responsible officers of the court, as they are called – and rightly, the counsel have an overall obligation of assisting the courts in a just and proper manner in the just and proper administration of justice. Zeal and enthusiasm are the traits of success in profession but overzealousness and misguided enthusiasm have no place in the personality of a professional.*

**26.** *A lawyer must not hesitate in telling the court the correct position of law when it is undisputed and admits of no exception. A view of the law settled by the ruling of a superior court or a binding precedent even if it does not*





serve the cause of his client, must be brought to the notice of court unhesitatingly. This obligation of a counsel flows from the confidence reposed by the court in the counsel appearing for any of the two sides. A counsel, being an officer of court, shall apprise the Judge with the correct position of law whether for or against either party."

13. That a higher responsibility goes upon a lawyer representing an institution was noticed in *State of Rajasthan and another vs. Surendra Mohnot and others*, (2014) 14 SCC 77:

"33. As far as the counsel for the State is concerned, it can be decidedly stated that he has a high responsibility. A counsel who represents the State is required to state the facts in a correct and honest manner. He has to discharge


his duty with immense responsibility and each of his action has to be sensible. He is expected to have higher standard of conduct. He has a special duty towards the court in rendering assistance. It is because he has access to the public records and is also obliged to protect the public interest. That apart, he has a moral responsibility to the court. When these values corrode, one can say "things fall apart". He should always remind himself that an advocate, while not being insensible to ambition and achievement, should feel the sense of ethicality and nobility of the legal profession in his bones.

We hope, that there would be response towards duty; the hallowed and honoured duty."



22.7. In case of That in Heena Nikhil Dharia Vs. Kokilaben Kirtikumar Nayak and Ors. 2016 SCC OnLine Bom 9859, it is ruled as under;

“35. Wholly unrelated to any preliminary issue or the question of limitation, or to any estate, partition or administration action, is the decision of AM Khanwilkar J (as he then was) in Chandrakant Govind Sutar v. MK Associates 2003 (1) Mh. LJ 1011 Counsel for the petitioner raised certain contentions on the maintainability of a civil revision application. Khanwilkar J pronounced his judgement in open Court, finding for the petitioner. Immediately thereafter, counsel for the petitioner brought to the court's notice that certain relevant decisions on maintainability had not been placed. He requested that the judgement be not signed and instead kept for re-hearing on the question of maintainability.





At that fresh hearing, petitioner's counsel placed decisions that clinched the issue against the petitioner. The civil revision application was dismissed. The counsel in question was A.S. Oka, now Mr. Justice Oka, and this is what Khanwilkar J was moved to observe in the concluding paragraph of his judgement:

'9. While parting I would like to make a special

mention regarding the fairness of Mr. Oka, Advocate. He conducted the matter with a sense of detachment. In his own inimitable style **he did the wonderful act of balancing of his duty to his client and as an officer of the Court concerned in the administration of justice. He has fully discharged his overriding duty to the Court to the standards of his profession, and to the public, by not withholding authorities which go against his client.** As Lord Denning MR



in Randel v. W. (1996) 3 All E. R.

657observed:

“Counsel has time and again to choose between his duty to his client and his duty to the Court. This is a conflict often difficult to resolve; and he should not be under pressure to decide it wrongly. Whereas when the Advocate puts his first duty to the Court, he has nothing to fear. But it is a mistake to suppose that he (the Advocate) is the mouthpiece of his client to say what he wants. **The Code which obligates the Advocate to disregard the instructions of his client, if they conflict with his duty to the Court, is not a code of law — it is a code of honour.** If he breaks it, he is offending against the rules of the profession and is subject to its discipline.”

This view is quoted with approval by the Apex Court in Re. T.V. Choudhary, [1987] 3 SCR 146 (E.S. Reddi v. Chief Secretary, Government of AP).



**36. The cause before Khanwilkar J may have been lost, but the law gained, and justice was served.**

37. Thirteen years ago, Khanwilkar J wrote of a code of honour. That was a time when we did not have the range, width and speed of resources we do today. With the proliferation of online databases and access to past orders on the High Court website, there is no excuse at all for not cross-checking the status of a judgement. I have had no other or greater access in conducting this research; all of it was easily available to counsel at my Bar. **Merely because a judgement is found in an online database does not make it a binding precedent without checking whether it has been confirmed or set aside in appeal.** Frequently, appellate orders reversing reported decisions of the lower court are not themselves reported. **The task of an advocate is perhaps more onerous as a result; but his duty to the**





court, that duty of fidelity to the law, is not in any lessened. If anything, it is higher now.

38.Judges need the Bar and look to it for a dispassionate guidance through the law's thickets. When we are encouraged instead to lose our way, that need is fatally imperiled.”

22.8. In Hindustan Organic Chemicals Ltd. Vs. ICI India Ltd. 2017 SCC Online Bom 74 it is read as under;

“DUTY OF ADVOCATES TO NOT TO MISLED THE COURT EVEN ACCIDENTALLY – THEY SHOULD COME BEFORE COURT BY PROPER ONLINE RESEARCH OF CASE LAW BEFORE ADDRESSING THE COURT.

*I have found counsel at the Bar citing decisions that are not good law.*

The availability of online research databases does not absolve lawyers of their duties as officers of the Court. Those duties include



an obligation not to mislead a Court, even accidentally. That in turn casts on each lawyer to carefully check whether a decision sought to be cited is or is not good law. The performance of that duty may be more onerous with the proliferation of online research tools, but that is a burden that lawyers are required to shoulder, not abandon. Every one of the decisions noted in this order is available in standard online databases. This pattern of slipshod research is inexcusable.”

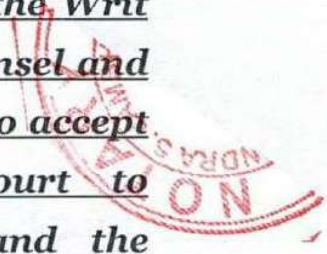
22.9. In Sunita Pandey v. State of Uttarakhand, 2018 SCC OnLine Utt 933 it is ruled as under;

“19.A lawyer is supposed to have the knowledge of a judgment delivered by the Hon'ble Apex Court, which is the law of land, but the reply of counsel appearing for the petitioners Mr. Shashank Pandey is not acceptable that he is not aware of the judgment of the Hon'ble Apex Court. A lawyer





cannot make excuse for  
unawareness of a particular  
judgment of the Hon'ble Apex  
Court and also cannot be  
permitted to cite a judgment,  
which has already been overruled.  
A lawyer is known for its legal  
acumen. He should not have  
argued the Writ Petition (PIL) and  
should have suggested his clients  
to withdraw the Writ Petition  
(PIL) but the attitude of the  
learned counsel for the petitioners  
that he has been engaged to argue  
the matter appears to be against  
the ethics of a lawyer and further  
it appears to the Court that he has  
not given proper advice to his  
clients. The counsel could have  
advised properly to his clients and  
could have also considered it  
appropriate to withdraw the Writ  
Petition (PIL), but the counsel and  
petitioners are not ready to accept  
the request of this Court to  
withdraw the petition and the





learned counsel for the petitioners has again wasted valuable time of this Court for his own satisfaction. Numbers of litigants are waiting for their turn. We were expecting from the learned counsel for the petitioners that he should make a statement on behalf of the petitioners that the petitioners were not aware of filing the Writ Petition (PIL) on the judgment passed by the Hon'ble Apex Court and, therefore, they have filed the aforesaid Writ Petition (PIL) on an advice or on bonafide mistake of fact, but, the petitioners and their counsel are not ready to make such submissions before this Court. Thus, this Court has no option but to decide the Writ Petition (PIL) on merits, as the counsel has insisted this Court to decide the matter on merits after giving him full opportunity.

**20.** This Court has already granted full opportunity of hearing to the learned counsel for the petitioners and he has argued every paragraph of the



present Writ Petition (PIL) and has wasted the court's valuable time for more than two hours. We find that the present petition is a gross abuse of process of law and time was granted to the petitioners to refute the contents of the counter affidavit, but despite time being granted to the petitioners, rejoinder affidavit has not been filed to refute the contents of the averments made in the counter affidavit.

23. The Hon'ble Apex Court in the case of Suraz India Trust Vs. Union of India reported in (2017) 14 SCC 416 has held that a frivolous litigation should be declined and be tackled with iron hands. In the said case, the Hon'ble Apex Court has imposed a cost of ` 25 lakhs on the petitioner and issued direction to the Registry of the High Court and other High Courts that no P.I.L should be entertained in the name of Suraz India Trust.



**24.** *In our view, though this is a case, which is liable to be dismissed with exemplary cost in view of the dictum of Hon'ble Apex Court in the case of Suraz India Trust Vs. Union of India (supra), but considering the fact that the petitioners are the residents of hilly State of Uttarakhand, they might not be in a position to pay such huge exemplary cost of ` 25 lacs, thus, we are of the considered view that nominal cost of ` 50,000/- be imposed upon the petitioners for raising their private interest in this Public Interest Litigation to suffice the purpose."*

**23. The defendant also took an overruled plea that the plaintiff had not given details of the damages caused.**

**23.1.** That the law of defamation is very well settled that proof of actual loss of name, fame, mental agony of person defamed, cannot be measured in terms of money.





23.2. In **W.B. Shanthi v. Arunachalam, 2014 SCC OnLine Mad 10610**, it is ruled as under;

*“22. In short the tort of defamation is a deaming tirade in written form launched against a person. The tort of defamation is actionable per se. So proof of actual monetary loss is immaterial.*

*20. The quintessence of the tort of defamation is based on the distillation of case-laws on the subject, collected, and presented in their book on ‘Law of Torts’ by Ratan Lal & Dhiraj Lal (2006 Edition) may be extracted hereunder. It reads as under:*

*“A libel is a publication of a false and defamatory statement tending to injure the reputation of another person without lawful jurisdiction or excuse. The statement must be expressed in some permanent form e.g. writing, printing, pictures, statue, waxmore effigy etc. A libel is of itself an infringement of a right and no actual damage need be proved in order to sustain an action. In order to found an action for libel it must be proved that the statement complained of is (i) false; (ii) in writing, (iii) defamatory; and (iv) published. The falsity of the charge is presumed in the*

1014

*plaintiffs favour. The burden of proof that the words are false does not lie upon the plaintiff. Defamation of a person is taken to be false until it is proved to be true.*

*...Any words will be deemed defamatory which (a) expose the plaintiff to hatred, contempt, ridicule, or oblique; or (b) tend to injure him in his profession trade; or (c) cause him to be shunned or avoided by his neighbors.*

*...In an action for defamation the plaintiff must show that the defamatory statement refers to him.*

*...Again, if the defendant knows that the letters sent to the plaintiff are usually opened by his clerk or he ought to have anticipated that they would be opened by his spouse and the defendant sends a libellous letter which is in fact opened by the clerk or the spouse, the defendant is liable. But if a servant in breach of his duty and out of curiosity taken a letter or of an unclosed envelop and reads it, there is no publication."*

**21.** *So far as the tort of defamation is concerned, (1) there must be a defamatory statement (2) it must be in writing (3) it*





*should be in the nature of lowering down the name and fame of the person among the right thinking members of the society, and (4) it should be published, in other words, it should be made known to others.*

**33. The loss of reputation of a lawyer cannot be measured in terms of money.**

*He is a member of a noble profession. He is constitutionally recognized (See Article 22(1) Constitution of India). An advocate is also a warrior of social justice. He fights for other's cause. He is a saviour to those in distress. His vision is a mission to drive away the darkness. He is a spokesman for others. He is a spokesman for voiceless. He is a neutral man. He is independent not interdependent. Without fear or favour he fights for justice. Except exposing the cause of his client, nothing personal to him. Clients may come, clients may go. He may receive briefs, he may not receive briefs, but he will never allow his honour to go away. He is not for bread alone. For the sake of his honour, to uphold his dignity and professional integrity he will die. To be born a lawyer/warrior is a great gift on the earth. But his reputation, which cannot be*





*built immediately on enrollment, which could come after years of struggling, toiling. This is the position of lawyers in society. One of its member, Advocate Arunachalam has been defamed by defendant. Loss of name, fame, mental agony of such a person cannot be measured in terms of money.”*

23.3. In the case of **M.M.T.C. Ltd. v. Medchl Chemicals and Pharma (P) Ltd., (2002) 1 SCC 234**, it is ruled as under;

*“12. ...It has been held that it is open to the de jure complainant company to seek permission of the court for sending any other person to represent the company in the court. Thus, even presuming, that initially there was no authority, still the company can, at any stage, rectify that defect. At a subsequent stage the company can send a person who is competent to represent the company. The complaints could thus not have been quashed on this ground.”*

24. **Settled legal position proving overruled and misleading submissions of defendants: -**



24.1. That law is very well settled that no privilege can be claimed by any person in defamation suit at threshold. The qualified privilege may be defeated and its protection gets destroyed by the proof of express malice. The absolute privilege is not absolute in the context of being infinite. Even when the occasion is privileged one gets no license to utter irrelevant and scandalous things unrelated to the proceedings. In the case of **Ram Jethmalani Vs Subramaniam Swamy, 2006 (87) DRJ 603**, it is ruled as under;

*“67. Even the issue of absolute privilege has remained a subject matter of considerable debate. Is absolute privilege absolute in the sense of being infinite? As late as 1998, in the decision reported as 1998 (1) All ER 625, Waple v. Surrey County Council, it was held:*

*“The absolute privilege which applies to statements made in the course of judicial or quasi-judicial proceedings and in the documents made in such proceedings, would only be entitled where it was strictly necessary to do so in order to protect those who were to participate in the proceedings from being sued themselves.”*





**68.** *The decision brings out that absolute privilege is not absolute in the context of being infinite. Even when the occasion is privileged one gets no licence to utter irrelevant and scandalous things unrelated to the proceedings. If what is stated is necessary or relevant to the proceedings, immunity would be absolute.*

**69.** *I would be failing in not noting a few decisions which have highlighted the self-limiting span and sweep of the defence of qualified privilege."*

**78.** *In the context of the constitutional protection of freedom of speech and freedom of the press, an important decision pertaining to libel was rendered by the US Supreme Court reported as New York Times Company v. Sullivan 376 US 254. The question before the Court was of the rule of liability in an action brought by a public official against critics of his official conduct which action tended to abridge the freedom of speech of the press that was guaranteed by the 1st and the 14th amendments. The Constitutional Bench opined that such an action was maintainable*





*provided the official established that statements were made with actual malice.*

**80.** *Actual malice would be evidenced by ill will, evil or corrupt motive, intention to injure, hatred, enmity, hostility, or spite. In Garrison v. Louisiana 379 US 64 the US Supreme Court defined reckless disregard in making statements with a high degree of awareness of their probable falsity as proof of actual malice. In the decision reported as St. Amant v. Phompson 390 US 727. the test applied was whether the defendant entertained serious doubts as to the truth of the statements. In the report published as Cortis Publishing Company v. Butts, 388 US 130, the US Supreme Court suggested that a defendant's good faith in publishing defamatory falsities will be unlikely to prove persuasive where the story (1) is fabricated by the defendant, (2) is the product of his imagination, (3) is based wholly on unverified information. Nor will they be likely to prevail when the publisher's allegations are so inherently improbable that only a reckless man would have put forth the same in circulation or where there are obvious reasons*



to doubt the veracity of the informant or the accuracy of his reports.

**89.** In the opinion of Lord Nicholls sitting as a Judge of the Court of Final Appeal of Hongkong in the decision reported as *Tse Wai Paul v. Chang*, (2001) EMLR 777 it was held:

*"To summarise in my view a comment which falls within objective limits of the evidence of fair comment can lose its immunity only by proof that the defendant did not genuinely hold the view that he expressed, Honesty of the belief is the touchstone."*

**90.** To succeed in a plea of fair comment, the defendant must establish that the statement was a comment and not a fact. Thereafter, the defendant must establish that the comment had a sufficient factual basis (i.e. the comment must be based on facts which are themselves sufficiently true). He must additionally establish that the comment was one which an honest person could hold (this is an objective test, not to be confused with reasonableness). And finally, that the subject matter of the comment was in public interest.





**93.** Since law of defamation, by making actionable certain utterances, runs counter to another widely accepted legal tenet - the right to freedom of expression, the two have been harmonised by judicial process so that an individual's right of privacy and protection of honour and reputation is preserved and at the same time the public interest in free speech is also protected.

**95.** Traditional defences to an action for defamation have now become fairly crystallized and can be compartmentalized in 3 compartments: truth, fair comment and privilege. Truth, or justification, is a complete defence. The standard of proof of truth is not absolute but is limited to establishing that what was spoken was 'substantially correct'. Fair comment offers protection for the expression of opinions. Standard of proof is not that the Court has to agree with the opinion, but is limited to determine whether the views could honestly have been held by a fair-minded person on facts known at the time. Unlike defence of truth, defence based on fair comment can be defeated if the plaintiff proves that the defamer acted with malice.

NOTARY  
JAMES S. JAMES



*Similar is the situation where the defence is of qualified privilege. Privilege is designed to protect expression made for the public good. Protection of qualified privilege is lost if actual malice is established. In public interest, absolute privilege is a complete defence. Rationale of absolute privilege being restricted to Court proceedings or proceedings before Tribunals which have all the trappings of a Civil Court and Parliamentary proceedings is that if threat of defamation suits loom large over the heads of lawyers, litigants, witnesses, Judges and Parliamentarians it would prohibit them from speaking freely and public interest would suffer.*

**96.** *I accordingly hold that since the offending words were communicated in writing before a Commission under the Commissions of Inquiry Act, 1952 and have been proved to have been additionally read out during course of final submissions and additionally for the reason the expressions used were not when the defendant was standing before the Commission as a witness, defence of absolute privilege is not available to the defendant.*



**97.** *Whether the defendant made the offending statements in good faith and whether active malice has been proved? I would prefer to answer the twin questions by following the rationale and reasoning of Lord Dunedin in the decision reported as 1917 AC 309, Adam v. Ward, as observed at page 327 of the report: If the defamatory statement is quite unconnected with and irrelevant to the main statement which is ex-hypothesis privileged then I think it is more accurate to say that the privilege does not extend thereto than to say that the result may be the same, that the defamatory statement is evidence of malice.....then I think the first way is the true way to put it, and under it will also range all the cases where the express malice is arguable from the too great severity or redundancy of the expression used in the privileged document itself. I may note that this test was adopted by the Division Bench of the Bombay High Court in Janardan Karandinkar's case (Supra).*

**99.** *A man may be a thief. In relation to his employment if an investigating agency supplies information of the said fact to the*





*prospective employer, it would be a privileged occasion and no action would lie. But say, the investigating agency reaches the wedding venue when the man is getting married. It would be of no concern nor an occasion for the investigating agency to proclaim to the gathering that the man is a thief. In such a situation, if an action is brought, it would be no defence for the investigating agency to establish that the man is a thief. A lady may be a prostitute but it would not give a licence to all and sundry to call her a prostitute as and when they feel like. Of course, where the character of a person is a relevant issue, statements made honestly, bona fide and on some objective facts would qualify as made on privileged occasion.*

**101.** *I may emphasize here that the principal fact which has weighed with me in rejecting the defence and holding that the plaintiff has established actual malice is that the defendant exceeded the limits of qualified privilege as his statement was quite unconnected with and irrelevant to the situation and suffers from redundancy of the expression.*





**102.** Before concluding I must note that the defendant has led no evidence and did not even examine himself as a witness.

**103.** That takes me to the issue of damages, relief and costs.

**104.** Unfortunately, in India, Law of Damages and in particular in relation to defamation has not developed at the same pace as it has developed in the European countries and the United States of America. Punitive damages in defamation are not awarded in India. Damages awarded are a recompense to the loss of honour and reputation. Inherently, quantification is a problem as honour and reputation are inherently incapable of being valued in terms of money. More often than not, loss of honour and reputation lowers the image of the person in the eyes of his friends and relatives and he suffers social isolation. If he is a professional, he may not suffer monetary loss as his clients would engage him for his professional skill and not his personal character. This appears to be the reason that the plaintiff, in relation to his earnings made no attempt to establish



that after the offending words were written and spoken, his earnings suffered a dip.

**105.** A good name is worth more than good riches. (Shakespear's Othello, Act-II, Scene III, pp. 167):—

Good name in man and woman, dear  
my Lord

*Is the immediate jewel of their souls;*

*Who steals my purse, steals trash;*

*Its something nothing;*

*T' was mine, t' is, and has been slave to  
thousands;*

*But he that filches from me my good  
name,*

*Robs me of that which not enriches him*

*And makes me poor indeed."*

**106.** The plaintiff has been compelled to salvage his reputation. LTTE is a banned organisation. It's cadre has been indicted at a criminal trial of conspiring and succeeding in assassinating Shri Rajiv Gandhi, the Ex-Prime Minister of India. It is a banned organisation in India. A statement against a person that he has been receiving money from LTTE is *ex facie* defamatory. Such a person would be lowered in the esteem of the public. Plaintiff





would accordingly be entitled to some recompense. The defendant has refused to apologize and withdraw his offending statement.

**107.** Considering the professional standing of the plaintiff and his stature in social life I award damages in sum of Rs. 5 lacs in favour of the plaintiff and against the defendant.

**108.** Costs shall follow.”

24.2. That Hon'ble Bombay High Court in the case of **Rahul Gandhi Vs Rajesh 2015 SCC OnLine Bom 522**, had ruled that any member of the organization can file a case of defamation. Further the exception of the defamation can be pleaded during trial and not threshold. It is ruled as under;

**“8.** There is no dispute that R.S.S. is a determinate body and it will fall under the Explanation 2 of section 499 of the IPC. Therefore, any offended member of R.S.S. is said to be aggrieved person and can file a complaint, against a person who intends to harm the reputation of R.S.S.

**20.** Admittedly, the Petitioner was addressing a public rally for campaigning in favour of the I.N.C. If the statement made against R.S.S.





*was made in the said public rally, particularly when R.S.S. is not a political party and was not contesting any election from anywhere in India, the statement prima facie would indicate that it was intended to harm reputation of R.S.S. or the Petitioner at least knew or had reason to believe that he would be harming reputation of R.S.S. If the Petitioner is covered by any of the exceptions including third and ninth it is for him to prove the same before the Trial Court. This is not an exceptional case where this Court shall exercise powers under section 482 of Cr.P.C. for quashing the proceedings against the Petitioner. As already indicated, powers of section 482 of Cr.P.C. are required to be exercised sparingly. The High Court, in normal course, will not disturb the order of issuance of process if the averments made in the complaint and the enquiry made by the Magistrate or the police prima facie makes out a case for issuance of process.*

**21.** *In my considered opinion there is no substance in the petition. Petition therefore, deserves to be dismissed."*



24.3. The abovesaid judgement is upheld by the Supreme Court in the case of **Rahul Gandhi v. Rajesh Mahadev Kunte, (2017) 11 SCC 321**

24.4. In **Mathrubhoomi Illustrated Weekly Vs. P. Gopalankutty 2022 SCC OnLine Ker 137**, it is ruled as under;

***“18. In Tek Chand Gupta v. R.K. Karanjia reported in 1967 SCC OnLine All 282 (1969 Cri LJ 536), the Allahabad High Court held that, Rashtriya Swayamsevak Sangh (RSS) is a definite and identifiable class or body. So, when an article is published in a newspaper containing imputations meant to harm the reputation of Rashtriya Swayamsevak Sangh (RSS), complaint by individual member of RSS is maintainable under Explanation 2 to Section 499 of IPC. It is not necessary that the imputations in the article individually affected the reputation of the complainant. The Apex Court in G. Narasimhan's case (supra) made mention regarding TeK Chand Gupta's case (supra)) asserting that Rashtriya Swayamsevak Sangh (RSS) was a determinate body just like the body of public prosecutors mentioned in Sahib***





*Singh Mehra's case (AIR 1965 SC 1451). When the association was a determinate and an identifiable body, the defamatory words used against that association could be treated as defamation of the individuals who composed it. So, any member of that association can maintain a complaint under Section 500 of IPC.*

*19. The de facto complainant/1<sup>st</sup> respondent claims to be the State Secretary of RSS and that fact is not seen disputed by the petitioners. Even if the petitioners have got any challenge regarding the membership of the complainant in RSS, they are at liberty to make that plea before the trial court."*

24.5. In case of D.P. Choudhary v. Kumari Manjulata, 1997 SCC OnLine Raj 39 it is ruled as under;

*"16. The evidence led by plaintiff and her witnesses was sufficient to lower down the prestige of Manjulata. It has been stated on behalf of the appellant that there was no malice against the plaintiff respondent. Needless to say that in such cases a man may be liable although he had not a particle of*





*malice against the person defamed. The intention or motive with which the words were employed is, as a rule, immaterial. If the defendant has in fact injured the plaintiff's reputation, he is liable, although he did not intend so to do, and had no such purpose in his mind when he wrote or spoke the words. Every man must be presumed to know and to intend the natural and ordinary consequences of his acts. The words are actionable if false and defamatory, although published accidentally or inadvertently. (Law of Defamation and Malicious Prosecution by V. Mitter 7th Edition page 152.)*

*17. From the evidence on record it is found that the defendant appellants after having received information from the police, without any proper verification published the news item, with the result Manjulata and her parents lost their prestige in the society and in eyes of relatives as well as the persons who knew them. Thus the Court below was right in deciding issues Nos. 1, 2 and 3 in favour of the respondent as against the appellant knew them. Thus the Court below was right in*



deciding issues Nos. 1, 2 and 3 in favour of the respondent as against the appellant.

**18.** Now the question remains whether the Court below was right in awarding damages of Rs. 10,000/-. Issue No. 4 relates to the award of compensation. Mainly, damages can be said to be of two kinds, general and special. Under the Indian Law, general damages will only be presumed when the words are actionable per se but in cases where the words are not actionable per se, the proof of special damages is necessary. Here, words have been proved to be defamatory of the plaintiff, general damages will be presumed since all defamatory words are actionable per se. The effect of the publication of the news item in Dainik Navjyoti is that the respondent has lost reputation and her parents lost their prestige in the society, prospects of marriage of Manjulata were lessened. In these circumstances I am of the view that the damages awarded is not excessive. Therefore, I, maintain the finding on issue No. 4. No other point was raised."

Hence this application.





PRAYER: It is, therefore, most humbly and respectfully prayed that this Hon'ble Court may kindly be pleased to :

(a) record a finding as per section 340 (1) of Cr.P.C. that :

(i) the accused (defendant) company Serum Institute of India Pvt. Ltd. have conspired and in furtherance of said conspiracy had filed a false affidavit dated 29.04.2023 before this court;

(ii) the affidavit contains false and misleading statements with dishonest suppression twisting and concealment of material facts to serve ulterior purposes;

(iii) the accused company Serum Institute had, vaguely, evasively and dishonestly denied the Government of India's investigation report and other proofs which ex-facie proves that the 'Covishield Vaccine' manufactured by accused company is having death causing side effects & other serious side effects and the





vaccines are more deadly than the covid-19 disease;

- (iv) such denial itself is an offence under section 209 of IPC and also attracts other provisions such as 191, 192, 193, 199, 200, 201, 471, 474, 120(B), 34 etc. of IPC against all directions of the company;
- (v) the flat denial by accused company also leads to an offence of false claim about safety and efficacy of the vaccines and it proves the tendency of the accused company in putting life of citizen in danger by promoting vaccination through cheating and misrepresentation and selling the vaccines despite having knowledge of its death causing side effects. Therefore the accused company and all its employees are liable for action under section. 115, 420, 120 (B), 34 etc of IPC with section. 27 of Drugs & Cosmetic Act and section. 4, 7 & 9 of Drugs and Magic Remedies Act;



- (vi) the act of filing false affidavits is also an offence under criminal contempt and in view of specific case laws laid down by Hon'ble Supreme Court in **ABCD v. Union of India, (2020) 2 SCC 52&Perry Kansagra, In re, 2022 SCC OnLine SC 858,** the court is duty bound to initiate action under section. 340 of Cr. P. C. & section. 2(c) of the contempt of courts act, 1971;
- (vii) hence it is expedient in the interest of justice that the Registrar of this Hon'ble Court be directed to file a complaint as per Section 343 of Cr.P.C. before the Ld. Magistrate having jurisdiction;
- (viii) direct appropriate police authorities to take steps to prevent repetition of same offences by the accused company Serum Institute of India Pvt. Ltd. & its officials;
- (b) issue a non-bailable arrest warrant against all the directors of Serum Institute of India Pvt Ltd. in view of Section 340 (1) (d) of

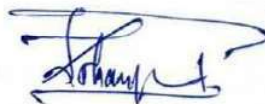


Cr.P.C. and as per law laid down by Hon'ble Supreme Court in the case of **Arvindervir Singh v. State of Punjab, (1998) 6 SCC 352;**

- (c) impose a cost of Rs.50 Crores as per Section 342 of Cr.P.C. and in view of specific law laid down by the three Judge Bench of Hon'ble Supreme Court in the case of **Sarvepalli Radhakrishnan University v. Union of India, (2019) 14 SCC 779;**
- (d) issue show cause notice to accused for forwarding a reference of Contempt to Hon'ble Supreme Court as per provisions of Section 15 (2) of the Contempt of Courts act, 1971;
- (g) grant any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the case in the interests of justice.

Nagpur

28<sup>th</sup> Feb. 2024



**COUNSEL FOR APPLICANT**





## SOLEMN AFFIRMATION

I, Prakash S/o <sup>Gopalrao</sup> Pohare, Aged about 60 yrs, Occ.

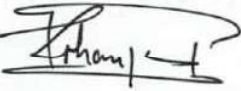
Editor-in-Chief, Dainik Deshonnati, R/o Nishant Tower,  
3<sup>rd</sup> Floor, M.G. Road, Akola, presently at Nagpur, do  
hereby take an oath and state on solemn affirmation that  
the contents of above application in paras 1 to are drafted  
by my counsel as per my instructions. The contents have  
been readover and explained to me in vernacular i.e. in  
Marathi which I admit them to be true and correct to my  
personal knowledge, belief and information.

Hence, verified and signed this <sup>28<sup>th</sup></sup> day of <sup>Feb</sup> June, 2023,

at Nagpur.

DEPONENT

I know & identify the deponent.



[C. D. Rohankar]  
Advocate

SWORN BEFORE ME ON THIS <sup>28<sup>th</sup></sup>  
DAY OF <sup>Feb</sup> 20 <sup>24</sup> AT NAGPUR BY  
SHRVSMT/KU Prakash Pohare  
R/O..... WHO HAS BEEN IDENTIFIED  
BY SHRI/SMT C.D. Rohankar  
ADVOCATE, NAGPUR.

  
NOTARY  
GOVT. OF INDIA  
NAGPUR DIST. (M.S.) INDIA



रजिस्टर पत्ता

ऑर्डर 7 रूल 11 व 20 सिविल प्रोसिजर कोड 8 रूल 11

BEFORE THE HON'BLE Civil Judge Sr. Dn. Nagpur

मुकदमा नंबर Misc. Civ. Appl'n NO.

वादी Shri. Prakash Pohare

Serum Institute Pvt. Ltd.

प्रतिवादी

ज्या कोर्टात दिवाणी दावा केला असेल किंवा सिविल ज्या डिस्ट्रीक्टमध्ये पार्टी राहते त्या कोर्टाच्या स्थलसिमेत हा पता राहिल. महाराष्ट्रात आणि विदर्भामध्ये तो सिविल डिस्ट्रीक्ट असला, पाहिजे, इतर प्रांतातील नसावा

नांव	वडिलांचे नाव	राहण्याचे ठिकाण	तहसिल व जिल्हा
Shri. Prakash Gopalrao Pohare		R/o, Nishant Tower, 3rd Floor, M.G. Road, Nagpur	

यापुढे दाव्यातील कोणताही समन्स किंवा नोटीस माझेकडून पता बदल्याबद्दल नोटीस मिळोपर्यंत वरील पत्त्यावर जारी करावे हा पता बदलला तर नवीन पत्त्याचे पूर्ण माहितीच्या नोटिस देईल.

तारीख 29/2/2024

पक्षकाराची सही

मी माझे अशील नांव Prakash Gopalrao Pohare

दर्जा Applicant यांनी दिलेल्या माहितीप्रमाणे वरील पत्ता दाखल करतो.

तारीख 29/2/2024

वकीलाची सही



I/we am /are not member/members of the welfare fund. Therefore stamp/stamps rs. 2 /- is/are not affixed herewith.

**VAKALATNAMA**  
**IN THE COURT OF HON'BLE Civil Judge**  
**Sr. Dn. Nagpur**

C.C./F.A./S.A. Cri. M.A No. \_\_\_\_\_ of 2021  
CRA. /Cr. C/W.P. No. \_\_\_\_\_ of 2021

Complainant/Applicant Prakash Pohare  
Plaintiff/ Appellant

-: VERSUS:-

Accused /Opponent Serum Institute (Otho)  
Defendant/ Respondent  
I/We, Prakash s/o Gopalrao Pohare, Inhabitant  
of Nagpur i.e. Applicant in the aforesaid matter, hereby  
appoint,

**MR. O.D. Kakde (2300)**  
Mob. No. 9359537334

**MR, CHANDRAKANT D. ROHANKAR (3127)**  
Registration no. MAH/5838/2015.  
Mob. 9175484365, Email: crohankar93@gmail.com

**ADVOCATE'S & ASSOCIATES**

Off/At: Plot No. 11, Saikrupa, Ambazari, Behind Dharampeth science College, Nagpur 440033 to appear and act for me/us as my/our Advocate/s in the above said matter  
Witness my/our hand/s this 29th day of Feb 2024

WITNESS: .....

ACCEPTED

.....

.....

.....

SIGNATURE OF ADVOCATE

FILED IN THE COURT ON 29/02/2024



BEFORE THE HON'BLE Civil Judge  
Sr. Dn. at Nagpur

No. \_\_\_\_\_ of 2024

Prakash Pohare Versus Serum Institute & oths.

List of document Filed by Applicant

Sr. No.	Description of Documents	Date of Documents	Original/ Photocopy
1.	A Copy of Spl. Civil Suit NO. 417 of 2023 Pending before Civil Judge (Sr. Dn.) Nag.	03/04/2023	Photocopy
2.	A Copy of Application u/s O. 7 R. 11(A) of CPC filed by the present Non-Applcant NO. 1.	29/04/2023	-11-

Nagpur

Date: 29.02.2024

Counsel for Applicant

[Signature]  
Applicant

**IN THE COURT OF THE HON'BLE CIVIL JUDGE**  
**(SENIOR DIVISION), NAGPUR**

SPECIAL CIVIL SUIT No. 417/2023

**PLAINTIFF** : Shri Prakash S/o Gopalrao Pohare  
Aged about 60 yrs, Occ. Editor in  
Chief, Dainik Deshonnati,  
R/o Nishant Tower, 3<sup>rd</sup> Floor, M.G.  
Road, Akola.

**VERSUS**

**DEFENDANTS** : 1) Serum Institute of India Pvt. Ltd.  
  
2) Shri Adar Poonawalla,  
Aged about 42 yrs,  
Occ. CEO, Serum Institute of India.  
  
3) Shri Vivek Pradhan,  
Aged about – Major, Occ. Service  
(Authorised Signatory of Serum  
Institute of India Pvt. Ltd.)

Address of Defendants Nos. 1 to 3 -  
212/2, Soli Poonawalla Road, JJC  
Colony, Suryalok Nagri, Hadapsar,  
Pune, Maharashtra 411028.

**SUIT FOR DECLARATION, PERPETUAL**  
**INJUNCTION, DAMAGES AND COMPENSATION**

[Valued at Rs. 10,000 Crores for the purposes of Court  
Fees and jurisdiction and Court Fees of Rs. 3,00,000/-  
paid thereon]



The plaintiff named above most humbly and respectfully submits as under :

- 1) That, the plaintiff Shri Prakash Pohare is a renowned Farmer Leader, Human Rights Activist and Editor-in-Chief of renowned Marathi daily newspaper 'Dainik Deshonnati'.
- 2) That, the plaintiff is a member of renowned NGO Awaken India Movement (in short 'AIM').
- 3) That, the plaintiff individually and as a member of the Awaken India Movement has been performing constitutional duties towards nation as enshrined under Article 51(A) of the Constitution of India and awakening people about death causing and other serious side effects of vaccines.
- 4) That, the awareness campaign is based on authentic data, research made by government authorities and honest domain experts and doctors.
- 5) That, the defendants are the manufacturers, sellers and suppliers of Covishield (Astrazeneca) Vaccine. The



defendants Nos. 1 to 3 are involved in a process of suppressing the truth and silencing the voice of citizens, activists and victims by adopting unlawful means and running false narratives.

6) That, the Government of India in the investigation report done through the committee called as Adverse Event Following Immunization (AEFI) had confirmed that the deaths of one Dr. Snehal Lunawat and many other citizens were due to side effects of covishield vaccine. The said Covishield (Astrazeneca) vaccine is manufactured by the defendant No. 1 company.

7) That, though as stated supra the deaths of the abovesaid citizens were due to side effects of covishield vaccine, however, since beginning the defendants Nos. 1 to 3 have been denying the very fact that the said vaccine is having deaths causing side effects. The e-mails sent on 9.2.2021 and thereafter to the family members of said Dr. Snehal Lunavat are sufficient proofs of the aforesaid fact.

8) That, since March 2021 around 21 European Countries have banned the Covishield (Astrazeneca) vaccine manufactured by the defendant No. 1. The reason for ban was the death of 'Youth of Norway' due to side effects of vaccine which is manufactured by the defendant No. 1 company. The relevant news articles are available at following link :

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

9) Needless to mention here that the warnings about dangers of Covishield (Astrazeneca) vaccine have been issued by the Governments of different Countries and World Health Organisation (in short 'WHO') against Covishield (Astrazeneca) are as under :

(i) 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.”*

(ii) WHO on 26<sup>th</sup> July, 2021 also warned people about type of paralysis called Guillain-Barre syndrome (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) That, the abovesaid facts and circumstances go to show that the said vaccine is having death causing and other serious side effects i.e. lifetime disabilities. In view of that it was the duty of the defendants Nos. 1 to 3 to have called back the said product and saved future deaths, vaccine injuries and should have helped the victim families.



11) That, however, the defendants Nos. 1 to 3 had chosen to go ahead for profits and given precedence to profit over the lives of not only citizens of India but also entire humanity. Furthermore, the defendants Nos. 1 to 3 are falsely denying the side effects and trying to silence the people who are making the public aware of the said truth.

12) That, various High Court & Hon'ble Supreme Court had taken the note of deaths of citizen due to Covishield vaccines and passed the orders as under :

Sr. No	Party Name & Case Nos.	Name of the Court	Detail brief of prayers	Status and Date of Order
1.	Rachana Gangu Vs. Union of India (Writ Petition (C) No. 1220 of 2021)	Supreme Court	Action against guilty and compensation	Supreme Court issued notice (Citation) Rachana Gangu Vs. Union of India, 2022 SCC OnLine SC 1125
2.	Dilip Lunawat Vs. Serum Institute of India (P) Ltd. (Writ Petition (C) No. 2739/2022)	Bombay High Court	Action against guilty and compensation and interim compensation of Rs. 1000 Crores from Serum Institute, Institute,	Notice issued to : 1. Bill Gates 2. Adar Poonawalla 3. Randeep Guleria 4. Dr. V.G. Somani

			Adar Poonawala Bill Gates	<p>5. Union of India</p> <p>6. State of Maharashtra</p> <p>7. Drug Controller General of India</p> <p>[Citation]</p> <p>Dilip Lunawat Vs. Serum Institute of India (P) Ltd., 2022 SCC OnLine Bom 1773</p>
3.	Jean George & Anr Vs. Serum Institute of India & ors. (Writ Petition (C) No. 13573/2022 )	Kerala High Court	Action against guilty and compensation and interim compensation of Rs. 10 Crores from Serum Institute, Institute, Adar Poonawala Bill Gates	<p>Court asked UOI to file reply.</p> <p>Title : Vaccination : Kerala High Court Seeks Centre's Response on Parents' Plea</p> <p>Link : <a href="https://www.livelaw.in/news-updates/18-year-old-dies-post-covishield-vaccination-kerala-high-court-seeks-centres-response-on-parents-plea-196742?from-login=672554">https://www.livelaw.in/news-updates/18-year-old-dies-post-covishield-vaccination-kerala-high-court-seeks-centres-response-on-parents-plea-196742?from-login=672554</a></p>

4.	Sayeeda Vs. Union of India (WP (C) No. 17628 of 2022)	Kerala High Court	Compensation to widow of a person died due to vaccine.	<p>Court issued directions to the Central Government to immediately formulate guidelines for giving compensation to the victims of deaths or other side effects of vaccines.</p> <p>Citations :</p> <p>(i) Sayeeda K.A. Vs. Union of India, 2022 SCC OnLine Ker 4531</p> <p>(ii) Sayeeda K.A. Vs. Union of India, 2022 SCC OnLine Ker 4514</p>
----	---	-------------------	--	--

13) It is of relevance to mention here that the Kerala High Court issued notice to the defendant No. 1. The details of which are available on the link mentioned as under :

“Kerala High Court issues notice to Serum Institute, Centre on plea for Rs. 10 Cr. compensation alleging paralysis after Covishield vaccination.”



Link : <https://www.barandbench.com/news/kerala-high-court-issues-notice-serum-institute-centre-plea-10cr-compensation-alleging-paralysis-covishield-vaccination>

14) That, all the abovesaid facts are widely published in mainstream media and therefore are well within the knowledge of the defendants.

15) That, on 1.10.2022 members and various volunteers of AIM had come to Pune to deliver the court-summons (Humdast) issued by the Division Bench of Hon'ble Bombay High Court in W.P. (C) No. 5767/2021 in the matter between Dilip Lunawat Vs. Serum Institute of India & others.

16) That, on 1.10.2022 a programme was organized by AIM in lawful manner by following requisite procedure, forms and rules framed by the relevant statute.

17) That, the members of AIM and the plaintiff had performed all the legal formalities and had given a letter to the Officer In-charge of concerned Police Station and also the Commissioner of Police, Pune.

18) That, however, the defendants Nos. 1 to 3 hatched a conspiracy in connivance and active participation and support of other directors and employees of the defendant No. 1 and in furtherance of said conspiracy the defendant No. 3 on 1.10.2022 gave a letter to Senior Inspector of the Hadapsar Police Station, Pune and Commissioner of Police, Pune.

19) That, in the said letter dated 1.10.2022 the defendant No. 3 on behalf of the defendants Nos. 1 & 2 had made false and highly defamatory allegations against NGO AIM of which the plaintiff is a member. The said letter dated 1.10.2022 reads thus :

*"1. A group namely Awaken India Movement (hereinafter referred to as the 'said Group') has organized a march from Kanyadan Mangal Karyalaya Hall, Hadapsar to Serum Institute. Hadapsar on 1 Oct. 2022 to handover Hamdast to Adar Poonawala issued by Hon'ble Bombay High Court. The said Group has sent WahtsApp messages as well as made tweets on Twitter making an appeal to*



*large number of people to join the march to give Hamdast to Adar Poonawala*

*2. The said Group has organized buses from Kolambali, Mumbai to Kanyadaan Mangal Karyala Hall, Hadapsar and thereafter they are planning to march towards Serum Institute. The WhatsApp messages contain the name and mobile numbers of following members for assistance for bus booking –*

*1. Ajinkya, Mobile Number 9321234861, 2. Chetan, Mobile Number 8879592924, 3. Hemant, Mobile Number 8830398392, 4. Yusuf, Mobile Number 9321232620, Pune Contacts : 1. Suyash, Mobile Number 9923454589, 2. Aditya, Mobile Number 9922919377.*

*3. The said march is completely illegal and unauthorized and completely frustrates the purpose of serving Hamdast issued by the Hon'ble Bombay High Court. The said march is planned with an intention and motive to create a law and order situation at the venue i.e. Serum Institute of India, Hadapsar Pune. The said march is organized with an intention and motive to cause unlawful*



*restraint to the directors and the employees of the Serum Institute of India. Through Whatsapp messages the said group is instigating and promoting enmity against Serum Institute of India by sending false and defamatory messages. There is a possibility that the people involved in the said march may damage and destroy the property of Serum Institute of India. A law and order situation will be created if the said march is allowed to be held on 1.10.2022. The said march will also cause inconvenience, nuisance and annoyance to people staying in and around that area. This is nothing but a planned and organized act done with an intention and oblique motive to damage the image of Serum Institute of India and its directors worldwide.*

*5. On behalf of Serum Institute of India, I Vivek Pradhan, Authorised Signatory, hereby request you to take all precautionary measures by issuing notices u/S. 149 of Cr.P.C. to Ajinkya, Mobile Number 9321234861, Chetan, Mobile Number 8879592924, Hemant, Mobile Number 8830398392, Yusuf, Mobile Number 9321232620 as well as Mr. Yohan Tengra, Mobile Number 8097333845 or arrest them u/S. 151 of Cr.P.C. to prevent them from committing cognizable offence u/S. 143 Punishment for unlawful assembly, 147 – Punishment for rioting, 149- Offence committed with Common Object, 341-Punishment for Wrongful Restraint, 425-Mischief, 426-Punishment*

*for Mischief, 441-Criminal Trespass, 447-Punishment for Criminal Trespass, 499-Defamation, 500-Punishment for Defamation, 506-Punishment for Criminal Intimidation of Indian Penal Code for organizing the march as well as sending false and defamatory messages. Hence, thereby request you to take all the precautionary measures and provide adequate security to Serum Institute of India and register offence against the abovementioned persons as per the provisions of law in order to avoid outbreak of law and order situation or any unwanted situation."*

20) That, all the above allegations made by the defendants Nos. 1 to 3 against members of AIM are ex-facie false and defamatory and deliberately made with an ulterior motive to defame AIM and ultimately to defame the plaintiff also in the eyes of public and government officials.

21) It is a matter of record that after enquiry by the police, they did not accept the abovesaid version in the letter dated 1.10.2022 and no action was initiated against the plaintiff and the members of AIM as the allegations made by the defendants Nos. 1 to 3 were found extremely false and bogus.



22) That, when various victims and activist citizens went to Pune for serving the High Court's 'Hamdast' that time they had followed all the legal procedure and had made application to the police seeking their permission.

23) That, the first letter dated 28.9.2022 which was given to Pune Police reads thus :

(a) \*

To,

1. *Shivaji Nagar Police Station*  
*Near Shivaji Nagar, Court Complex,*  
*Pune, India.*
2. *Hadapsar Police Station*  
*Pune, India.*

*Subject : Issue of Bombay High Court Hamdast to Mr. Adar C. Poonawalla, CEO, Serum Institute of India Pvt. Ltd., Pune.*

*Reference : Bombay High Court order dt. August 26, 2022 in the case of Dilip Lunawat Vs. Serum Institute of India Pvt Ltd and othersk, writ petition No. 5767 of 2022. The copy of the petition can be downloaded form [https://drive.google.com/file/d/lloiYAbwIcTPe\\_OJ2zAUynVEipggrM140/view](https://drive.google.com/file/d/lloiYAbwIcTPe_OJ2zAUynVEipggrM140/view).*



*Dear Senior Officer,*

*This is to inform you that on 26 Aug 2022, Bombay High Court issued order Hamdast to be served to the respondents.*

*The Hamdast copy of Mr Adar C Poonawalla is with us and we are going to serve him the same on 1<sup>st</sup> Oct 2022. AIM members will come to Shivaji Nagar Court to handover the court documents to the District Court and accompany the Bailiff to Serum Institute, Hadapsar to deliver the same.*

(b) That, the second letter reads thus :

*“Subject : Peaceful gathering at Saras Baug.*

*This letter is to intimate you that around 50 volunteers of Awaken India Movement will be meeting at Saras Baug on 1<sup>st</sup> Octoberr 4 pm to discuss the Bombay High Court case that we have filed against pharma mafia head Bill Gates. Covid vaccines are killing people and leading to increased heart attacks all over the country and we are doing our constitutional duty under Article 51(A) of the Constitution of India to spread awareness among the*

*Indian people and save the lives of our fellow brothers and sisters. Yohan Tengra – 8097333895, Feroze Mithiborwala – 9029277751 and Ambar Koiri – 9920903825.*

24) That, the record shows that all the member of Awaken India Movement are law abiding citizen and they have acted within the four corners of law. In fact they were performing their constitutional duty under Article 51(A) by informing the public at large that the covishield vaccine is having death causing and other serious side effects which may cause life time disabilities.

25) That, all the above statements made by the members of AIM are based on the sound proofs and data from Government office and authentic research papers.

26) That, however, the defendants Nos. 1 to 3 misled the police and everyone by portraying that the AIM activists are making false claims and defaming the defendants Nos. 1 to 3 on the basis of incorrect facts. The defendants Nos. 1 to 3 had made complaint on 1.10.2022 asking the police to

arrest the plaintiff and the other members and volunteers of AIM under Section 151 of Cr.P.C. and/or to take the action of prevention against them.

27) That, the persistent stand of the defendants Nos. 1 to 3 is that there is no connection between the death of Dr. Snehal Lunawat and covishield vaccine. The second version of the defendants Nos. 1 to 3 is that, the said vaccine is completely safe and does not have death causing or other serious side effects.

28) That, the said version of the defendants Nos. 1 to 3 about safety of covishield vaccine and the version that there is no connection between death of Dr. Snehal Lunawat and covishield vaccine are falsified from the investigation report of the Govt. of India's Committee for Adverse Events Following Immunization (AEFIs).

29) That, all the above versions made by the defendants Nos. 1 to 3 are ex-facie false and misleading, because already the committee of Government of India called Adverse Event Following Immunization (AEFI) had



conducted a thorough enquiry and had given its conclusion that the death of Dr. Snehal Lunawat was due to side effects of covishield vaccine.

30) It is further submitted that the Ministry of Health and Family Welfare of Central Government had in their Frequently Asked Question had specifically warned the citizen that the covishield vaccine is having side effects of Thrombosis which is the cause of death of Dr. Snehal Lunawat.

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

31) Needless to mention here that the Union of India in its affidavit dated 23.11.2022 affirmed by Dr. Veena Dhawan Add. Commissioner (Immunization) Ministry of Health & Family Welfare, which is filed before Hon'ble Supreme Court in the case between **Rachna Gangu Vs. Union of India, Writ Petition (C) No. 1220 of 2021**, had mentioned that they have informed the public about death causing side effects of covishield vaccines.

32) That, during the enquiry by police of the said complaints made by the defendants Nos. 1 to 3 in the light of records and documents available with them, the police did not find any substance in the allegations made by the defendants Nos. 1 to 3. The police therefore did not arrest the plaintiff and other activists of AIM. The plan made by the defendants Nos. 1 to 3 to get the plaintiff arrested got failed as the said complaint found to be malafide and bogus. This proved the malicious and malafide conduct of defendants Nos. 1 to 3. The defendants Nos. 1 to 3 for the said acts are liable to be prosecuted and punished under Section 109, 220, 211, 499, 500, 471, 474, 469, 120(B) and 34 etc. of I.P.C.

33) That, despite the exposure of the falsity of the defendants Nos. 1 to 3 before the police, the defendants Nos. 1 to 3 repeated the said allegations many a times using the said letter dated 1.10.2022 everywhere including the court proceedings.

34) That, due to abovesaid unlawful activities of the defendants Nos. 1 to 3 the plaintiff defamed in the eyes of common public and has suffered much hardship including mental torture, annoyance, inconvenience and harassment. The plaintiff has suffered loss of many future business prospects and also suffered monetary losses. This being so the defendants Nos. 1 to 3 are liable to compensate the plaintiff.

35) It is of relevance to mention here that many people are continuously asking the plaintiff and the plaintiff has to answer everyone about the false complaint made to the police by the defendants Nos. 1 to 3 against the said NGO Awaken India Movement.

36) In view of above the defendants Nos. 1 to 3 are required to stop from defaming the plaintiff. Similarly, the defendants Nos. 1 to 3 are required to compensate the plaintiff by paying an amount of Rs. 10,000 Crores in the form of damages and compensation.



37) That, the said wild, concocted, false and frivolous allegations made by the defendants Nos. 1 to 3 against the plaintiff and the members of AIM are defamatory, scandalous and unparliamentary. Needless to mention here that the abovesaid allegations have maligned the very image of the plaintiff and the Awaken India Movement. The said allegations made by the defendants are given wide publicity by the defendant themselves. The publication of the said allegations made maligned the very image of the plaintiff and also the image of the Awaken India Movement.

38) At the cost of repetition it is submitted that the abovesaid defamatory, scandalous, false, frivolous, reckless statement made by the defendants Nos. 1 to 3 and the news items circulated and read by public at large have lowered the very reputation, dignity of the plaintiff and the AIM in the eyes of the public. The names of the witnesses are as under : (1) Adv. S.R. Narnaware, (2) Shri Ravindra Bhuyar and (3) Shri Purushottam Thakre etc.

39) Needless to mention here that the said scandalous, fabricated, defamatory, false, frivolous, reckless allegations have been deliberately made by the defendants Nos. 1 to 3 with ulterior motives and wrongful intent to malign and tarnish the image of the plaintiff and the Awaken India Movement.

40) That, on account of abovesaid illegal acts on the part of the defendants Nos. 1 to 3, they are liable to pay the plaintiff general and special damages on account of mental, physical torture, agony, apathy, financial loss, injury inflicted to the reputation of the plaintiff and AIM due to the abovesaid illegal acts including the false complaint and publication of news in various newspapers. The general and special damages/compensation are mentioned hereunder :

**General & Specvial Damages/Compensation**

- (a) Injury/loss to business, reputation and future prospects Rs. 50,90,00,00,000/-.
- (b) Mental and physical torture and agony Rs. 31,00,00,00,000/-.

- (c) Loss in family honour Rs. 18,00,00,00,000/-.
- (d) Legal assistant and general charges Rs. 10,00,00,000/-.

41) That, the defendants are liable to pay the said damages and compensation to the plaintiff as they have tarnished the very image of the plaintiff and AIM deliberately as mentioned in the aforesaid paras.

42) That, the said illegal acts, allegations and publication thereof happened within the territorial jurisdiction of this Hon'ble Court. This being so this Hon'ble Court has territorial and pecuniary jurisdiction to entertain and try the instant suit.

43) That, the cause of action firstly arose when the defendants made several false statements against the plaintiff and Awaken India Movement. The cause of action further arose on 1.10.2022 when a false complaint was made to the Senior Inspector of Hadapsar Police Station, Pune and the Commissioner of Police, Pune by the defendants Nos. 1 to 3. The cause of action thereafter



continuous one and shall last till the instant suit is disposed of by this Hon'ble Court.

44) That, the reliefs claimed in instant suit are valued at Rs. 10,000 Crores. The plaintiff has paid maximum court fees of Rs. 3,00,000/- as per the provisions of the Bombay Court Fees Act.

45) That, the plaintiff has filed several documents on record and craves leave to file more subsequently.

Hence this suit.

PRAYER : It is, therefore, prayed that this Hon'ble Court may kindly be pleased to :

- (i) pass a decree and thereby declare that the defendants Nos. 1 to 3 have no authority to justify vaccination of Covishield Vaccine posing the same to be safe for lives of the people;

- (ii) pass a decree of perpetual injunction and thereby permanently restrain the defendants Nos. 1 to 3, their agents, henchmen, representatives and any other person acting for or under them from selling covishield vaccine, vaccinating people using covishield vaccine, justifying the same to be safe for lives of the people;
- (iii) pass a decree and thereby direct the defendants Nos. 1 to 3 to pay sum of Rs. 10,000 Crores to the plaintiff in the form of damages and compensation as quantified in the instant suit and also direct the defendants Nos. 1 to 3 to pay the plaintiff cost of instant litigation;
- (iv) saddle the costs on the defendants;

- (v) grant any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

Nagpur

3<sup>rd</sup> April, 2023

  
PLAINTIFF



COUNSEL FOR PLAINTIFF

**SOLEMN AFFIRMATION**

I, Prakash S/o ~~Gopal~~ Pohare, Aged about 60 yrs, Occ. Editor in Chief, Dainik Deshonnati, R/o Nishant Tower, 3<sup>rd</sup> Floor, M.G. Road, Akola, presently at Nagpur, do hereby take oath and declare on solemn affirmation that the contents stated in paras 1 to 45 are true and correct to the best of my personal knowledge and belief and drafted by my counsel as per my instructions given to him and the contents therein are explained to me in vernacular and are found to be true and correct. The legal contentions

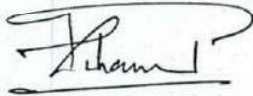


received by me from my advocate are believed to be true by me.

Hence, verified and signed this 3<sup>RD</sup> day of April, 2023 at Nagpur.

  
DEPONENT

I know & identify the deponent.



Advocate  
C.D. Rohankar

**IN THE COURT OF THE HON'BLE CIVIL JUDGE**  
**(SENIOR DIVISION), NAGPUR**

SPECIAL CIVIL SUIT No. ....../2023

**APPLICANT** : Shri Prakash S/o Gopalrao Pohare  
**PLAINTIFF** Aged about 60 yrs, Occ. Editor in  
Chief, Dainik Deshonnati,  
R/o Nishant Tower, 3<sup>rd</sup> Floor, M.G.  
Road, Akola.

**VERSUS**

**NON-APPLICANTS** : 1) Serum Institute of India Pvt. Ltd.  
**DEFENDANTS**

2) Shri Adar Poonawalla,  
Aged about 42 yrs,  
Occ. CEO, Serum Institute of India.

3) Shri Vivek Pradhan,  
Aged about – Major, Occ. Service  
(Authorised Signatory of Serum  
Institute of India Pvt. Ltd.)

Address of Defendants Nos. 1 to 3 -  
212/2, Soli Poonawalla Road, JJC  
Colony, Suryalok Nagri, Hadapsar,  
Pune, Maharashtra 411028.

**APPLICATION FOR GRANT OF TEMPORARY**  
**INJUNCTION UNDER ORDER 39 RULES 1 & 2**  
**R/W SECTION 151 OF THE CODE OF CIVIL**  
**PROCEDURE**

The applicant/plaintiff above named most respectfully submits as under

- 1) That, the applicant/plaintiff has filed the instant suit for declaration, perpetual injunction, damages and compensation. The applicant/plaintiff has demonstrated an excellent case on merits in the plaint.
- 2) That, in order to avoid repetition the applicant/plaintiff relies on the contents of the plaint in extenso. The contents of the plaint are therefore need to be taken into consideration as part and parcel of this application.
- 3) That, in the plaint the applicant/plaintiff has demonstrated as to how the Covishield Vaccine caused deaths of Dr. Snehal Lunawat and many other citizens. The plaintiff has also cited many instances and the decisions of the Hon'ble High Courts and Supreme Court of India in that regard.
- 4) That, the facts stated in the plaint are more than sufficient to demonstrate that the Covishield Vaccine is



totally unsafe for the lives of people. It is also crystal clear that the vaccination of covishield not only caused deaths of Dr. Snehal Lunawat but also various citizens and therefore it is necessary to restrain the defendants etc. from vaccinating the covishield vaccine and from justifying the same posing it to be safe for lives of people.

5) That, in the plaint the applicant/plaintiff has elaborately stated as to how the defendants Nos. 1 to 3/non-applicants Nos. 1 to 3 have defamed the plaintiff and Awaken India Movement, if the defendants Nos. 1 to 3 are not restrained the defendants shall defame and injure the applicant/plaintiff and AIM in future by making similar allegations even in press, electronic media, social media or any other medium of communication.

6) That, as demonstrated in the plaint the applicant/plaintiff has an excellent prima facie case in his favour. The balance of convenience leans in favour of the applicant/plaintiff.

7) That, if the defendants Nos. 1 to 3/non-applicants Nos. 1 to 3 are not restrained from making false, frivolous, defamatory and derogatory accusations and allegations against the applicant/plaintiff by way of and in the form of letters, complaints, representations, emails and any other medium of communication, the applicant/plaintiff shall suffer immensely and irreparably and a great loss shall be caused to the applicant/plaintiff.

8) That, similarly, if defendants are not restrained from justifying and vaccinating people by using covishield vaccine the plaintiff, AIM and the people at large shall suffer immensely and irreparably and a great prejudice shall be caused to them.

9) Needless to mention here that the loss and injury, which will cause to the applicant/plaintiff cannot be accurately assessed in terms of damages, even if the applicant/plaintiff were to later seek damages for loss of reputation and defamation.

10) That, the applicant/plaintiff has requested the defendants Nos. 1 to 3 not to defame the plaintiff and AIM but, the defendants Nos. 1 to 3 have been continuously making false, frivolous, defamatory and derogatory accusations and allegations against the applicant/plaintiff, Awaken India Movement, by various means. In addition to that the defendants Nos. 1 to 3 have been posing the covishield vaccine to be safe for lives of the people. The defendants are therefore required to be restrained from doing so.

11) In the abovesaid facts and circumstances of the case there is every possibility, real and substantial danger that the defendant shall make in future similar allegations even in press or electronic media or social media or any other medium of communication. In such event, the reputation of applicant/plaintiff is likely to suffer substantial detriment and lead to loss of life also. Such loss cannot be accurately assessed in terms of damages even if the applicant/plaintiff were to later seek damages for loss of reputation or defamation.



12) That, if the defendants are not restrained from vaccinating the people using covishield vaccine justifying the same to be safe for lives of people, the people shall suffer immensely and irreparably and the plaintiff and AIM shall also suffer an immense and irreparable loss as their movement for the welfare and safety of people shall be frustrated.

13) That, at the cost of repetition it is submitted that if the reliefs prayed for in terms of prayer clause are not granted the applicant/plaintiff shall suffer immensely and irreparably and a great prejudice shall be caused to him.

14) That, in panorama of abovesaid facts and circumstances the applicant/plaintiff is all the way entitled for the relief of temporary injunction as prayed for in terms of the prayer clause.

Hence this application.

PRAYER : It is, therefore, prayed that this Hon'ble Court may kindly be pleased to :

- (i) restrain the defendants Nos. 1 to 3/non-applicants Nos. 1 to 3, their agents, henchmen, representatives and any other person acting for or under them from making false, frivolous, defamatory and derogatory accusations and allegations against the plaintiff and Awaken India Movement by way of and in the form of letters, complaints, representations, emails and any other medium of communication by way of an ex-parte ad-interim injunction;
- (ii) restrain the defendants Nos. 1 to 3/non-applicants Nos. 1 to 3, their agents, henchmen, representatives and any other person acting for or under them from selling covishield vaccine, vaccinating people using covishield vaccine justifying the same to be safe for lives of the people by way of an ex-parte ad-interim injunction;
- (iii) confirm the ex-parte order of injunction in terms of above prayer

clauses (i) & (ii) after hearing both the parties;

- (iv) grant any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the instant case in the interests of justice.

Nagpur

3<sup>rd</sup> April, 2023

  
APPLICANT/PLAINTIFF

  
COUNSEL FOR APPLICANT/PLAINTIFF

### **SOLEMN AFFIRMATION**

I, Prakash S/o Pohare, Aged about 60 yrs, Occ. Editor in Chief, Dainik Deshonnati, R/o Nishant Tower, 3<sup>rd</sup> Floor, M.G. Road, Akola, presently at Nagpur, do hereby take oath and declare on solemn affirmation that the contents stated in paras 1 to 14 are true and correct to the best of my personal knowledge and belief and drafted by my counsel as per my instructions given to him and the contents therein are explained to me in vernacular and are found to be true and correct. The legal contentions




received by me from my advocate are believed to be true by me.

Hence, verified and signed this 3<sup>RD</sup> day of April, 2023 at Nagpur.

  
DEPONENT

I know & identify the deponent.



Advocate

C.D. Rohankar

**IN THE COURT OF THE HON'BLE CIVIL JUDGE**  
**(SENIOR DIVISION), NAGPUR**

SPECIAL CIVIL SUIT No. ....../2023

**PLAINTIFF** : Shri Prakash S/o Gopalrao Pohare

**VERSUS**

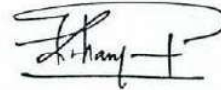
**DEFENDANTS** : Serum Institute of India Pvt. Ltd.  
and two others

**LIST OF DOCUMENTS FILED BY**  
**THE PLAINTIFF**

Doc. No.	Particulars	Date	Original/ True Copy
1	A copy of the notice by Adv. Snehal Surve on behalf of plaintiff to the defendants	02.01.2023	True Copy
2	A copy of the e-mail receipt	02.01.2023	True Copy
3	A copy of the report to the Senior Inspector, Hadapsar Police Station	01.10.2022	True Copy
4	A copy of the representation/report to the Commissioner of Police, Pune	01.10.2022	True Copy

Nagpur

3<sup>rd</sup> April, 2023



**COUNSEL FOR PLAINTIFF**



# ADV. SNEHAL SURVE

Office: 2 & 3, Floor, Kothari House, 5/7 Oak Lane, A. R. Allana Marg, Near Burma  
Burma Restaurant, Fort, Mumbai - 400 023.

Contact No.: 022 4971 7796

Email: [advsnahalsurve@gmail.com](mailto:advsnahalsurve@gmail.com)

2<sup>nd</sup> January, 2023

## Notice Regarding A.D.

To,

1. Serum Institute of India Pvt. Ltd.
2. Shri. Adar Poonawalla CEO, Serum Institute of India.
3. Shri Vivek Pradhan, authorized signatory  
of Serum Institute of India Pvt. Ltd.

### Office address at :-

212/2 Soli Poonawalla Road, JJC Colony,  
Suryalok Nagri, Hadapsar,  
Pune, Maharashtra 411 028.

**Sub:-** Notice for compensation of **Rs. 10,000 Crores** to my  
client for his deliberate defamation done by you.

Sir,

Under the authorization and instructions of my client **Shri. Prakash Pohare, R/o, Nishant Tower, 3<sup>rd</sup> Floor M.G. Road, Akola.** I, the undersigned, serve you the legal notice as under;

1. That my client **Shri. Prakash Pohare** is a renowned Farmer Leader, Human Rights Activist and Editor-in-Chief of renowned marathi daily newspaper '**Dainik Deshonnati**'.
2. That my client is a member of renowned NGO Awaken India Movement (AIM).



3. That my client individually and as a member of Awaken India Movement (AIM) is performing his constitutional duty towards nation as enshrined under Article 51(A) of the Constitution of India and awakening people about death causing and other serious side effects of vaccines.

4. That the awareness campaign is based on authentic data, research given by government authorities and honest domain experts and doctors.

5. That you noticee are involved in a process of suppressing the truth and silencing the voice of citizen, activists and victims by adopting unlawful means and running false narratives.

6. That Government of India in their investigation report done through the committee called as Adverse Event Following Immunization (AEFI), had confirmed that the death of Dr. Snehal Lunawat and many other citizen was due to side effects of covishield vaccine. Said Covishield (Astrazeneca) vaccine is being manufactured by you noticee no. 1.

7. However since beginning, you were denying the very fact that your vaccines are having death causing side effects.

Your emails sent on 9<sup>th</sup> February 2021 and thereafter to family members of Dr. Snehal Lunawat are sufficient proof of it.

8. That since March 2021 around 21 European countries have banned the Covishield (Astrazeneca) vaccine manufactured by you noticee no. 1.

The reason was the death of 'Youth of Norway' due to side effects of vaccine which is manufactured by you.

The relevant news articles are available at following link:-

(i) Link:-

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

9. Other warnings about dangers of Covishield (Astrazeneca) vaccine, issued by the Governments of different countries & WHO against Covishield (Astrazeneca) are given below.

9.1 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."*

9.2 That WHO on 26<sup>th</sup> July, 2021 also warned people about type of paralysis called Guillain-Barré syndrome (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. That, when it is crystal clear that the vaccines are having death causing and other serious side effects causing lifetime disabilities, then it was the duty of you noticee to have called back your product and saved future deaths and vaccine injuries and should have helped the victim families.



11. But you had chosen to go ahead for profits and given precedence to profit over the life of not only citizens of India but also entire humanity. Furthermore, you are falsely denying the side effects and trying to silence the people who are making public aware of the said truth.

12. That, various High Court & Hon'ble Supreme Court had taken the note of deaths of citizen due to Covishield vaccines and passed orders.

Sr Nos	Party Name & Case Nos	Name of the Court	Detail brief of prayers	Status and Date of Order
1.	<b>Rachana Gangu v. Union of India</b> [Writ Petition (C) No. 1220 of 2021]  Link:	Supreme Court	Action against guilty and compensation	Supreme Court Issued Notice  [Citation]  <u>Rachana Gangu v. Union of India, 2022 SCC OnLine SC 1125</u>
2.	<b>Dilip Lunawat v. Serum Institute of India (P) Ltd.</b> [Writ Petition (C) No. 2739/2022]  Link:	Bombay High Court	Action against guilty and compensation and interim compensation of Rs. 1000 Crores	Notice issued to:  1. Bill Gates 2. Adar Poonawalla 3. Randeep Guleria 4. Dr. V.G. Somani 5. Union of India 6. State of Maharashtra



			from Serum Institute, Institute, Adar Poonawala Bill Gates	7. Drug Controller General of India  [Citation]  Dilip Lunawat v. Serum Institute of India (P) Ltd., <b><u>2022 SCC OnLine Bom</u></b> <b><u>1773</u></b>
3.	<b>Jean George &amp; Anr v. Serum Institute Of India &amp; Ors.</b> [Writ Petition (C) No. 13573/2022]	Kerala High Court	Action against guilty and compensati on and interim compensati on of Rs. 10 Crores from Serum Institute, Institute, Adar Poonawala Bill Gates.	Court asked UOI to file reply.  Title: Vaccination: Kerala High Court Seeks Centre's Response On Parents' Plea  <b>Link:</b> <a href="https://www.livelaw.in/news-updates/19-year-old-dies-post-covishield-vaccination-kerala-high-court-seeks-centres-response-on-parents-plea-196742?from-login=672554">https://www.livelaw.in/news- updates/19-year-old-dies- post-covishield-vaccination- kerala-high-court-seeks- centres-response-on-parents- plea-196742?from- login=672554</a>
4.	<b>Sayeeda Vs Union of India</b> [WP (C) No. 17628 of 2022]	Kerala High Court	Compensat ion to widow of a person died	Court issued directions to the Central Government to immediately formulate guidelines for giving

			due to vaccine.	compensation to the victims of deaths or other side effects of vaccines.  <b>Citations: -</b>  (i) Sayeeda K.A. v. Union of India, 2022 SCC OnLine Ker 4531  (ii) Sayeeda K.A. v. Union of India, 2022 SCC OnLine Ker 4514
--	--	--	-----------------	--

13. Recent news in this regard is as under;

**“Kerala High Court issues notice to Serum Institute, Centre on plea for ₹10cr compensation alleging paralysis after Covishield vaccination.”**

**Link:** <https://www.barandbench.com/news/kerala-high-court-issues-notice-serum-institute-centre-plea-10cr-compensation-alleging-paralysis-covishield-vaccination>

14. All the abovesaid facts are widely published in mainstream media and are within the knowledge of accused Adar Poonawalla.

15. That on **01.10.2022** members and various volunteers of AIM had come to Pune to deliver the court-summons (Humdast) issued by the Division Bench of Hon'ble Bombay High Court in **W.P. (C) No. 5767/2021** in the matter between **Dilip Lunawat Vs. Serum Institute of India & Ors.**



16. That the member of AIM and my client had performed all its legal formalities and gave a letter to the Officer-In-Charge of concerned Police Station and Commissioner of Police.

17. The entire program by members of AIM was in a complete lawful manner and as per the requisite procedure, forms and rules framed by the statute.

18. However, you noticee no. 1, 2 & 3 hatched one conspiracy in connivance and active participation and support from other directors and employee of the Serum Institute of India Pvt. Ltd. and in furtherance of said conspiracy, you noticee no. 3 on 1.10.2022 gave a letter to Sr. Inspector of Hadapsar Police Station, Pune and Commissioner of Police, Pune.

19. That in the said letter dated 1.10.2022 your noticee no. 3 on behalf of noticee no. 1 & 2 had made false and highly defamatory allegations against NGO AIM of which my client is a member.

Said letter dated 1.10.2022 reads thus;

*"1. A group namely Awaken India Movement (hereinafter referred to as the "said Group") has organized a march from Kanyadan Mangal Karyalaya Hall, Hadapsar to Serum Institute. Hadapsar on 1 Oct. 2022 to handover Hamdast to Adar Poonawala issued by Hon'ble Bombay High Court. The Said Group has sent WhatsApp messages as well as made tweets on Twitter making an appeal to large number of people to join the march to give Hamdast to Adar Poonawala.*

*2. The Said Group has organized buses from Kalambali, Mumbai to Kanyadaan Mangal Karyala Hall, Hadapsar and thereafter they are planning to march towards Serum Institute. The WhatsApp messages contain the name and mobile numbers of following members for assistance for bus booking-*



1. Ajinkya, Mobile Number- 9321234861
- 2 Chetan, Mobile Number-8879592924
3. Hemant, Mobile Number-8830398392
- 4.Yusuf, Mobile Number-9321232620

Pune Contacts: -

1. Suyash, Mobile Number-9923454589
2. Aditya, Mobile Number-9922919377

3. The said march is completely illegal and unauthorized and completely frustrates the purpose of serving Hamdast issued by the Hon'ble Bombay High Court. The said march is planned with an intention and motive to create a law and order situation at the venue i.e. Serum Institute of India, Hadapsar Pune. The said march is organized with an intention and motive to cause unlawful restraint to the directors and the employees of the Serum Institute of India. Through Whatsapp messages the said group is instigating and promoting enmity against Serum Institute of India by sending false and defamatory messages. There is a possibility that the people involved in the said march may damage and destroy the property of Serum Institute of India. A law and order situation will be created if the said march is allowed to be held on 01/10/2022. The said march will also cause inconvenience, nuisance and annoyance to people staying in and around that area. This is nothing but a planned and organized act done with an intention and oblique motive to damage the image of Serum institute of India and its directors worldwide.

5. On behalf of Serum Institute of India, i Vivek Pradhan, Authorized Signatory, hereby request you to take all precautionary measures by issuing notices u/S. 149 of Cr.P.C to Ajinkya. Mobile Number- 9321234861, Chetan, Mobile Number 8879592924 Hemant. Mobile Number 8830398392, Yusuf, Mobile Number- 9321232620 as well as

*Mr. Yohan Tengra, Mobile Number- 8097333845 or arrest them u/S. 151 of Cr.P.C. to prevent them from committing cognizable offence u/S. 143 Punishment for unlawful assembly, 147- Punishment for rioting, 149-Offence committed with Common Object, 341- Punishment for Wrongful Restraint, 425- Mischief, 426- Punishment for Mischief, 441-Criminal Trespass, 447-Punishment for Criminal Trespass, 499- Defamation, 500-Punishment for Defamation, 506- Punishment for Criminal Intimidation of Indian Penal Code for organizing the march as well as sending false and defamatory messages Hence, thereby request you to take all the precautionary measures and provide adequate security to Serurn Institute of India and register offence against the abovementioned persons as per the provisions of law in order to avoid outbreak of law and order situation or any unwanted situation."*

20. That all above allegations against members of AIM are ex-facie false and defamatory and deliberately made with an ulterior motive to defame AIM and ultimately my client in the eyes of public and government officials.

21. It is matter of record that after enquiry the police did not accepted the abovesaid version in your letter dated 1.10.2022 and no action was taken against my client as your allegations were extremely false and bogus.

22. When various victims and activist citizen went to Pune for serving the High Court's '**Hamdast**' then they have followed all the legal procedure and made proper application to the police seeking their permission.

23. That, the first letter dated **28.09.2022** given to Pune Police reads thus;

*Date 28-9-2022*

*To,*



*1. Shivaji Nagar Police station*

*Near Shivaji nagar court complex*

*Pune, India*

*2. Hadapsar Police Station*

*Pune, India*

*Subject - Issue of Bombay High Court Hamdast to Mr Adar C Poonawalla, CEO, Serum Institute Of India Pvt Ltd, Pune.*

*Reference - Bombay High Court order dt August 36,2022 in the case of*

*Dilip Lunawat v/s Serum Institute of India pvt ltd and othrs, writ petition*

*no 5767 of 2022. The copy of the petition can be downloaded from*

*https*

*drive.google.com/file/d/lloiYAbwIcTPe\_0J2zAUynVEipggrMI40/view*

*Dear Senior Officer,*

*This is to inform you that on 26 Aug 2022, Bombay high court issued order Hamdast to be served to the respondents.*

*The Hamdast copy of Mr Adar C Poonawalla is with us and we are going to serve him the same on 1" Oct 2022.9.2022.*



*AIM members will come to Shivaji nagar court to handover the court documents to the district court and accompany the Bailiff to serum institute, Hadapsar to deliver the same.*

24. That, the second letter reads thus;

***"Subject: Peaceful gathering at Saras Baug***

*This letter is to intimate you that around 50 volunteers of Awaken India Movement will be meeting at Saras Baug on 1<sup>st</sup> October 4pm to discuss the Bombay High Court case that we have filed against pharma mafia head Bill Gates. Covid vaccines are killing people and leading to increased heart attacks all over the country and we are doing our constitutional duty under article 51(A) of the Constitution of India to spread awareness among the Indian people and save the lives of our fellow brothers and sisters.*

*Yohan Tengra-8097333895*

*Feroze Mithiborwala - 9029277751*

*Ambar Koiri - 9920903825*

25. That, the record shows that, all the members of Awaken India Movement are law abiding citizen and they have acted within the four corners of law. Infact they are performing their constitutional duty under **Article 51(A)** by informing the public at large that the covishield vaccine is having death causing and other serious side effects which may cause life time disabilities.

26. That, all the above statements made by the members of AIM are based on the sound proofs and data from Government office and authentic research papers.

27. However, you noticee are trying to mislead the police and everyone by portraying that the AIM activists are making false claims and defaming you on the basis of incorrect facts. You made a complaint on **01.10.2022** asking the police to arrest them under section **151 of Cr. P. C.** and/or to take the action of prevention against them.

28. Your persistent stand is that, there is no connection between the death of Dr. Snehal Lunawat and your covishield vaccine. Your second version is that your vaccines are completely safe and does not have death causing or other serious side effects.

29. That, your version about safety of Covishield vaccine and no connection with the death of Dr. Snehal Lunawat is falsified from the investigation report given by the Government of India's committee for Adverse Events Following Immunization (AEFIs). \*

30. That, all your version are ex-facie false and misleading, because already the committee of Government of India called **Adverse Event Following Immunization (AEFI)** had conducted a through enquiry and had given its conclusion that the death of Dr. Snehal Lunawat was due to side effects of covishield vaccine.

31. Furthermore, the Ministry of Health and Family Welfare of Central Government had in their Frequently Asked Question had specifically warned the citizen that the Covishield vaccine is having side effects of Thrombosis which is the cause of death of Dr. Snehal Lunawat.

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

32. That, the Union of India in its affidavit dated **23.11.2022** affirmed by Dr. Veena Dhawan Add. Commissioner (Immunization) Ministry of Health & Family Welfare, which is filed before Hon'ble Supreme Court in the case between **Rachna**



**Gangu Vs. Union of India Writ Petition (C) No. 1220 of 2021**, had mentioned that they have informed the public about death causing side effects of Covishield vaccines.

33. That there are many cases filed in other High Courts & Orders are passed therein, which to indicate that many deaths are due to side effects of Covishield vaccine.

34. That, during the enquiry by police my clients gave the records and documents available with them and after complete enquiry the police did not found any substance in the allegations by you noticee and that's why police did not arrested my clients. Hence your malafide plan to get my clients arrested on bogus complaint got failed. This proved the malicious and malafide conduct of you noticee, for which you are liable for prosecution under section 109, 220, 211, 499, 500, 471, 474, 469, 120 (B) and 34 etc., of IPC.

35. Despite the fact that your falsity is exposed before police, you have repeated said allegations many times and using said letter dated 1.10.2022 everywhere including in court proceedings.

36. Due to your abovesaid unlawful activities my client had been defamed in the eyes of common public and he had suffered much hardship including mental torture, annoyance, inconvenience and harassment. It had impacted many future business prospects and my clients had suffered monetary losses which you are bound to compensate.

37. That many people are continuously asking my client about the said instance of your false police complaint against NGO of my client and my client has to answer everyone about the same.

38. Hence, by way of this notice you are hereby called upon to forthwith stop from defaming my client and pay a compensation of **Rs. 10,000 Crores** to my client by way of Demand Draft, within seven days from the date of receipt of this notice.



39. Please note that, in case of your failure to comply with the notice, my client will be compelled to initiate appropriate legal proceeding against you. Which will be at your sole risk as to cost and consequences.

40. This notice is independent of and is issued by reserving rights to initiate the prosecution under criminal law against you noticee no. 1, 2 & 3 and all the office bearers of Serum Institute of India Pvt. Ltd.

41. Needless to mention here that, in view of various cases by all the members, citizen and victims the total compensation amount claims against you are likely to go around **Rupees Five Lac Crores** and above, therefore you noticee should not alienate the property and preserve the property, shares worth of said amount. Any attempt to transfer, sell or alienate property should go against you and pleaded as your conduct. My client is soon going to apply to the Hon'ble Court under Order 21 Rule 54 of CPC for attachment of your property before judgment.

42. Under these circumstances please take the serious note of this notice and act accordingly.

43. Notice charges of Rs. 1 Crore are levied upon you and added in addition to the compensation amount to your account.

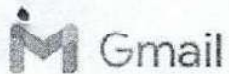
Sincerely

*Snehal*

Adv. Snehal Surve

*P.C. Surve*

DOC No. 2



Snehal Surve <advsnehalsurve@gmail.com>

---

[IMPORTANT- LEGAL NOTICE]

1 message

---

Snehal Surve <advsnehalsurve@gmail.com>

Mon, Jan 2, 2023 at 7:00 PM


To: michael.vernekar@seruminstitute.com, kum@seruminstitute.com

Sir,

Kindly find the copy of Legal Notice dated 2nd January, 2023.

Regards,  
Adv. Snehal Surve

---

 Legal Notice to Serum Institute and Ors. dated 2nd January 2023...pdf  
472K

T.C  
E.I

EXHIBIT - M'

DOC. NO. 3

91



**SERUM INSTITUTE OF INDIA PVT. LTD.**

(FORMERLY KNOWN AS SERUM INSTITUTE OF INDIA LTD.)

Cyrus Poonawalla Group

Regd. off. : 212/2, Hadapsar, Pune - 411028. TEL. : +91-20-26993900 ■ FAX : +91-20-26993921

www.seruminstitute.com ■ CIN : U80903PN1984PTC032945

From

Serum Institute of India

Authorised Signatory-

Address-

To,

Senior Inspector,

Hadapsar Police Station

Subject- To register an offence against Group called 'Awaken India Movement' and its Team members for organising an illegal march on 1<sup>st</sup> Oct. 2022 towards Serum Institute to handover Hamdast to Adar Poonawala and to take precautionary measures .

Respected Sir,

1. A group namely Awaken India Movement (hereinafter referred to as the "Said Group") has organized a march from Kanyadan Mangal Karyalaya Hall, Hadapsar to Serum Institute, Hadapsar on 1<sup>st</sup> Oct. 2022 to handover Hamdast to Adar Poonawala issued by Hon'ble Bombay High Court. The Said Group has sent WhatsApp messages as well as made tweets on Twitter making an appeal to large number of people to join the march to give Hamdast to Adar Poonawala.
2. The Said Group has organized buses from Kalamboli, Mumbai to Kanyadaan Mangal Karyalaya Hall, Hadapsar and thereafter they are planning to march towards Serum Institute. The WhatsApp messages contain the name and mobile numbers of following members for assistance for bus booking-
  1. Ajinkya, Mobile Number- 9321234861
  2. Chetan, Mobile Number- 8879592924
  3. Hemant, Mobile Number- 8830398392
  4. Yusuf, Mobile Number- 9321232620



Q  
P.S.D.  
01/10/2022  
01/10/2022  
हदपसर पोलीस स्टेशन



92



# SERUM INSTITUTE OF INDIA PVT. LTD.

(FORMERLY KNOWN AS SERUM INSTITUTE OF INDIA LTD.)

Cyrus Poonawalla Group

Regd. off. : 212/2, Hadapsar, Pune - 411028. TEL. : +91-20-26993900 ■ FAX : +91-20-26993921  
www.seruminstitute.com ■ CIN : U80903PN1984PTC032945

## Pune Contacts

1. Suyash, Mobile Number- 9923454589
2. Aditya, Mobile Number- 9922919377

3. The said march is completely illegal and unauthorized and completely frustrates the purpose of serving Hamdast issued by the Hon'ble Bombay High Court. The said march is planned with an intention and motive to create a law and order situation at the venue i.e. Serum Institute of India, Hadapsar Pune. The said march is organized with an intention and motive to cause unlawful restraint to the directors and the employees of the Serum Institute of India. Through Whatsapp messages the said group is instigating and promoting enmity against Serum Institute of India by sending false and defamatory messages. There is a possibility that the people involved in the said march may damage and destroy the property of Serum Institute of India. A law and order situation will be created if the said march is allowed to be held on 01/10/2022. The said march will also cause inconvenience, nuisance and annoyance to people staying in and around that area. This is nothing but a planned and organized act done with an intention and oblique motive to damage the image of Serum Institute of India and its directors worldwide.

5. On behalf of Serum Institute of India, I Vivek Pradhan, Authorized Signatory, hereby request you to take all precautionary measures by issuing notices u/S. 149 of Cr.P.C to Ajinkya, Mobile Number- 9321234861, Chetan, Mobile Number- 8879592924 Hemant, Mobile Number- 8830398392, Yusu, Mobile Number- 9321232620 as well as Mr. Yohan Tengra, Mobile Number- 8097333895 or arrest them u/S. 151 of Cr.P.C. to prevent them from committing cognizable offence u/S. 143- Punishment for unlawful assembly, 147- Punishment for rioting, 149- Offence committed with Common Object, 341- Punishment for Wrongful Restraint, 425- Mischief, 426- Punishment for Mischief, 441- Criminal Trespass, 447- Punishment for Criminal Trespass, 499- Defamation, 500- Punishment for Defamation, 506- Punishment for Criminal Intimidation of Indian Penal Code for organizing the march as well as sending false and defamatory messages. Hence, I hereby request you to take all the precautionary measures and provide adequate security to Serum Institute of India and register offence against the abovementioned persons as per the provisions of law in order to avoid outbreak of law and order situation or any unwanted situation.



Yours Faithfully,

*Vivek Pradhan*

Authorized Signatory  
Serum Institute of India

TRUE COPY  
*PE*  
FOR 40 BY ASSOCIATES  
PUNJAB PCT

EXHIBIT - 'L'

DOC NO-480



# SERUM INSTITUTE OF INDIA PVT. LTD.

(FORMERLY KNOWN AS SERUM INSTITUTE OF INDIA LTD.)

Cyrus Poonawalla Group

Regd. off. : 212/2, Hadapsar, Pune - 411028. TEL : +91-20-26993900 ■ FAX : +91-20-26993921

www.seruminstitute.com ■ CIN : U80903PN1984PTC032945



From

Serum Institute of India

Authorised Signatory-

Address- 212/2 Hadapsar,

Off Soli Poonawalla Road,

Pune - 411028

To,

Commissioner of Police

Pune.

Subject- To register an offence against Group called 'Awaken India Movement' and its Team members for organising an illegal march on 1<sup>st</sup> Oct. 2022 towards Serum Institute to handover Hamdast to Adar Poonawala and to take precautionary measures .

Respected Sir,

1. A group namely Awaken India Movement (hereinafter referred to as the "Said Group") has organized a march from Kanyadan Mangal Karyalaya Hall, Hadapsar to Serum Institute, Hadapsar on 1<sup>st</sup> Oct. 2022 to handover Hamdast to Adar Poonawala issued by Hon'ble Bombay High Court. The Said Group has sent WhatsApp messages as well as made tweets on Twitter making an appeal to large number of people to join the march to give Hamdast to Adar Poonawala.
2. The Said Group has organized buses from Kalamboli, Mumbai to Kanyadaan Mangal Karyala Hall, Hadapsar and thereafter they are planning to march towards Serum Institute. The WhatsApp messages contain the name and mobile numbers of following members for assistance for bus booking-
1. Ajinkya, Mobile Number- 9321234861
2. Chetan, Mobile Number- 8879592924
3. Hemant, Mobile Number- 8830398392
4. Yusuf, Mobile Number- 9321232620

Received  
  
01/10/2022





# SERUM INSTITUTE OF INDIA PVT. LTD.

(FORMERLY KNOWN AS SERUM INSTITUTE OF INDIA LTD.)

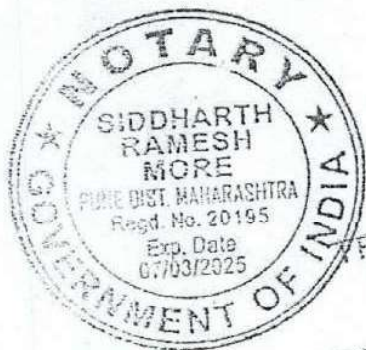
Cyrus Poonawalla Group

Regd. off. : 212/2, Hadapsar, Pune - 411028. TEL. : +91-20-26993900 ■ FAX : +91-20-26993921  
www.seruminstitute.com ■ CIN : U80903PN1984PTC032945

## Pune Contacts

1. Suyash, Mobile Number- 9923454589
2. Aditya, Mobile Number- 9922919377

3. The said march is completely illegal and unauthorized and completely frustrates the purpose of serving Hamdast issued by the Hon'ble Bombay High Court. The said march is planned with an Intention and motive to create a law and order situation at the venue i.e. Serum Institute of India, Hadapsar Pune. The said march is organized with an intention and motive to cause unlawful restraint to the directors and the employees of the Serum Institute of India. Through Whatsapp messages the said group is instigating and promoting enmity against Serum Institute of India by sending false and defamatory messages. There is a possibility that the people involved in the said march may damage and destroy the property of Serum Institute of India. A law and order situation will be created if the said march is allowed to be held on 01/10/2022. The said march will also cause inconvenience, nuisance and annoyance to people staying in and around that area. This is nothing but a planned and organized act done with an intention and oblique motive to damage the image of Serum Institute of India and its directors worldwide.
5. On behalf of Serum Institute of India, I Vivek Pradhan, Authorized Signatory, hereby request you to take all precautionary measures by issuing notices u/S. 149 of Cr.P.C to Ajinkya, Mobile Number- 9321234861, Chetan, Mobile Number- 8879592924 Hemant, Mobile Number- 8830398392, Yusuf, Mobile Number- 9321232620 as well as Mr. Yohan Tengra, Mobile Number- 8097333895 or arrest them u/S. 151 of Cr.P.C. to prevent them from committing cognizable offence u/S. 143- Punishment for unlawful assembly, 147- Punishment for rioting, 149- Offence committed with Common Object, 341- Punishment for Wrongful Restraint, 425- Mischief, 426- Punishment for Mischief, 441- Criminal Trespass, 447- Punishment for Criminal Trespass, 499- Defamation, 500- Punishment for Defamation, 506- Punishment for Criminal Intimidation of Indian Penal Code for organizing the march as well as sending false and defamatory messages. Hence, I hereby request you to take all the precautionary measures and provide adequate security to Serum Institute of India and register offence against the abovementioned persons as per the provisions of law in order to avoid outbreak of law and order situation or any unwanted situation.



TRUE COPY  
PARINAY LAW ASSOCIATES  
Associated For

Yours Faithfully,

Authorized Signatory  
Serum Institute of India



T-1  
C-1  
9



Doc NO. 2

**IN THE COURT OF THE HON'BLE CIVIL JUDGE  
(SENIOR DIVISION), NAGPUR  
SPECIAL CIVIL SUIT NO.417 of 2023**



**PLAINTIFF :- SHRI PRAKASH GOPALRAO POHARE  
VERSUS**

**DEFENDANTS :- SERUM INSTITUTE OF INDIA PVT. LTD**

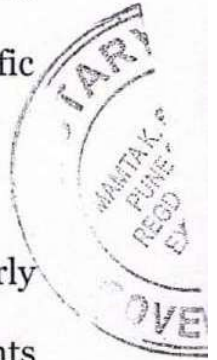
**APPLICATION FOR REJECTION OF PLAINT UNDER  
ORDER 7 RULE 11 (A) OF THE CPC R/W SECTION 151 OF  
THE CPC**

The Defendant No. 1 hereinabove most humbly and respectfully submits as under :-

1. This present Application is filed for rejection of the Plaint under the provisions of Order 7 Rule 11 (a) r/w Section 151 of of the Code of Civil Procedure, 1908 ("CPC") on the ground that the plaint does not disclose any cause of action for the reasons more particularly set out hereinafter.
2. At the outset, I deny all and any singular statement, averment; allegation and contention against Defendant No. 1

contained in the said Plaint save and except those which have been specifically admitted herein. I say that nothing contained in the said Plaint is or should be deemed to have been admitted by Defendant No. 1, for want of specific denials or otherwise.

3. That, the Plaintiff has filed a vague civil suit and has utterly failed to disclose from the averments and/or statements made in the plaint any the cause of action to file the captioned Suit against the Defendants. That the Plaintiff through the present Suit is trying to espouse an illusory cause of action when in reality none exists. On a meaningful reading of the Plaint it is apparent that the present Suit is manifestly vexatious and meritless without disclosing the Plaintiff's right to sue and file the present Suit. The Plaintiff has filed the present Suit with an ulterior motive and there exists no cause of action to file the present Suit. The Plaintiff has miserably failed to demonstrate his locus to file the present Suit, on this ground alone, the Plaint ought to be rejected under the provisions of Order 7 Rule 11 (a) of the CPC.





(3)

4. It is submitted that the alleged cause of action as per the Plaintiff to file present suit arose when the Defendant No.1 lodged the Police Complaint to the Sr. Inspector of Hadapsar Police Station, Pune and Commissioner of Police, Pune on 1st October 2022 ("**said Complaint**") requesting the police authorities to provide adequate security and register offence against Mr. Tengra and others as more specifically named in the complaint as per the provisions of the law in order to avoid outbreak of law-and-order situation or any unwarranted situation. The said Complaint is the premise of the present Suit and Ex-5 Application filed by the Plaintiff against the Defendants. According to the Plaintiff, the said Complaint has defamed and maligned the image of the Plaintiff. The Plaintiff has allegedly therefore suffered hardship, mental torture, loss of business prospects and monetary loss and damages of Rs. 10,000 Crores and has the filed the present Suit for defamation. It is submitted that on a bare demurer of the averments made in the Plaint, it is evident that the Plaint does not contain sufficient averments to spell out a cause of action for suing the Defendants for



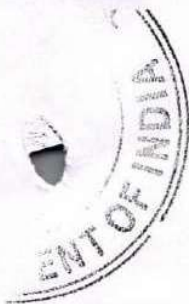


(4)



damages or for the tort of defamation. If every complainant who lodges a complaint with the law enforcing agency for imputation against the persons accused are to face civil cases for defamation on the premise that the imputation according to the accused are false, many people fearing such actions may not come forward to lodge a complaint to the law enforcing agency. When an imputation has been made in a complaint made to law enforcing agency with a belief that such agency would take criminal action against the person against whom such imputation is made, the same amounts to valid exception taking such act outside the scope of tort of defamation. Further, the lodging of police complaint with police authorities could not be considered to be a publication of alleged defamatory statement. Without prejudice to the aforesaid and in any event, the Plaintiff has failed to highlight in the Plaint the purported specific words/sentences/paragraphs of the said Complaint which accordingly to him are defamatory per se. Not only has the Plaintiff failed to highlight in the plaint the purported specific words/sentences/ paragraphs of the said Complaint which are defamatory, but the Plaintiff has also failed to





(5)

demonstrate how they are defamatory vis-à-vis the Plaintiff in question. It is therefore clear that there is no cause of action on part of the Plaintiff to file the present Suit much less seek any reliefs against the Defendants with regard to the said Complaint which does not even concern the Plaintiff in any manner whatsoever. The Plaintiff is not even named in the said Complaint and this is clear from a bare reading of the said Complaint. Furthermore, the Plaintiff has not even averred in the Plaint that he had participated in the march, which is mentioned in the said Complaint, nor has he produced any letter of authority authorising him to file the present Suit on behalf of the Awaken India Movement, its members, NGO or others named in the said Complaint. In the absence of the aforesaid, the present Suit must necessarily fail and ought to be rejected by this Hon'ble Court. It is therefore clear that there arises no cause of action to file the present Suit against the Defendants.



5. The said Complaint filed by Defendant No.1 is not made against the Plaintiff but against Mr. Ajinkya, Mr. Chetan, Mr. Hemant, Mr. Yusuf and Mr. Yohan Tengra, therefore, in the



6

aforesaid circumstances, the Plaintiff has no locus and cause of action to file the present Suit against the Defendants.

6. Further, on meaningful reading of the Plaint, it can be found that the suit does not disclose the right to sue. The Plaintiff has created an illusion of cause of action that the (1) Defendants have defamed the Plaintiff. However, the said Complaint does not even name the Plaintiff. (2) Defendants have published the alleged defamatory statements. However, there is no material in the Plaint to demonstrate that there was any publication made nor there is any proof/ material produced in the Plaint to substantiate that the Defendants have played any role in publishing it in any manner whatsoever. (3) Plaintiff has suffered hardship, mental torture, loss of business prospects and monetary loss and damages of Rs. 10,000 Crores. However, no proof of any such loss as allegedly claimed as been disclosed by the Plaintiff. Such clever drafting of the Plaint ought to be nipped in the bud so that frivolous litigation will end at the earliest stage itself.





(7)

7. That, from the statements made in the Plaint itself, it is evident that the present Suit does not disclose any cause of action and is an abuse of process of law, therefore the Plaint ought to be rejected by this Hon'ble Court under Order 7 Rule 11 (a) of the CPC at the threshold.

8. That, pending the hearing and final disposal of the present application, the proceedings in the Suit and Temporary Injunction under Order 39 Rule 1 & 2 of the Code of Civil Procedure be stayed.

9. In view of what is stated hereinabove, it is submitted that the Plaint ought to be rejected by this Hon'ble Court and that further prosecution of the present Suit would defeat the very purpose of promulgation of the Civil Procedure Code, 1908.

Hence this application.

Prayer :- therefore most humbly prayed that this honourable court may kindly be pleased to -

- i. Allow the present application and thereby reject the plaint in Special Civil Suit No. 417/2023 under Order 7 Rule 11 (a) of the CPC, 1908.

8

ii. That pending the hearing and final disposal of this application, the Special Civil Suit No. 417 of 2023 alongwith Application for Temporary Injunction under Order 39 Rule 1 & 2 of the Code of Civil Procedure, 1908 be stayed;

iii. Grant ad-interim reliefs in terms of prayer clause (ii);

iv. Any such further and other reliefs as the nature and circumstances of the case may require and which this Hon'ble Court deems fit;

Pune / Nagpur  
29-04-2023

R. Bhagwat



DEFENDANT NO.1

  
Ritesh Badhe

COUNSEL FOR DEFENDANT NO.1

**SOLEMN AFFIRMATION**

I, Rajesh Bhagwat, aged - 54 years, Authorised Representative of Defendant No.1, do hereby take an oath and state on solemn affirmation that duly authorised to swear in the present affidavit






9

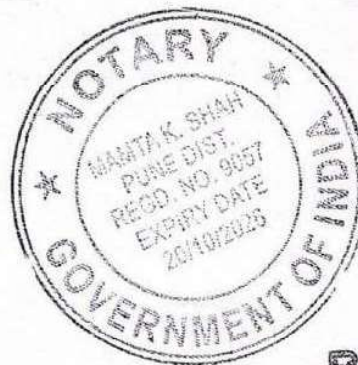
and that the contents of the above paragraphs 1 to 9 are drafted by my counsel as per my instructions. I've been read over the same and explained, which are found as true and correct to the best of my knowledge received from the official record. The legal pleas hereinabove are believed to be true by me as per the advice given to me by my counsel.

Hence verified and signed at Pune on this 29<sup>th</sup> day of April, 2023.

I know and identify the deponent

  
Advocate for Defendant No.1

Advocate for Defendant No.1

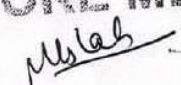




Deponent



BEFORE ME

  
MAMTA K. SHAH  
NOTARY  
GOVT. OF INDIA  
PUNE DISTRICT

NOTED AND REGISTERED  
AT SR. NO. 7095/2023.  
DATE 29 APR 2023



IN THE COURT OF HON'BLE Civil Judge (Sec. Dn) Nagpur

Plaintiff/Applicant: Prakash Pohare

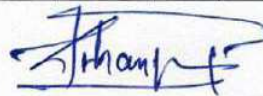
Defendant/Respondent: Serum Institute of India

Civil Suit / No.

Date of Order: Date of appearance:

	Descripti on of	Amount	Allowanc	Cash	Expendit ure	Satyana
1) Serum Institute of India Pvt. Ltd. 2) Shri. Adar Poonawalla 3) Shri. Vivek Pradhan Address of N.A. NO. 1 to 3, 212/2 Soli Poonawalla Road, JIC Colony, Satyadev Nagar, Hadapsar, Pune, Maharashtra - 411028	Issue Summons to N.A.					

Date: 29<sup>th</sup> Feb 2024  
Nagpur:

  
Counsel for Applicant