

**IN THE HIGH COURT OF JUDICATURE OF RAJASTHAN
AT JAIPUR BENCH, JAIPUR**

D.B. CIVIL PUBLIC INTEREST LITIGATION (PIL) NO. _____ 2021

Mrs. Jyotsana Rathore

Versus

State of Rajasthan

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Jaipur

Dated :

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D.B. CIVIL PUBLIC INTEREST LITIGATION (PIL) NO. _____ 2021

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Versus

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SYNOPSIS

1. The petitioner herein is filling the instant petition under Article 226 of the Constitution of India for the enforcement of fundamental rights under Article 14, 19(1)(g) and 21, that stands violated by the impugned order issued by the respondent dated 26.06.2021, which comes into effect on 28.06.2021.
2. The impugned order issued by the respondent is curtailing the following fundamental rights guaranteed under Part III of the Constitution of India, 1950:
 - Right to Equality under Article 14 of the Constitution of India, 1950;
 - Right to Access to Public Places under Article 15(2) r/w Article 14 of the Constitution of India, 1950;
 - Right to practice any profession, or to carry on any occupation, trade or business under Article 19(1)(g) r/w Article 14 of the Constitution of India, 1950;

- Right to means of livelihood recognised under Article 21 r/w Article 14 and 19 of the Constitution of India, 1950;
- Right to Healthcare recognised under Article 21 r/w Article 14 of the Constitution of India, 1950;
- Right to opt for vaccination as a fundamental right recognised under Article 21 r/w Article 14 and 19 of the Constitution of India, 1950;
- Right, choice and liberty of an individual to prefer the medicine of his choice recognised under Article 14, 19 and 21 of the Constitution of India, 1950;
- Right to privacy and exercise of personal liberty recognised under Article 14 and 21 of the Constitution of India, 1950.

3. The gist of the relevant clauses of the impugned order dated 26.06.2021 issued by the Respondent, are reproduced hereunder:

- a. Outdoor sports activities will be allowed in clubs while indoor sporting activities will be allowed for vaccinated people.
- b. Gyms and restaurants, where at least 60 percent of the staff has received COVID-19 vaccine, will be allowed to open for an additional three hours from 4 pm to 7 pm.
- c. The state government has made it mandatory for people to have at least one dose of vaccination to enter public places from 28.06.2021.
- d. City/Mini-buses in the city will be allowed if the driver and operator have got at least the first dose of the vaccine.

- e. Markets and commercial establishments where at least 60 per cent of the workforce has received the first dose of the vaccine, will be allowed to open for an additional three hours till 7 pm.
4. It is clearly and unequivocally submitted that the petitioner is not against the process of COVID19 vaccination, however, the grievance of the petitioner is limited and concerned to the extent the impugned order makes COVID19 vaccination process mandatory in nature and discriminates similarly placed people on the basis of the status of COVID19 vaccination of such person.
5. Impugned order blatantly violates Article 14 of the Constitution of India, 1950 as it is founded on the unreasonable classification i.e. status of COVID19 vaccination of a person and fails to establish a rational nexus since the act of the state of making COVID19 vaccination mandatory is imposing an embargo on the individual's right of continuance of occupation and/or profession and hence on right to life.
6. The state by issuing the impugned order has tried to curtail the fundamental rights of the citizens indirectly, something which it is not entitled to encroach directly, thus incentivising the vaccination process by awarding what is already guaranteed by the Constitution. Hence the same is a colourable exercise of power by the Respondent.
7. It is pertinent to note that this Hon'ble Court has, vide its orders dated 24.06.2021 and

27.06.2021 issued by the Registrar General, self-acknowledged the fact that COVID19 Vaccination is a Voluntary exercise and cannot be made a factor of discrimination to curtail fundamental rights.

8. Importantly, there has been no legal mandate whatsoever with regard to coercive or mandatory COVID19 vaccination drive that can prohibit or take away the livelihood of a citizen on that ground except according to the procedure established by law.
9. By making vaccination mandatory in nature, the impugned order violates the right, choice and liberty of an individual to prefer the medicine of his choice as recognised by the Hon'ble Supreme Court of India in the case of 'Common Cause v. Union of India' 2018(5)SCC1.
10. It fails to establish a rational nexus between 'Right to Access to Public Places' under Art. 15(2) and 'Right to Healthcare (Right to Vaccination)' under Art. 21.
11. Clause (13) of the impugned order allows only those drivers and conductors of City Bus/ Mini-Bus Services to continue service who have been administered with at least first dose of COVID19 Vaccination. Such a restriction discriminating on unreasonable classification i.e. 'Status of COVID19 vaccination' does not fall within the reasonable restrictions as the same is of excessive nature and is beyond what is required in the interest of the public.

12. The requirement of Article 19(6) of the Constitution is that the restriction has to be made in the form of a law and not by way of an executive instruction. The State lacks the power to issue executive instructions, discriminating against persons with regard to their right to liberty, livelihood and life, violating the fundamental rights of the citizens, which is protected by the Constitution.
13. Impugned order violates Article 21 of the Constitution of India, 1950 as it encompasses within its fold, right to health, along with right to health care, which includes right to opt for vaccination as a fundamental right, thus making it a voluntary choice of an individual.
14. The Hon'ble High Court of Meghalaya in its recent order dated 26.06.2021 has dealt with the issue raised herein and held:

“A harmonious and purposive construction of the provisions of law and principles of equity, good conscience and justice reveals that mandatory or forceful COVID19 vaccination does not find any force in law leading to such acts being liable to be declared ultra vires ab initio.”
15. Under Serial Number 3 of the “Frequently Asked Questions” (FAQs) on COVID-19 vaccination uploaded by the Ministry of Health and Family Welfare, Government of India, expressly clarifies that the COVID19 vaccination process is ‘*Voluntary*’ for all.
16. In reply to RTI dated 09.03.2021, The Central Ministry of Health and Family Welfare further

clarified that *“taking the Covid Vaccines was entirely voluntary and there is no relation whatsoever to provision of government facilities, citizenship, job etc to the vaccine”*.

17. The “Frequently Asked Questions” (FAQs) on COVID-19 vaccination uploaded on the website of the World Health Organisation (W.H.O) clarifies that vaccines do not prevent the spread of the disease from person to person and so have little role in preservation of public health, thus making the restrictions imposed by the impugned order beyond the meaning and boundaries of ‘reasonable restrictions’ as per Art 19(6) of the Constitution of India, 1950.
18. The Hon’ble High Court of Gauhati in its recent order dated 02.07.2021 has dealt with the issue *‘Whether vaccination can be made mandatory?’* and settled that *‘There is nothing to show that vaccinated persons (first dose) cannot be infected with the corona virus or that they cannot be spreaders.’*
19. The impugned order by making COVID19 vaccination mandatory in nature, fails to create a level playing field for all as it ignores ground realities such as accessibility to vaccine centres, technical barriers in registration on CoWIN portal, pre-medical conditions (allergies), vaccination for specially abled people etc., and affords no exemptions/ relaxations to those unable to comply with the same due to reasons mentioned above.

20. The Hon'ble Chief Minister of Rajasthan in an open letter to the Hon'ble Prime Minister dated 26.06.2021 acknowledged the acute shortage of the COVID19 vaccination, in which case unvaccinated persons would be deprived of their right to livelihood, which would in turn violate their right to life, which are guaranteed under Article 21 of the Constitution of India, 1950.

21. That the Petitioner being a public spirited person is hereby seeking a writ of Certiorari from this Hon'ble Court for quashing of the impugned order dated 26.06.2021 issued by the Government of Rajasthan having Ref. No. Ref. No. P.7(1)Home-7/2021.

* Hence this Writ Petition in the form of PIL.

LIST OF DATES & EVENTS

Feb 2021	The second wave of COVID19 began in March 2021 which was much larger than the first, with shortages of vaccines, hospital beds, oxygen cylinders and other medicines in parts of the country.
17.04.2021	Lockdown imposed by the State of Rajasthan in view of rising cases due to the Second Wave of Covid19.
09.03.2021	Reply of the RTI by the Ministry of Health and Family Welfare, Government of India clarifying that “taking the Covid Vaccines was entirely voluntary and there is no relation whatsoever to provision of government facilities, citizenship, job etc. to the vaccine”.
25.03.2021	Frequently Asked Questions (FAQs) on COVID19 vaccination issued by the Ministry of Health and Family Welfare declaring the vaccination process to be ‘voluntary’ in nature.
22.06.2021	Frequently Asked Questions (FAQs) on COVID19 vaccination issued by the World Health Organisation clarifying that vaccination does not assure protection from getting infected again and its possibility of passing the virus onto others.
22.06.2021	Notification issued by the State of Meghalaya making it mandatory for shopkeepers, vendors, local taxi drivers and others to get themselves vaccinated before they can resume their businesses.

23.06.2021	Order passed by the Hon'ble High Court of Meghalaya, settling the issue of mandatory nature of the Covid19 Vaccination, to be violative of the fundamental rights guaranteed under Art. 14, 19 and 21 of the Constitution of India, 1950.
24.06.2021	Circular issued by the Registrar General, High Court of Rajasthan making COVID19 vaccination mandatory for allowing entry in the premises of the High Court of Rajasthan.
26.06.2021	Impugned order issued by the Government of Rajasthan making the COVID19 vaccination process mandatory for all being violative of Art. 14, 19(1)(g) and 21 of the Constitution of India, 1950
26.06.2021	Letter by the Hon'ble Chief Minister of Rajasthan to the Hon'ble Prime Minister acknowledging the constant shortage of vaccine doses faced by the State.
27.06.2021	Circular issued by the Registrar General, High Court of Rajasthan making COVID19 vaccination mandatory for allowing entry in the premises of the High Court of Rajasthan. revising the previous circular dated 24.06.2021, removing clause (2) which made COVID19 vaccination mandatory for entry in the Rajasthan High Court premises.

02.07.2021	Order passed by the Hon'ble High Court of Gauhati, settling the issue of mandatory nature of the Covid19 Vaccination, to be violative of the fundamental rights guaranteed under Art. 14, 19 and 21 of the Constitution of India, 1950.
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**IN THE HIGH COURT OF JUDICATURE OF RAJASTHAN
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D.B. CIVIL PUBLIC INTEREST LITIGATION (PIL) NO. _____ 2021

IN THE MATTER OF:

Mrs. Jyotsana Rathore, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(Mobile No. [REDACTED])

...Petitioner

Versus

State of Rajasthan

Through its Principal Secretary

Home Department, C Scheme,

Ashok Nagar, Jaipur, Rajasthan-302007

...Respondent

**D.B. PUBLIC INTEREST LITIGATION
PETITION CHAPTER XXII-A RULE 385A
TO 385R OF THE RAJASTHAN HIGH
RULES READ WITH ARTICLE 226 OF THE
CONSTITUTION OF INDIA;**

AND

IN THE MATTER OF PUBLIC INTEREST;

AND

IN THE MATTER OF NOTICE ISSUED BY

RESPONDENT (GOVERNMENT OF RAJASTHAN) DATED 26.06.2021 HAVING REF. NO. P.7(1)HOME-7/2021 ALONG WITH SUPPORTING AFFIDAVIT.

To,

Hon'ble Chief Justice and his other Hon'ble Companion Judges of Rajasthan High Court of Judicature, Jaipur.

MAY IT PLEASE YOUR LORDSHIPS,

The humble petitioner most respectfully submit as under :

The humble petitioner is Citizen of India and hence competent to invoke extraordinary writ jurisdiction of this Hon'ble Court in the nature of public interest petition. The petitioners most respectfully submits as under :

A. Particular of the cause/order against which the petition is made.

1. That the Petitioner is constrained to file the present petition under Art. 226 of the Constitution of India, 1950 being aggrieved by the order dated 26.06. 2021 bearing Ref. No. P.7(1)Home-7/2021 issued by the respondent (hereinafter referred to as impugned order). The impugned order is arbitrary and discriminatory being in violation of Article 14, 19(1)(g) and 21 of the Constitution of India, 1950. Thus, the impugned order is liable to be quashed in the

present proceedings.

2. At the outset, it is clearly and unequivocally submitted that the petitioner is not against the process of COVID19 vaccination and believes it as the need of the hour and an absolute necessity in order to overcome the global pandemic which is engulfing the entire world. However, the grievance of the petitioner is limited and concerned to the extent the impugned order makes COVID19 vaccination process mandatory in nature and discriminates similarly placed people on the basis of the status of COVID19 vaccination of such person. It is submitted that if any vaccination drive is coercive by its very nature and spirit, it assumes a different proportion and character, thus violating Art. 14, 19 and 21 of the Constitution of India, 1950.

B. Particulars of the petitioners :

Mrs. Jyotsana Rathore, [REDACTED]
[REDACTED]
[REDACTED] Permanent
Account No. (PAN) : [REDACTED]

- (1) That the petitioner is a social worker and is concerned with the welfare of the poor and the marginalised section of the society. The petitioner is concerned with the welfare and interest of the people at large.

- (2) That the petitioner is not involved in any other civil, revenue, criminal litigation in any capacity before any court or tribunal.

C. Declaration and undertaking of the petitioners:

- (i) The petitioner is Citizen of India. The petitioner is concerned with the welfare and interests of the public at large. The petitioner has been doing social work and work for the welfare of the residents of the colony and always tries to do the acts for the welfare of the public at large. The petitioner being vigilant citizens, prefers this writ petition in the public interest with clean hands and without any interest.
- (ii) That the entire litigation, cost and other charges are being borne by the petitioners.
- (iii) That a research has been made in the matter raised through this public interest litigation.
- (iv) That to the best of petitioner knowledge and research the issue raised was not dealt with or decided and that a similar petition was not filed earlier by them.
- (v) That the petitioner has understood that in the course of hearing of this petition, the Hon'ble Court may require any security to be furnished towards cost or any other charges and the petitioner makes efforts to comply with such requirement.

D. Facts in Brief Constituting the Cause :

1. The Petitioner is filing the instant Writ Petition in public interest. The Petitioner has no personal interest in the litigation and the Petition is not guided by self-gain or for gain of any other person/ institution/ body and that there is no motive other than of public interest in filing the Writ Petition. The Petitioner is an activist based in Jaipur and is a public spirited individual who has been working on several social causes and crucial issues for the poor and marginalised section of the society.
2. That the Petitioner is constrained to file the present petition under Art. 226 of the Constitution of India, 1950 being aggrieved by the order dated 26.06. 2021 bearing Ref. No. P.7(1)Home-7/2021 issued by the respondent (hereinafter referred to as impugned order). The impugned order is arbitrary and discriminatory being in violation of Article 14, 19(1)(g) and 21 of the Constitution of India, 1950. Thus, the impugned order is liable to be quashed in the present proceedings.
3. At the outset, it is clearly and unequivocally submitted that the petitioner is not against the process of COVID19 vaccination and believes it as the need of the hour and an absolute necessity in order to overcome the global pandemic which is engulfing the entire world. However, the grievance of the petitioner is limited and concerned to the extent the impugned order makes COVID19 vaccination process mandatory in nature and

discriminates similarly placed people on the basis of the status of COVID19 vaccination of such person. It is submitted that if any vaccination drive is coercive by its very nature and spirit, it assumes a different proportion and character, thus violating Art. 14, 19 and 21 of the Constitution of India, 1950.

4. The relevant extract of the impugned order are reproduced hereunder for ready reference along with their translated versions that are in violation of the Articles 14, 19(1)(g) and 21 of the Constitution of India, 1950:

(3) जिन दुकानों / व्यवसायिक प्रतिष्ठानों के कार्मिकों के कम-से-कम 60 प्रतिशत स्टाफ का *1st vaccination* होचुकाहो, उन दुकानों/व्यवसायिक प्रतिष्ठानों को अतिरिक्त 03 घण्टे (सायं 04:00 बजेसेसायं 07:00 बजेतक) खोलने की अनुमति होगी, इसके साथ स्क्रीनिंग की सुविधा, मास्क की अनिवार्यता एवं अन्य कोविड अनुकूल अनुशासन का ध्यान रखना होगा। -- *Shops/commercial establishments where at least 60 percent of the staff has been vaccinated for the 1st dose of vaccination, those shops/business establishments will be allowed to open for an additional 03 hours (04:00 PM to 07:00 PM). Along with this, the facility of screening, requirement of masks and other covid friendly discipline will have to be taken care of.*

(4) क्लबों में केवल आउटडोर खेल गतिविधियां अनुमत होंगी, इनडोर खेल गतिविधियां उनके लिये अनुमत होंगी जिन्होंने वैक्सीन लेली हो,

इसके साथ ही उक्त क्लबों में संचालित रेस्टोरेन्ट सुविधायें विभागीय आदेश दिनांक 15.06.2021 के बिन्दु संख्या 4 के अनुसार अनुमत होंगी।

रेस्टोरेन्ट्स आदि संचालकों द्वारा बैठाकर खिलाने की सुविधा सोमवार से शनिवार प्रातः 09:00 बजे से सायं 04:00 बजे तक रेस्टोरेन्ट की बैठक व्यवस्था का 50 प्रतिशत के साथ, एक छोड़कर एक (*Alternate*) रूप से अनुमत होंगी। रेस्टोरेन्ट्स संचालकों द्वारा वायुका उचित संचार (*proper ventilation*), कोविड प्रोटोकॉल जैसे मास्क पहनना, दो गज की दूरी बनाए रखना इत्यादि की सख्ती से पालना सुनिश्चित करना अनिवार्य होगा। उल्लंघन करने पर जिला प्रशासन द्वारा सम्बन्धित रेस्टोरेन्ट के विरुद्ध सीलिंग की कार्यवाही की जायेगी। -- *Only outdoor sports activities will be allowed in the clubs, indoor sports activities will be allowed for those who have taken the vaccine, along with the restaurant facilities operating in the above clubs will be allowed as per point no. 4 of the departmental order dated 15.06.2021.*

"Facility of sitting by the restaurants etc. will be allowed from Monday to Saturday from 09:00 am to 04:00 pm with 50 percent of the restaurant's seating arrangement, in an alternative pattern. It will be mandatory for the restaurants to ensure proper ventilation, strict adherence to the covid protocol like wearing of masks, maintaining a distance of two yards, etc. In case of violation, sealing action will be taken against the concerned restaurant by the district administration.

(5) जिस जिम एवं रेस्टोरेन्ट के कम-से-कम 60 प्रतिशत स्टॉफ का वैक्सीनेशन पूर्ण हो चुका हो, उन जिम एवं रेस्टोरेन्ट को अतिरिक्त 03 घण्टे (सायं 04:00 बजे से सायं 07:00 बजे तक) खोलने की अनुमति होगी, परन्तु जिम एवं रेस्टोरेन्ट संचालकों द्वारा अपने ग्राहकों की स्क्रीनिंग की सुविधा, मास्क की अनिवार्यता एवं अन्य कोविड अनुकूल अनुशासन का ध्यान रखना होगा। -- *Gyms and restaurants with vaccination of at least 60 percent of the staff will be allowed to open an additional 03 hours (04:00 PM to 07:00 PM), but gyms and restaurant operators will have to take care of the facility of screening their customers, the requirement of masks and other covid friendly discipline.*

(6) सभी व्यक्तियों के लिए सार्वजनिक उद्यान प्रातः 5:00 बजे से प्रातः 08:00 बजे तक अनुमत होगा परन्तु जिन व्यक्तियों द्वारा वैक्सीन की खुराक ली जा चुकी है उन्हें सायं 04:00 बजे से सायं 07:00 बजे तक की भी अनुमति होगी। -- *Public park for all persons will be allowed from 5:00 am to 08:00 am but those who have already taken vaccine dose will also be allowed from 04:00 pm to 07:00 pm.*

(13) शहर में संचालित सीटी / मिनी बसों का संचालन प्रातः 05:00 बजेसेसायं 08:00 बजे तक अनुमत होगा। किसी भी यात्री को खड़े होकर यात्रा करने की अनुमति नहीं होगी (*no standing*)। शहर में संचालित सीटी/ मिनी बसों का संचालन चालक एवं परिचालक द्वारा वैक्सीन की कम-से-कम *1st Dose* लगवाने के पश्चात् अनुमत होगा। -- *City/Mini buses operated in the city will be*

permitted from 05:00 am to 08:00 pm. No passenger will be allowed to travel standing (no standing). The operation of City/ Mini buses operated in the city will be permitted after the driver and operator have administered at least 1st dose of the vaccine.

A copy of the Impugned order dated 26.06.2021 issued by the Respondent is annexed herewith as **Annexure P-1**.

5. That the impugned order violates Article 14 of the Constitution of India, 1950 as it is founded on the unreasonable classification i.e. status of COVID19 vaccination of a person. The two tests of reasonable classification under Article 14 require the classification to be founded on an *intelligible differentia* which distinguishes persons or things that are grouped together from others left out of the group, and such differentia must have a rational relation to the object sought to be achieved by that legal instrument in question. It is submitted that the impugned order dated 26.06.2021 makes a classification on the basis of the status of COVID19 vaccination of an individual which is not only unreasonable and arbitrary in law but also fails to establish a rational nexus since the act of the state of making COVID19 vaccination mandatory is imposing an embargo on the individual's right of continuance of occupation and/or profession.
6. That the impugned order dated 26.06.2021 is

indirectly forcing people to participate in the COVID19 vaccination process so as to enjoy unhindered exercise of their other fundamental rights guaranteed under Article 14, 19 and 21 of the Constitution of India, 1950 and is thus liable to be quashed. The Hon'ble Supreme Court in a catena of judgments have defined the doctrine of colourable legislation to be based upon the maxim that you cannot do indirectly what you cannot do directly. The state by issuing the impugned order has tried to put an embargo on the fundamental rights of the citizens indirectly, something which it is not entitled to encroach directly, thus incentivising the vaccination process by awarding what is already guaranteed by the Constitution. The allowances available and given to vaccinated persons in the impugned order shall also be made equally applicable to un-vaccinated persons since such classification by the state is unreasonable, arbitrary and fails to establish a rational nexus between the act and the intention of the state.

7. That in a recent notification issued by the Registrar General of this Hon'ble Court dated 24.06.2021 having Ref. No. 12/PI/2021, which made COVID19 vaccination a mandatory condition for the people entering court premises, the same was amended with a subsequent notification issued by the Registrar General, Rajasthan High Court dated 27.06.2021 having Ref. No. 13/PI/2021, suspending clause (2) of the former notification on its own motion. The

relevant extract of the notification dated 24.06.2021 is produced herein for reference:

“(2) Entry in the court premises will be permitted only to the persons who have completed 14 days after their 2nd dose of covid-19 vaccination on showing the final vaccination certificate issued by the competent authority at the entry gates. Relaxation will be given only to those persons whose vaccination cannot be done for medical reasons as per advisory of the Central/ State Government after scrutiny.”

The relevant extract of the notification dated 27.06.2021 suspending the above-mentioned clause is produced herein for reference:

“In partial modification of this office’s previous Circular No. I2/Pl/2021 dated 24.06.2021, it is hereby notified that from 28.06.2021 to 03.07.2021, Clause-1,2 and clauses related thereto in above Circular shall remain suspended and during this period, regular hearing of cases in Subordinate Courts/Special Courts/Tribunals shall be only through video conferencing. Other conditions of Circular dated 24.06.2021 as applicable, shall remain the same.”

A copy of both the above-mentioned circulars dated 24.06.2021 and 27.06.2021 issued by the Registrar General, Rajasthan High Court has been attached herewith as **Annexure-P2** and **Annexure-P3** respectively.

It is thereby submitted that this Hon’ble

Court has by suspending the Clause (2) of the notification dated 24.06.2021 has self-acknowledged the fact that COVID19 Vaccination is a voluntary exercise and cannot be made a factor of discrimination as the same fails the test of reasonable classification under Article 14 of the Constitution of India, 1950.

8. That the impugned order dated 26.06.2021 discriminates amongst the citizens on the basis of their COVID19 vaccination status, limiting a person's right to practice any profession, or to carry on any occupation, trade or business guaranteed under Article 19(1)(g) of the Constitution of India, 1950. Further Clause (3) & (5) of the impugned order dated 26.06.2021 coerces the businesses and business owners to meet the arbitrary and baseless parameter requiring 60% of the staff to be vaccinated in order to operate for additional hours. It is submitted that such a provision outrightly prohibits the freedom of carrying on any occupation, trade or business amongst a certain category or class of citizens who are otherwise entitled to do so, making the notification/ order ill-conceived, arbitrary and/ or a colourable exercise of power and violative of Article 19 and 21. The Hon'ble Supreme Court in the case of *Olga Tellis & Ors vs. Bombay Municipal Corporation & Ors. (1985) 3 SCC 545*, held that Right to Life includes Right to the means of Livelihood. It is pertinent to note that there has

been no legal mandate whatsoever with regard to coercive or mandatory COVID19 vaccination drive that can prohibit or take away the livelihood of a citizen on that ground except according to the procedure established by law. Hence the same is liable to be quashed for being violative of Art. 19 and 21 of the Constitution of India, 1950.

9. It is submitted that the impugned order by making the COVID19 vaccination mandatory for all, violates the right, choice and liberty of an individual to prefer the medicine of his choice as recognised by the Hon'ble Supreme Court of India in the case of '*Common Cause v. Union of India*' 2018(5) SCC 1. The relevant paragraphs of the same are produced hereunder:

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

202.8. An inquiry into Common Law jurisdictions reveals that all adults with capacity to consent have the right of self-determination and autonomy. The said rights pave the way for the right to refuse

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

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

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

602. *Right of self-determination also encompasses bodily integrity. Without consent of an adult person, who is in a fit state of mind, even a surgeon is not authorised to violate the body. Sanctity of human life is the most fundamental of the human social values. The acceptance of human rights and development of its meaning in recent times has fully recognised the dignity of the individual human being. All the above three principles enable an adult human being of conscious mind to take decision regarding extent and manner of taking medical treatment. An adult human being of conscious mind is fully entitled to refuse medical treatment or to decide not to take medical treatment and may decide to embrace the death in natural way. Euthanasia, as noted above, as the meaning of the word suggest is an act which leads to a good death. Some positive act is necessary to characterise the action as euthanasia. Euthanasia is also commonly called “assisted suicide” due to the above reasons.”*

10. That Clause (4) of the impugned order passed by the Government of Rajasthan dated 26.06.2021 limits entry/ access in public parks and sports stadiums (indoor facilities) to only those who have been fully vaccinated thereby denying access to those who have refrained from getting vaccinated. Further, Clause (6) of the said order restrains those who are not vaccinated for COVID19 from accessing public parks from 4:00 p.m. to 7:00 p.m. but allows all citizens irrespective of their

COVID19 vaccination status to access public parks between 5:00 a.m. to 8:00 a.m. While both the above mentioned provisions are based on an unreasonable classification i.e. status of COVID19 vaccination of an individual, they fail to establish a rational nexus between the action and intention of the state i.e. a correlation between the Right to Access to Public Places under Art. 15(2) and Right to Healthcare (Right to Vaccination) under Art. 21. It is thus submitted that the impugned order which makes the COVID19 vaccination process mandatory is unreasonable and arbitrary and is liable to be quashed as it violates Art. 14, 15(2) and 21 of the Constitution of India, 1950.

11. That Clause (13) of the impugned order passed by the Government of Rajasthan dated 26.06.2021 allows only those drivers and conductors of City Bus/ Mini-Bus Services to continue service who have been administered with at least first dose of COVID19 Vaccination, thereby putting an absolute restraint on those who have not participated in the COVID19 vaccination process and would have otherwise been eligible to practice their Right to Profession guaranteed under Article 19(1)(g) of the Constitution of India, 1950. It is pertinent to note that such a restriction discriminating on unreasonable classification i.e. 'Status of COVID19 vaccination' does not fall within the reasonable restrictions as the same is of excessive nature and is beyond what is required in the interest of the public. The

requirement of Article 19(6) of the Constitution is that the restriction has to be made in the form of a law and not by way of an executive instruction. Further, the restriction imposed by the said clause of the impugned order fails to strike a balance between the freedom guaranteed under Art. 19(1)(g) and the social control permitted under Art. 19(6) as it puts an absolute embargo on the fundamental right to life of an individual by stripping-off his/her right to livelihood. Thus, the State lacks the power to issue executive instructions, discriminating against persons with regard to their right to liberty, livelihood and life, violating the fundamental rights of the citizens, which is protected by the Constitution. Hence, the impugned order dated 26.06.2021 issued by the Government of Rajasthan is liable to be quashed as it violates Art. 14, 19 and 21 of the Constitution of India, 1950.

12. That the impugned order provides that vaccinated persons who are employed in shops/ stores and to drive transport/ commercial vehicles should wear mask and adhere to all proper COVID19 protocols. It is submitted that if an un-vaccinated person is to be made to adhere to the same protocols, there can be no difference in the work of a vaccinated or un-vaccinated person. Hence, the restriction placed upon un-vaccinated persons only due to non-vaccination is unreasonable and arbitrary and is violative of Art. 14, 19(1)(g) and 21 of the Constitution of India, 1950.

13. That the impugned order violates Article 21 of the Constitution of India, 1950 as it encompasses within its fold, right to health, along with right to health care, which includes right to opt for vaccination as a fundamental right, thus making it a voluntary choice of an individual. However, the impugned order herein makes the participation in the COVID19 vaccination process mandatory by adopting coercive methods which vitiates the very fundamental purpose of the welfare attached to it. It further raises questions on the power of the State to forcefully impose one's fundamental rights even if the beneficiary is not inclined to its exercise, because, if the latter is undertaken, then such an act would infringe the fundamental right to privacy and exercise of personal liberty of an individual as guaranteed under Article 21. The petitioner contends that no coercive mandates can be issued by the State and Central Government to force citizens to participate in the COVID19 vaccination process, being outrightly violative of their right to healthcare ensured under Article 21 of the Constitution of India and thus the impugned order dated 26.06.2021 issued by the Government of Rajasthan is liable to be quashed as it violates Art. 14 and 21 of the Constitution of India, 1950.
14. It is most humbly submitted that the Hon'ble High Court of Meghalaya in its recent order dated 26.06.2021 has dealt with the issue as to

‘Whether COVID19 vaccination can at all be made necessary?’ in a suo motu petition taking cognizance of a notification issued by the State of Meghalaya which made the COVID19 vaccination mandatory. It is submitted that the Hon’ble High Court not just directed the State of Meghalaya to remove the mandatory clause in the state notification on COVID19 vaccination but also formulated guidelines to help people in making informed choices about the COVID19 vaccination. Relevant portion of the judgment is produced hereinbelow for reference:

“A harmonious and purposive construction of the provisions of law and principles of equity, good conscience and justice reveals that mandatory or forceful COVID19 vaccination does not find any force in law leading to such acts being liable to be declared ultra vires ab initio.”

A copy of the order passed by the Meghalaya High Court dated 23.06.2021 in the case of *‘Registrar General, High Court of Meghalaya v. State of Meghalaya’* bearing PIL No.6/2021 has been attached herewith as **Annexure-P4**.

15. That under Serial Number 3 of the “Frequently Asked Questions” (FAQs) on COVID-19 vaccination uploaded by the Ministry of Health and Family Welfare, Government of India, it is clarified that the COVID19 vaccination process is *‘Voluntary’* for all. Furthermore in a reply to RTI dated 09.03.2021 asking *‘Whether COVID19*

vaccination is voluntary or necessary’, the Central Ministry of Health and Family Welfare replied clarifying that *“taking the Covid Vaccines was entirely voluntary and there is no relation whatsoever to provision of government facilities, citizenship, job etc to the vaccine”*.

A copy of the F.A.Q on COVID-19 as available on the website of Ministry of Health and Family Welfare, Government of India, has been attached herewith as **Annexure-P5**.

A copy of the reply to the RTI dated 09.03.2021 by the Central Ministry of Health and Family Welfare is attached herewith as **Annexure-P6**.

- 16.** That the “Frequently Asked Questions” (FAQs) on COVID-19 vaccination uploaded on the website of the World Health Organisation (W.H.O) clarifies that vaccines do not prevent the spread of the disease from person to person and so have little role in preservation of public health. The above contention is substantiated by the order passed by the Hon’ble High Court of Gauhati in the suo motu petition *‘In Re Dinthar Incident Aizawl v. State of Mizoram and 11 Ors Aizawl WP(C)/37/2020’* dated 02.07.2021. The relevant extract of the judgment is produced hereunder:

“13. With ... There is nothing to show that vaccinated persons (first dose) cannot be infected with the corona virus or that they cannot be spreaders. If the vaccinated person and un-

vaccinated person cover their face with a mask, as per the covid behavior protocols laid down by the State respondents, there is no reason to discriminate only against un-vaccinated persons.

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

It is submitted that the impugned order fails to satisfy the two tests of Art. 14 of the Constitution of India, 1950; firstly, by not creating a reasonable classification since it discriminates amongst people otherwise similarly placed on the basis of their status of vaccination; and secondly, by not establishing a rational nexus between the act of the state i.e. the impugned order, and intention of the state behind such act i.e. reducing the probability of infections, and is thus

liable to be quashed on this ground.

A copy of the F.A.Q on COVID-19 as available on the website of World Health Organisation, is annexed herein as **Annexure-P7**.

A copy of the order passed by the Hon'ble High Court of Gauhati in the suo motu petition *In Re Dinthar Incident Aizawl v. State of Mizoram and 11 Ors Aizawl WP(C)/37/2020* dated 02.07.2021 is annexed herein as **Annexure-P8**.

17. The impugned order by making COVID19 vaccination mandatory in nature, fails to create a level playing field for all as it ignores ground realities such as accessibility to vaccine centres, financial capacity of people, pre-medical conditions (allergies), vaccination for specially abled people etc., and affords no exemptions/relaxations to those unable to comply with the same due to reasons mentioned above. Thus the impugned order dated 26.06.2021 is ill-founded, impractical and unsustainable in effect and is liable to be quashed on this very ground.
18. It is pertinent to note the fact that the State of Rajasthan has been facing an acute shortage of vaccine and has constantly raised the issue of deficiency in the supply of Vaccine Doses by the Central Government time and again. In the most recent development regarding the issue of deficiency of vaccine in the State of Rajasthan, the Hon'ble Chief Minister of Rajasthan in an open letter to the Hon'ble Prime Minister dated

26.06.2021 acknowledged the acute shortage of the COVID19 vaccination. Hence the impugned order is violative of Article 14 of the Constitution, especially when achieving the target for vaccinating the targeted population may take many more months due to such shortage, in which case unvaccinated persons would be deprived of their right to livelihood, which would in turn violate their right to life, which are guaranteed under Article 21 of the Constitution. A copy of the Letter issued by the Hon'ble Chief Minister of Rajasthan dated 26.06.2021 is annexed herewith as **Annexure P-9**.

That the Petitioner has not filed any other similar writ petition in this Hon'ble Court or any other High Court or the Hon'ble Supreme Court of India or any other Court of Law with respect to the relief sought herein.

The Petitioner and the Respondents are located within the territorial jurisdiction of this Hon'ble Court. The entire cause of action has arisen within the territorial limits over which this Hon'ble Court exercises its jurisdiction. Therefore, this Hon'ble Court has jurisdiction to hear the present Writ Petition.

The Petitioner does not have any other alternative and efficacious remedy to agitate the grievances narrated above save this Writ Petition.

The Petitioner is filing this Writ Petition on the grounds, inter alia, as under:

GROUNDS

- A. **BECAUSE** the impugned order issued by the Government of Rajasthan dated 26.06.2021 makes the COVID19 vaccination process mandatory in nature and further discriminates on the basis of the status of COVID19 vaccination of a person, thus violating with the fundamental rights as granted to the citizens under Articles 14, 19(1)(g) and 21 of the Constitution of India, 1950.
- B. **BECAUSE** the impugned order, by making the COVID19 vaccination compulsory and mandatory for all is coercive by its very nature and spirit and is thus liable to be quashed as it violates Art. 14, 19 and 21 of the Constitution of India, 1950.
- C. **BECAUSE** the World Health Organisation has held that vaccines do not prevent the spread of the disease from person to person and so has little potential of stopping the pandemic or the preservation of public health. Hence, the impugned order dated 26.06.2021 making the COVID19 vaccination mandatory in nature and violates Art. 14 of the Constitution of India as it fails to establish rational nexus and is thus liable to be quashed on this very ground.
- D. **BECAUSE** the Registrar General of the Hon'ble Rajasthan High Court on its own motion rectified the notification dated 24.06.2021 which required COVID19 vaccination as a mandatory condition for the people to enter court premises. The anomaly in the above-said notification was cured

by a subsequent notification dated 27.06.2021 striking-off the clause which made the COVID19 vaccination mandatory in nature. Hence, the impugned order dated 26.06.2021 making the COVID19 vaccination mandatory in nature is liable to be quashed on this very ground.

- E. **BECAUSE** the impugned order dated 26.06.2021 issued by the Government of Rajasthan outrightly violates Article 14 of the Constitution of India as it is founded on an unreasonable classification distinguishing people on the basis of their COVID19 vaccination status and fails to establish a rational nexus between the act of the state and the purpose achieved by the impugned order.
- F. **BECAUSE** the Act of the state by making COVID19 vaccination mandatory for all is creating an embargo on the exercise of individual's right of continuance of occupation and/or profession guaranteed under Art. 19(1)(g) of the Constitution of India. Furthermore, the said notification is being used as a tool to discriminate amongst citizens in their exercise of other fundamental rights guaranteed under Art. 19 and 21 of the Constitution of India such as Right to Freedom of Profession by an individual, shop, restaurant, gym and other business entities and is thus liable to be quashed on this very ground.
- G. **BECAUSE** the impugned order making COVID19 vaccination mandatory in nature is in violation with the dictum of the Hon'ble Supreme Court in

the case of '*Common Cause v. Union of India*' 2018 (5) SCC 1, which recognises the right, choice and liberty of an individual to prefer the medicine of his/ her choice. Hence the said order is liable to be quashed being in violation of the above-mentioned judgment of the Hon'ble Supreme Court.

H. **BECAUSE** clause (3) & (5) of the impugned order dated 26.06.2021 coerces the businesses and business owners to meet the arbitrary and baseless parameter requiring 60% of the staff to be vaccinated in order to operate for additional business hours. Such discrimination based on unreasonable classification i.e. status of COVID19 Vaccination of an individual is curbing the individual's right to practise any profession, or to carry on any occupation, trade or business guaranteed under Art 19(1)(g) of the Constitution of India. Hence, the impugned order dated 26.06.2021 making the COVID19 vaccination mandatory in nature and is liable to be quashed on this very ground.

I. **BECAUSE** there has been no legal mandate whatsoever with regard to coercive or mandatory COVID19 vaccination drive that can prohibit or take away the livelihood of a citizen on that ground except according to the procedure established by law.

J. **BECAUSE** clause (4) and (6) of the impugned order dated 26.06.2021 put a bar on the

individual's right to access to public places by restraining those who have not been administered COVID19 vaccination and fail to establish a rational nexus between the action and intention of the state i.e. a correlation between the Right to Access to Public Places under Art 15(2) and Right to Healthcare (Right to Vaccination) under Art 21. Hence, the impugned order dated 26.06.2021 is liable to be quashed on this very ground.

K. **BECAUSE** clause 13 of the impugned order dated 26.06.2021 discriminates amongst the state/mini bus driver on the basis of one's status of COVID19 vaccination by completely barring those who are not vaccinated from exercising their right to practise their profession. Hence the impugned order dated 26.06.2021 violates Art 19(1)(g) of the Constitution of India, 1950 and is thus liable to be quashed on this very ground.

L. **BECAUSE** the impugned order violates Article 21 of the Constitution of India as it includes in it, right to health, along with right to health care, which includes right to opt in for vaccination as a fundamental right. Hence, no coercive mandates can be issued by the Central and State Governments to force citizens to participate in the COVID19 vaccination process as the State lacks the power and legitimacy to forcefully impose one's fundamental rights even if the beneficiary is not inclined to its exercise. Hence the impugned order dated 26.06.2021 violates Art. 21 of the Constitution of India, 1950 and is thus liable to

be quashed on this very ground.

M. **BECAUSE** the High Court of Meghalaya has acknowledged the voluntary nature of COVID19 vaccination observing that “*A harmonious and purposive construction of the provisions of law and principles of equity, good conscience and justice reveals that mandatory or forceful COVID19 vaccination does not find any force in law leading to such acts being liable to be declared ultra vires ab initio.*” Hence the impugned order dated 26.06.2021 violates Art. 21 of the Constitution of India, 1950 and is thus liable to be quashed on this very ground.

N. **BECAUSE** COVID19 vaccination has been defined as “VOLUNTARY” in the F.A.Q published on the website of Ministry of Health and Family Welfare, Government of India and the same has been reiterated in an RTI dated 09.03.2021, the impugned order is in conflict with the response by the Central Government and is thus liable to be quashed on this ground alone.

O. **BECAUSE** the impugned order issued by the Government of Rajasthan dated 26.06.2021 without prejudice to the original submissions made above, ignores the fact that the State of Rajasthan has been facing an acute shortage of vaccine and has constantly raised the issue of deficiency in the supply of Vaccine Doses by the Central Government time and again. The same is being reiterated by the Hon’ble Chief Minister of

Rajasthan in an open letter to the Hon'ble Prime Minister dated 26.06.2021 acknowledging the issue of acute shortage of the COVID-19 vaccination doses faced by the State. Hence, the impugned dated 26.06.2021 ill-founded, impractical and arbitrary in law and is thus liable to be quashed on this very ground.

P. **BECAUSE** the State of Rajasthan is facing acute shortage of vaccine doses as acknowledged by the Hon'ble Chief Minister of Rajasthan in his letter to the Prime Minister of India dated 26.06.2021. In addition to the issue of availability of vaccine due to prolonged shortage, impugned order fails to create a level playing field for all ignoring ground realities such as accessibility to vaccine centres, financial capacity of people, pre-medical conditions, vaccination for specially abled people etc., and affords no exemptions/ relaxations to those unable to comply with the same due to reasons mentioned above. Hence the impugned order dated 26.06.2021 violates Art. 21 of the Constitution of India, 1950, and is thus liable to be quashed on this very ground.

Q. **BECAUSE** the State lacks the power to issue executive instructions, discriminating against persons with regard to their right to liberty, livelihood and life, violating the fundamental rights of the citizens, which is protected by the Constitution. The requirement of Article 19(6) of the Constitution is that the restriction has to be made in the form of a law and not by way of an

executive instruction. Hence the impugned order dated 26.06.2021, issued by the Respondent, is liable to be quashed on this ground alone.

R. **BECAUSE** the impugned order provides that vaccinated persons who are employed in shops/ stores and to drive transport/ commercial vehicles should wear mask and adhere to all proper COVID19 protocols however if an un-vaccinated person is to be made to adhere to the same protocols, there can be no difference in the work of a vaccinated or un-vaccinated person. Hence, the restriction placed upon un-vaccinated persons by way of impugned order only due to non-vaccination is unreasonable and arbitrary being violative of Art. 14, 19(1)(g) and 21 of the Constitution of India, 1950 and is liable to be quashed on this ground alone.

S. **BECAUSE** vaccination should be based on informed choice rather than by adopting coercive methods of taking away fundamental rights from the citizens by means of colourable exercise of power and returning the same fundamental right earlier ceased as a perk for following an impugned order. Hence the impugned order dated 26.06.2021, issued by the Respondent, is liable to be quashed on this ground alone.

19. That the Petitioner has not filed any other similar writ petition in this Hon'ble Court or any other High Court or the Hon'ble Supreme Court of India or any other Court of Law with respect to

the relief sought herein.

20. The Petitioner and the Respondents are located within the territorial jurisdiction of this Hon'ble Court. The entire cause of action has arisen within the territorial limits over which this Hon'ble Court exercises its jurisdiction. Therefore, this Hon'ble Court has jurisdiction to hear the present Writ Petition.

21. That the Petitioner undertakes to pay any cost if imposed by the Hon'ble Court during the course of hearing.

5. **Source of Information ;**

The petitioners made enquiries and obtained copies of circular in accordance with the law.

6. **Nature and extent of injury caused/ apprehended :**

The restriction placed upon un-vaccinated persons by way of impugned order only due to non-vaccination is unreasonable and arbitrary being violative of Art. 14, 19(1)(g) and 21 of the Constitution of India, 1950.

The Petitioner does not have any other alternative and efficacious remedy to agitate the grievances narrated above save this Writ Petition.

7. **Any Representation etc. made :**

N.A.

8. **Delay, if any, in filing the petition and explanation therefore:**

There is no delay or default or inaction or negligence on the part of the humble petitioner.

Hence there is no other alternative option but to bring this Public interest petition.

9. **Relief Prayed for :**

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

- (ii) issue a writ of Certiorari to quash the impugned order dated 26.06.2021 issued by Government of Rajasthan bearing Ref. No. P.7(1)Home-7/2021 being in violation of Article 14, 19 and 21 of the Constitution of India, 1950;
- (iv) pass any other order as this Hon'ble Court may deem fit and proper in the present facts and circumstances, in the interest of justice.

10. **Interim Order, if prayed for :**

During the pendency of this public interest petition, the operation of the impugned order dated 26.06.2021 issued by the Government of Rajasthan No. P.7(1)Home-7/2021 may kindly be stayed.

HUMBLE PETITIONER

Place: Jaipur, Rajasthan

THROUGH COUNSEL :

Dated:

Mr. Nishchaya Nigam, Advocate (+91-7838214305)
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Himanshukaala@gmail.com

Notes :

1. No such Writ Petition (PIL) has been filed prior to this before this Hon'ble Court.
2. That P.F., Notices and Extra sets shall be filed within time stipulated.
3. That this writ petition has been typed by me in my office.
4. No act or vires of any rule relied upon is under challenge in this writ petition.

Counsel for the Petitioners

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**IN THE HIGH COURT OF JUDICATURE OF RAJASTHAN
AT JAIPUR BENCH, JAIPUR**

D.B. CIVIL PUBLIC INTEREST LITIGATION (PIL) NO. _____ 2021

AFFIDAVIT IN SUPPORT OF WRIT PETITION

I, Mrs. Jyotsana Rathore, [REDACTED]

[REDACTED]

[REDACTED] having Permanent Account No. (PAN) :

[REDACTED] hereby take oath and state as under:

1. That I am a petitioner in the present case and I am well conversant with the facts and circumstances of the case.
2. That the contents of para **1 to 18** of the writ petition are drafted by my counsel and based on legal advice received from the counsel of the petitioner which the petitioner believed to be true.
3. I say that the Annexures **P1 to P9** of the Writ petition are true copies of their respective originals.
4. That the petitioner has not preferred any similar or other petition except the above mentioned matter.
5. That the contents of the annexed writ petition (PIL) are true and correct to the best of my personal knowledge.

DEPONENT

VERIFICATION

I, the above named deponent do hereby verify on oath that the contents of para 1 and 2 of my above affidavit are true and correct to the best of my personal knowledge. Nothing material has been concealed therefrom and no part of it is false.

Jaipur

Dated :

DEPONENT

IDENTIFIED BY :

राजस्थान सरकार
गृह (गुप-7) विभाग

क्रमांक प.7(1)गृह-7/2021

जयपुर, दिनांक: 26.06.2021

आदेश

विषय : त्रिस्तरीय जन-अनुशासन दिशा-निर्देश 3.0

देश में कोरोना के पॉजिटिव मामलों में निरन्तर गिरावट को देखते हुए कई राज्यों एवं केन्द्र शासित प्रदेशों ने प्रतिबंधों में ढील देना शुरू कर दिया है। गृह सचिव, भारत सरकार ने अर्द्ध शासकीय पत्र क्रमांक 40-34/2020-DM-I(A) दिनांक 19.06.2021 द्वारा निर्देश प्रदान किये गये हैं कि प्रतिबन्ध लगाने एवं कम करने का निर्णय जमीनी स्तर पर स्थिति के आंकलन के आधार पर लिया जाना चाहिए। समस्त राज्यों एवं केन्द्र शासित प्रदेशों द्वारा यह सुनिश्चित किया जाना चाहिए कि प्रतिबंधों को खोलने के दौरान कोविड उपयुक्त व्यवहार, Test-Track-Treat प्रोटोकॉल एवं टीकाकरण के साथ-साथ मास्क का अनिवार्य उपयोग, सेनेटाईजेशन, दो गज की दूरी एवं बंद स्थानों पर उचित वेंटिलेशन का ध्यान रखना अतिआवश्यक है।

विशेषज्ञों द्वारा चेतावनी दी गई है कि कोरोना के नये वैरियंट (variant of concern) वैक्सीनेशन के बाद भी लोगों को (breakthrough infection) संक्रमित कर सकते हैं। वैश्विक स्तर पर वर्तमान में 18 वर्ष से कम आयु वर्ग के लिए वैक्सीन ट्रायल फेज में है, जब तक वैक्सीन उपलब्ध नहीं हो जाती अथवा उसके बाद भी सार्वजनिक स्थानों/भीड़-भाड़ वाले क्षेत्रों में 18 वर्ष से कम आयु के बच्चों को expose न करें ताकि उनको संक्रमण से बचाया जा सके। इसके साथ ही लॉकडाउन प्रतिबंधों में शिथिलन प्रदान करने के पश्चात् अगर भीड़-भाड़ को नियंत्रित नहीं किया गया एवं कोविड उपयुक्त व्यवहार की पालना सुनिश्चित नहीं की गई तो कोरोना की संभावित तीसरी लहर से सामना करना पड़ सकता है। अतः भीड़-भाड़ को नियंत्रित करना, कोरोना के बचाव हेतु टीकाकरण एवं संचरण की श्रृंखला को तोड़ना महत्वपूर्ण है।

गृह सचिव, भारत सरकार द्वारा जारी निर्देशों के क्रम में एवं विभागीय समसंख्यक आदेश दिनांक 07.06.2021 व दिनांक 15.06.2021 की निरन्तरता में प्रदेश में जन सामान्य की सुविधा एवं आवश्यक सेवाओं एवं वस्तुओं की निरन्तर उपलब्धता को ध्यान में रखते हुए आगामी आदेशों तक त्रिस्तरीय जन-अनुशासन दिशा-निर्देश 3.0 निम्नानुसार जारी किये जाते हैं:-



1. प्रदेश के ऐसे समस्त कार्यालय जहां कार्मिकों की संख्या 25 से कम है, वहां 100 प्रतिशत कार्मिक एवं जिन कार्यालयों में कार्मिकों की संख्या 25 या 25 से अधिक है, उनमें 50 प्रतिशत कार्मिक अनुमत होंगे। यद्यपि ऐसे कार्यालय जिनमें कम-से-कम 60 प्रतिशत कार्मिकों द्वारा **वैक्सीन की प्रथम डोज (1st dose)** ली जा चुकी है, उनमें 100 प्रतिशत कार्मिक अनुमत होंगे। सभी कार्मिकों द्वारा कोरोना प्रोटोकॉल (विशेषकर 2 गज की दूरी) की पालना सुनिश्चित करना अनिवार्य होगा।

राज्य के समस्त राजकीय कार्यालयों का समय **प्रातः 09:30 बजे से सायं 06:00 बजे** तक रहेगा।

विभागाध्यक्ष द्वारा गर्भवती महिलाएँ, विकलांग एवं Co-morbidity conditions वाले कार्मिकों को वर्क फ्रॉम होम की अनुमति दी जा सकेगी।

2. सभी दुकानों/क्लबों/जिम/रेस्टोरेन्ट्स/मॉल एवं अन्य व्यवसायिक प्रतिष्ठानों के संचालकों/मालिकों को **परामर्श** दिया जाता है कि अपने स्टाफ का **वैक्सीनेशन** सुनिश्चित करें। कितने प्रतिशत स्टाफ का **वैक्सीनेशन** हो चुका है, इसकी सूचना भी डिस्ट्रिब्यूट करनी होगी।

सभी दुकानों/क्लबों/जिम/रेस्टोरेन्ट्स/मॉल एवं अन्य व्यवसायिक प्रतिष्ठानों के संचालक/मालिक अपने संस्थान में कार्यरत कुल कर्मचारियों के वैक्सीनेशन प्रतिशत का सर्टिफिकेशन e-Intimation के माध्यम से **दिनांक 1 जुलाई, 2021 के पश्चात् self-generate** कर प्राप्त कर सकेंगे।

3. जिन दुकानों/व्यवसायिक प्रतिष्ठानों के कार्मिकों के कम-से-कम **60 प्रतिशत स्टॉफ का 1st vaccination** हो चुका हो, उन दुकानों/व्यवसायिक प्रतिष्ठानों को अतिरिक्त **03 घण्टे (सायं 04:00 बजे से सायं 07:00 बजे तक)** खोलने की अनुमति होगी, इसके साथ स्क्रीनिंग की सुविधा, मास्क की अनिवार्यता एवं अन्य कोविड अनुकूल अनुशासन का ध्यान रखना होगा।

4. क्लबों में केवल **आउटडोर** खेल गतिविधियां अनुमत होंगी, **इनडोर खेल** गतिविधियां उनके लिये अनुमत होंगी जिन्होंने **वैक्सीन** ले ली हो, इसके साथ ही उक्त क्लबों में संचालित रेस्टोरेन्ट सुविधायें विभागीय आदेश दिनांक 15.06.2021 के बिन्दु संख्या 4 के अनुसार अनुमत होंगी।

रेस्टोरेन्ट्स आदि संचालकों द्वारा बैठकर खिलाने की सुविधा **सोमवार से शनिवार** प्रातः 09:00 बजे से सायं 04:00 बजे तक रेस्टोरेन्ट की बैठक व्यवस्था का **50 प्रतिशत** के साथ, एक छोड़कर एक (Alternate) रूप से अनुमत होंगी। रेस्टोरेन्ट्स

मंगेश

संचालकों द्वारा वायु का उचित संचार (proper ventilation), कोविड प्रोटोकॉल जैसे मास्क पहनना, दो गज की दूरी बनाए रखना इत्यादि की सख्ती से पालना सुनिश्चित करना अनिवार्य होगा। उल्लंघन करने पर जिला प्रशासन द्वारा सम्बन्धित रेस्टोरेन्ट के विरुद्ध सीलिंग की कार्यवाही की जायेगी।”

5. जिस जिम एवं रेस्टोरेन्ट के कम-से-कम **60 प्रतिशत स्टॉफ का वैक्सीनेशन पूर्ण** हो चुका हो, उन जिम एवं रेस्टोरेन्ट को अतिरिक्त 03 घण्टे (सायं **04:00 बजे से सायं 07:00 बजे तक**) खोलने की अनुमति होगी, परन्तु जिम एवं रेस्टोरेन्ट संचालकों द्वारा अपने ग्राहकों की स्क्रीनिंग की सुविधा, मास्क की अनिवार्यता एवं अन्य कोविड अनुकूल अनुशासन का ध्यान रखना होगा।
6. **सभी व्यक्तियों के लिए सार्वजनिक उद्यान प्रातः 5:00 बजे से प्रातः 08:00 बजे तक अनुमत होगा परन्तु जिन व्यक्तियों द्वारा वैक्सीन की खुराक ली जा चुकी है उन्हें सायं 04:00 बजे से सायं 07:00 बजे तक की भी अनुमति होगी।**
7. सार्वजनिक परिवहन/माल ढुलाई वाहन/अत्यावश्यक सेवाओं में लगे वाहनों एवं सरकारी वाहनों के लिए पेट्रोल/डीजल पम्प, सीएनजी, पेट्रोलियम एवं गैस से संबंधित खुदरा (रिटेल)/थोक (होलसेल) ऑउटलेट खोलने की अनुमति होगी।
निजी वाहनों के लिए पेट्रोल/डीजल प्रातः **5:00 बजे से सायं 08:00 बजे तक** भरवाया जा सकेगा।
8. जिनके द्वारा दिनांक 30.06.2021 तक शादी-समारोह का आयोजन किया जा रहा है, वें इस प्रकार के कार्यक्रम को दिनांक **30.06.2021 के पश्चात् आयोजित करें ताकि कोविड संक्रमण पर रोक लगाई जा सके।**
विवाह, घर पर ही अन्यथा कोर्ट मैरिज के रूप में करने की अनुमति होगी। जिसमें **11 व्यक्ति** अनुमत होंगे, जिनकी सूचना <http://covidinfo.rajasthan.gov.in> → e-Intimation:MARRIAGE पोर्टल या 181 पर देनी होगी।
विवाह से सम्बन्धित किसी भी प्रकार के समारोह, डीजे, बारात-निकासी, प्रीतिभोज इत्यादि की दिनांक 30.06.2021 तक अनुमति नहीं होगी।
9. दिनांक **01 जुलाई, 2021** से मैरिज गार्डन, मैरिज हॉल्स एवं हॉटल परिसर इत्यादि शादी-समारोह हेतु अधिकतम **40 व्यक्ति (25 आयोजनकर्ता का परिवार व अतिथि + 10 बैण्ड-बाजे वाले + 05 अन्य व्यक्ति)** की संख्या के साथ दी गई शर्तों के अनुसार सायं **04:00 बजे तक** अनुमत होंगे, जिसकी सूचना

Ramgaur

<http://covidinfo.rajasthan.gov.in> → e-Intimation:MARRIAGE पोर्टल या 181 पर देनी होगी।

विवाह से सम्बन्धित किसी भी प्रकार के डीजे, बारात-निकासी इत्यादि की अनुमति नहीं होगी।

चूंकि बैण्ड-बाजा व्यवसाय आदि से जुड़े व्यक्तियों को अपनी जीविकोपार्जन के लिए भिन्न-भिन्न जगहों पर कई कार्यक्रमों में जाना पड़ता है, इससे उनके संक्रमित होने की ज्यादा संभावना एवं फिर उनसे अन्य व्यक्तियों में संक्रमण फैलने की संभावना के कारण किसी भी शादी-समारोह व अन्य कार्यक्रमों में जाने से पूर्व इस व्यवसाय से जुड़े सभी व्यक्तियों को वैक्सीन की कम-से-कम 1st Dose लगवाना होगा।

धार्मिक स्थलों के सम्बन्ध में :

10. प्रदेश के समस्त धार्मिक स्थल परिशिष्ट 'A' में दिये गये दिशा-निर्देशों के अनुसार प्रातः 05:00 बजे से सायं 04:00 बजे तक अनुमत होंगे।

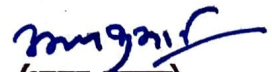
आर्थिक एवं पर्यटन गतिविधियों के सम्बन्ध में :

11. राजस्थान पर्यटन का मुख्य केन्द्र है। इस हेतु पर्यटन/फिल्म शूटिंग से सम्बन्धित गतिविधियों को आइसोलेशन जोन के आधार पर अनुमत किया जा सकेगा। कोविड-19 के प्रसार को कम करने के लिये आइसोलेशन जोन बाहरी संपर्क से अलग एक सुरक्षित वातावरण है, जहां केवल अधिकृत व्यक्ति/कर्मचारी एवं कार्यक्रम से सम्बन्धित अन्य व्यक्तियों को संरक्षित क्षेत्र में प्रवेश करने की अनुमति देता है। आइसोलेशन जोन को निम्न शर्तों अनुसार उपयोग में लिया जा सकेगा।

- ऐसे रिसोर्ट/होटल परिसर आदि जिनका क्षेत्रफल लगभग 10,000 वर्ग मीटर या इससे अधिक है एवं मेहमानों/अतिथियों के ठहरने हेतु 40 या इससे अधिक कमरों की व्यवस्था है।
- उक्त गतिविधि हेतु जिला मजिस्ट्रेट से पूर्व में अनुमति प्राप्त करना अनिवार्य होगा साथ ही <http://covidinfo.rajasthan.gov.in> → e-Intimation:MARRIAGE पोर्टल पर भी सूचना देनी होगी।
- मेहमानों/अतिथियों की संख्या परिसर के आकार के अनुसार निर्धारित की जाये।

मंगल

- आयोजनकर्ता द्वारा यह सुनिश्चित करना होगा कि समारोह में सम्मिलित होने वाले मेहमान/अतिथि द्वारा RT-PCR नेगेटिव जांच रिपोर्ट या कोविड वैक्सीनेशन प्रमाण पत्र हो।
 - समस्त अतिथियों/मेहमानों का परिसर में एक बार प्रवेश के पश्चात् समारोह खत्म होने तक बाहरी संपर्क अनुमत नहीं होगा।
 - **आइसोलेशन जोन** में सेनेटाइजेशन एवं व्यक्तियों का नियमित रूप से थर्मल स्क्रीनिंग, ऑक्सीजन सेचुरेशन की जाँच की जानी चाहिए।
 - आयोजनकर्ता द्वारा **आइसोलेशन जोन** में इन हाऊस मेहमानों/अतिथियों के अलावा किसी अन्य मेहमान/अतिथि को आमंत्रित नहीं किया जा सकेगा।
12. किसी भी प्रकार के सार्वजनिक, सामाजिक, राजनैतिक, मनोरंजन, शैक्षणिक, सांस्कृतिक एवं धार्मिक समारोह/जुलूस/त्योहारों/मेलों/हाट बाजार इत्यादि के आयोजन की अनुमति नहीं होगी।
13. शहर में संचालित सीटी/मिनी बसों का संचालन प्रातः 05:00 बजे से सायं 08:00 बजे तक अनुमत होगा। किसी भी यात्री को खड़े होकर यात्रा करने की अनुमति नहीं होगी (no standing)।
- शहर में संचालित सीटी/मिनी बसों का संचालन चालक एवं परिचालक द्वारा वैक्सीन की कम-से-कम 1st Dose लगवाने के पश्चात् अनुमत होगा।
14. निजी वाहनों से आवागमन प्रातः 5:00 बजे से सायं 08:00 बजे तक सोमवार से शनिवार अनुमत होगा।
15. संपूर्ण प्रदेश में शनिवार सायं 08:00 से सोमवार प्रातः 5:00 बजे तक जन अनुशासन वीकेंड कर्फ्यू रहेगा। इसके अलावा प्रदेश में प्रतिदिन सायं 08:00 बजे से अगले दिन प्रातः 5:00 बजे तक जन अनुशासन कर्फ्यू रहेगा।
16. जिला प्रशासन द्वारा, विभागीय आदेश दिनांक 07.06.2021 के परिशिष्ट 'F' (Door-to-Door Survey एवं Quarantine व्यवस्था) में जारी दिशा-निर्देशों की सख्ती से पालना सुनिश्चित करना अनिवार्य होगा।
17. यह आदेश दिनांक 28 जून, 2021 सोमवार प्रातः 05:00 बजे से प्रभावी होगा।
18. शेष सभी दिशा-निर्देश पूर्व में जारी आदेशों अनुसार यथावत् रहेंगे।


(अमय कुमार)

प्रमुख शासन सचिव, गृह

प्रतिलिपि निम्न को सूचना एवं आवश्यक कार्यवाही हेतु :-

1. सचिव, राज्यपाल महोदय
2. प्रमुख सचिव, माननीय मुख्यमंत्री महोदय, राजस्थान।
3. सचिव, राजस्थान विधान सभा
4. विशिष्ट सहायक/निजी सहायक, सभी माननीय मंत्रीगण/राज्य मंत्रीगण
5. उप सचिव, मुख्य सचिव, राजस्थान।
6. समस्त अतिरिक्त मुख्य सचिव/प्रमुख शासन सचिव/शासन सचिव।
7. महानिदेशक पुलिस, राजस्थान।
8. महानिदेशक जेल/होमगार्ड।
9. सभी विभागाध्यक्ष।
10. समस्त सम्भागीय आयुक्त।
11. समस्त कलेक्टर।
12. पुलिस आयुक्त, जयपुर/जोधपुर।
13. महानिरीक्षक/उप महानिरीक्षक, पुलिस रेंज, राजस्थान।
14. महाप्रबन्धक, उत्तर-पश्चिम रेलवे, जयपुर, राजस्थान।
15. एयरपोर्ट डायरेक्टर, एयरपोर्ट ऑथोरिटी ऑफ इण्डिया, सांगानेर, जयपुर।
16. समस्त जिला पुलिस अधीक्षक/पुलिस उपायुक्त, जयपुर / जोधपुर
17. समस्त मुख्य कार्यकारी अधिकारी, जिला परिषद
18. समस्त प्रादेशिक परिवहन अधिकारी / जिला परिवहन अधिकारी।
19. आयुक्त, सूचना एवं जनसम्पर्क विभाग को व्यापक प्रचार प्रसार हेतु।


 (सुरेश गुप्ता)
 शासन सचिव, गृह

परिशिष्ट 'A'

धार्मिक स्थलों के सम्बन्ध में

1. जिला प्रशासन द्वारा चिन्हित कन्टेनमेन्ट जोन्स/कफर्यू क्षेत्र में किसी भी धार्मिक स्थल को खोलने की अनुमति नहीं होगी।
2. बड़े धार्मिक स्थल जहां स्थानीय निवासियों के साथ-साथ अन्य जिलों एवं अन्य राज्यों के व्यक्ति भी दर्शनार्थ एवं पूजा-अर्चना हेतु आते हैं, उनको खोले जाने से पूर्व जिला कलक्टर, जिला पुलिस अधीक्षक एवं मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी द्वारा संयुक्त रूप से निरीक्षण कर यह सुनिश्चित किया जायेगा कि कोरोना वायरस के संक्रमण से बचाव के लिये पर्याप्त सुरक्षात्मक उपाय धार्मिक स्थल प्रबंधन द्वारा कर लिये गये हैं।
3. प्रदेश के समस्त धार्मिक स्थलों पर लोगों का आवागमन धार्मिक स्थल से जुड़े व्यक्तियों द्वारा वैक्सीन की कम-से-कम 1st Dose लगवाने के पश्चात् आम जन हेतु निम्न दिशा-निर्देशों की पालना सुनिश्चित करते हुए प्रातः 05:00 बजे से सायं 04:00 बजे तक खोला जा सकेगा।
4. सामान्य सुरक्षा सावधानियां :-
 - i. धार्मिक स्थलों में व्यक्तियों के प्रवेश पर इस तरह अंतराल रखा जाये कि एक समय में पूजा स्थल के अन्दर व्यक्तियों की संख्या इस सीमा तक सीमित हो जाये कि प्रत्येक व्यक्ति के बीच कम से कम 6 फीट की दूरी हो। मस्जिदों में अदा की जाने वाली नमाज के दौरान व्यक्तियों की संख्या उपलब्ध स्थान एवं सामाजिक दूरी को ध्यान में रखते हुए रखी जावे।
 - ii. धार्मिक स्थल के पुजारियों एवं दर्शनार्थियों द्वारा कोविड उपयुक्त व्यवहार जैसे मास्क पहनना, थर्मल स्क्रीनिंग, हैंडवॉश, सेनेटाइजेशन का समुचित प्रबन्ध एवं मानव सम्पर्क में आने वाले सभी बिन्दुओं जैसे फर्श, दरवाजे के हैंडल आदि को बार-बार सेनेटाइज किया जाये, इनकी सख्ती से पालना सुनिश्चित की जाये।
5. धार्मिक स्थल में फूल-माला, प्रसाद, चादर व अन्य पूजा सामग्री ले जाने एवं घंटी बजाने पर प्रतिबंध रहेगा।
6. बड़े धार्मिक स्थलों में विशेष दिनों में दर्शनार्थियों की भीड़ नहीं जुटे और सोशल डिस्टेंसिंग की पालना सुनिश्चित की जाये। आरती को ऑनलाईन देखने हेतु प्रोत्साहित किया जावे एवं इसके लिये जनचेतना एवं प्रचार-प्रसार किया जाना चाहिए।
7. कोरोना संक्रमण को देखते हुए जहां तक संभव हो पूजा-अर्चना, उपासना, प्रार्थना और नमाज घर पर रहकर ही करने हेतु प्रोत्साहित किया जाये ताकि धार्मिक स्थलों पर भीड़ नहीं जुटे।



8. धार्मिक आयोजनों या धार्मिक जुलूसों की अनुमति बिल्कुल नहीं होगी।
9. जिला प्रशासन, पुलिस एवं धार्मिक स्थलों की प्रबंध समिति/मंडल/ट्रस्ट द्वारा हेल्थ प्रोटोकॉल की पूर्ण पालना सुनिश्चित कराई जाये।
10. उपरोक्त वर्णित शर्तों एवं सामान्य सुरक्षा सावधानियों का उल्लंघन किये जाने पर जिला मजिस्ट्रेट द्वारा अधिकृत प्राधिकारी द्वारा सम्बन्धित धार्मिक स्थल को बंद कराया जा सकेगा।
11. राज्य में वर्तमान परिप्रेक्ष्य में कोविड-19 की स्थिति को देखते हुए जन सुरक्षा की दृष्टि से यह अति आवश्यक है कि धार्मिक स्थलों को सावधानीपूर्वक खोला जाये साथ ही उक्त दिशा-निर्देशों की पालना की मॉनिटरिंग करने हेतु समस्त जिलों में निम्नानुसार समिति का गठन किया जाता है :-

- | | |
|---|------------------------|
| 1. जिला मजिस्ट्रेट | - अध्यक्ष |
| 2. जिले के समस्त विधायकगण | - सदस्य |
| 3. जिला पुलिस अधीक्षक | - सदस्य |
| 4. जिला मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी | - सदस्य |
| 5. अतिरिक्त जिला मजिस्ट्रेट | - सदस्य सचिव |
| 6. जिले में प्रत्येक धर्म गुरु, प्रमुख धार्मिक स्थलों के
ट्रस्ट के अध्यक्ष अथवा मुख्य प्राधिकारी आदि जिनका
मनोनयन जिला कलेक्टर द्वारा किया जायेगा | - विशेष आमंत्रित सदस्य |

[Handwritten signature]

RAJASTHAN HIGH COURT

No. 12/PI/2021

Date- 24.06.2021

C I R C U L A R

Considering the constant decline in Covid-19 positive cases in the entire State and after exhaustive discussion with medical experts, it is notified that while continuing with all preventive measures for effective control and containment of spread of COVID-19, in supersession of all the previous directions, Subordinate Courts/Special Courts/Tribunals would function from 28.06.2021 till further orders with following modalities:-

1. All the Subordinate Courts/Special Courts/Tribunals shall start regular functioning with physical presence as well as through video conferencing. (Hybrid mode). In view of prevailing conditions, as a preventive measure, all concerned may prefer virtual mode of hearing and e-filing.
2. Entry in the court premises will be permitted only to the persons who have completed 14 days after their 2nd dose of Covid-19 Vaccination on showing the final vaccination certificate issued by the competent authority at the entry gates. Relaxation will be given only to those persons whose vaccination cannot be done for medical reasons as per advisory of the Central/State Government after scrutiny.
3. Subject to fulfilling the condition of Para-2 above, only those learned Advocates will be permitted in court rooms whose cases are listed before the Courts. Litigants shall not be permitted in court premises except parties-in-person and whose presence have been specifically directed by the Courts. Such litigants would show the court order directing their presence and their final vaccination certificate at the entry gates.
4. Hearing of all categories of cases shall commence except recording of evidence. Recording of evidence shall start from 26.07.2021 for which necessary preparation be made by all concerned accordingly. Since, litigants have not been permitted in court premises, the presence of accused/complainant/witnesses/parties should not be insisted and adverse orders be avoided for their absence till 25.07.2021.
5. Judicial Custody remands shall be given only through video conferencing as far as permissible.
6. Video conferencing shall be conducted through video conferencing application 'Microsoft Teams'. If some newly created courts do not have

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24/6/21

licenses of Microsoft Teams, the District Judge may provide them Microsoft Teams license of any other vacant court or they may use free VC Applications 'Jitsi' or 'Google Meet'.

7. Video conferencing hardware for each court is under process of delivery and installation. In the meantime, for court proceedings through video conferencing, All-in-one computers available in courts, official Laptop of the Presiding Officer and NSTEP Mobile Phones may be used.
8. Easy and simple Help Manuals in Hindi have been sent to all District & Sessions Judge for use of Microsoft Teams by learned Advocates, litigants and other stakeholders. All District & Sessions Judge will ensure that meeting Links of all the Courts and these Help Manuals are uploaded on the website of respective Judgeship. These Links and Help videos may also be circulated through Whatsapp and other social media platforms.
9. All the District & Sessions Judges will also publish Email Address and Landline Phone Number of each Court along with the VC Links. The Landline Phone Number of each Court will work as helpline number for issues related to Video Conferencing.
10. Filing of matters may be made physically or through E-Filing. E-Filing may be made on E-filing portal as per Guidelines dated 23.07.2020 available on website of Rajasthan High Court. (<https://hcraj.nic.in/hcraj/efiling.php>). District Judges shall notify a dedicated email address for each court complex on the official website of the Judgeship on which learned Advocates may send their details for entering in CIS so that after necessary entry in CIS, they may register themselves for e-filing.
11. Payment of Court Fees may be made through E-Pay facility, the link of which (<https://pay.ecourts.gov.in/epay>) is available on Home Page of website of Rajasthan High Court in eServices Menu. All concerned may prefer e-pay facility as a preventive measure.
12. As per directions of Hon'ble Supreme Court issued vide order dated 27.04.2021 passed in Miscellaneous Application No.665/2021 in SMW (C) No.3/2020 In RE COGNIZANCE FOR EXTENSION OF LIMITATION, the period of limitation for all judicial and quasi judicial proceedings shall stand extended till further orders of Hon'ble Supreme Court. Order of Hon'ble Supreme Court may be downloaded at link-
https://main.sci.gov.in/supremecourt/2021/10651/10651_2021_31_1_2777_6_Order_27-Apr-2021.pdf

24.6.2021

13. Wearing of Coat for learned Advocates shall remain exempted till further orders. During virtual hearing, learned Advocates are requested to observe same dress code and decorum as is required and applicable in court room hearing.
14. If any staff member is having flu like symptoms, would immediately inform the concerned Presiding Officer and would take leave as per medical advise.
15. District & Sessions Judges at District Headquarters and senior most judicial officer at Taluka Headquarters would make necessary arrangements for limiting the entry points in the court premises as per local conditions with the assistance of the committee of one Judicial Officer, Bar President and one senior court staff, already constituted.
16. The consumption of liquor, pan, gutka, tobacco and spitting inside the court premises shall be strictly prohibited and attract prosecution/punishment as per the guidelines of Central/State Government.
17. Learned Advocates, parties-in-person and whose presence have been specifically directed by the court, while appearing in the courts shall be required to wear face mask and face shield. Wearing of hand gloves should be preferred.
18. Entry of law interns in the court premises would be strictly prohibited.
19. Entry gate(s) of court premises shall be equipped with requisite thermal scanners. The medical staff shall properly screen all the persons as per the SOP issued by Central and State Government. Persons having flu like symptoms be not allowed to enter the premises.
20. Canteens, Photo Copying shops, Book shops and E-Mitra kiosks may be opened with required protocol/arrangements as prescribed by Central and State Government.
21. Proper sanitization of entire premises must be ensured. Hand-wash and sanitizer shall be provided in toilets and court corridors.
22. No person without mask shall be allowed to enter and move around in the premises. The social distancing as per the guidelines of Central and State Government should be followed in strict manner in the entire premises.
23. Awareness Signage mentioning Do's, Don'ts and Precautions be placed at appropriate places in the court premises. Regular cleaning with sodium



hypochlorite and infecticide may be done in the entire premises. All the Public Toilets in court premises should be cleaned at regular intervals with chemicals.

24. The District & Sessions Judges shall ensure vaccination of all concerned stakeholders at the earliest. Covid-19 Testing of learned Advocates and Court Staff would also be continued.
25. All the directions and guidelines issued by the Central/State Government from time to time, as applicable, would be strictly followed.
26. The Committee of one Judicial Officer, Bar President and one senior court staff already constituted shall continue to supervise and monitor the situation on daily basis to ensure strict compliance of the directions for prevention and containment of spread of Covid-19 and to take appropriate remedial steps.
27. The directions issued by this Circular shall be applicable to all the Courts and Tribunals which are under superintendence of Rajasthan High Court under Article 227 of the Constitution of India.

By Order


24.6.2021
REGISTRAR GENERAL

No. Gen./XV/42/2020/1815(I)

Date – 24.06.2021

Copy forwarded to the following for information and necessary action:-

1. The Registrar Cum Principle Secretary to Hon'ble the Chief Justice, Rajasthan High Court.
2. The Private Secretaries to all Hon'ble Judges, Rajasthan High Court, Jodhpur/ Jaipur Bench.
3. All the District & Sessions Judges with the request to circulate the same amongst all the Presiding Officers of their judgship.
4. Presiding Officers of all the Special Courts and Tribunals.
5. All the Bar Associations through the concerned District & Sessions Judges.
6. Registrar Classification, Rajasthan High Court, Jodhpur to upload the same on the official website of this office.


24.6.2021
REGISTRAR GENERAL

RAJASTHAN HIGH COURT

No. 13/PI/2021

Date- 27.06.2021

C I R C U L A R

In partial modification of this office previous Circular No. 12/PI/2021 dated 24.06.2021, it is hereby notified that from 28.06.2021 to 03.07.2021, Clause-1, 2 and clauses related thereto in above Circular shall remain suspended and during this period, regular hearing of cases in Subordinate Courts/Special Courts/Tribunals shall be only through video conferencing. Other conditions of Circular dated 24.06.2021 as applicable, shall remain same.

By Order


REGISTRAR GENERAL

No.Gen./XV/42/2020/1818

Date – 27.06.2021

Copy forwarded to the following for information and necessary action:-

1. The Registrar cum Principle Secretary to Hon'ble the Chief Justice, Rajasthan High Court.
2. The Private Secretaries to all Hon'ble Judges, Rajasthan High Court, Jodhpur/ Jaipur Bench.
3. All the District & Sessions Judges with the request to circulate the same amongst all the Presiding Officers of their judgeship.
4. Presiding Officers of all the Special Courts and Tribunals.
5. All the Bar Associations through the concerned District & Sessions Judges.
6. Registrar Classification, Rajasthan High Court, Jodhpur to upload the same on the official website of this office.


REGISTRAR GENERAL

Serial No.01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.6/2021

Date of Order: 23.06.2021

Registrar General, Vs. State of Meghalaya
High Court of Meghalaya

Coram:

Hon'ble Mr. Justice Biswanath Somadder, Chief Justice
Hon'ble Mr. Justice H.S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : –
For the Respondent(s) : Mr. A Kumar, Advocate General with
Mr. S Sen Gupta, Addl.Sr.GA,
Mr. AH Kharwanlang, GA,
Mr. Chetan Joshi, Adv
Mr. Shaurya Sahay, Adv
Mr. Aditya Shankar Pandey, Adv

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT:(per Biswanath Somadder, the Hon'ble, the Chief Justice)

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

At the outset, it must be stated clearly and unequivocally that vaccination is need of the hour – nay, an absolute necessity – in order to overcome this global pandemic which is engulfing our world. However, the issue, as stated in the earlier paragraph, requires to be clearly answered.

In order to answer the issue, at first, we need to look at certain fundamental principles which govern the field.

Article 21 encompasses within its fold, right to health, as a fundamental right. By that same analogy, right to health care, which includes vaccination, is a fundamental right. However, vaccination by force or being made mandatory by adopting coercive methods, vitiates the very fundamental purpose of the welfare attached to it. It impinges on the fundamental right(s) as such, especially when it affects the right to means of livelihood which makes it possible for a person to live. As held in *Olga Tellis & Ors vs. Bombay Municipal Corporation & Ors* reported at AIR 1986 SC 180 = (1985) 3 SCC 545, right to life includes right to the means of livelihood. Any action of the State which is in absolute derogation of this basic principle is squarely affected by Article 19(1)(g). Although, Article 19(6) prescribes “reasonable restrictions” in the “interest of general public”, the present instance is exemplary and clearly distinguishable. It affects an individual’s right, choice and liberty significantly more than affecting the general public as such or for that matter, the latter’s interests being at stake because of the autonomous decision of an individual *human being* of choosing not to be vaccinated. It is more about striking the right balance between an individual’s right vis-à-vis the right of the public at large. However, in substantiation of Mill’s theory of the liberty to exercise one’s right until it impinges on the right of another; here too, the “welfare State” is attempting to secure the rights of others, which – though legitimate – is palpably excessive owing to the procedure adopted by it. Another pivotal question emerges as to whether any notification/order published by the State Government and/or its authority can be understood as a prescription by “law” for the purposes of prohibiting a greater degree of rights; i.e., fundamental rights. In other words, can a State Government and/or its authority issue any notification/order which is likely to have a direct effect on the fundamental rights of its citizens especially on a subject matter that concerns both public health and the fundamental rights of the individual person.

The issue here essentially centres around a question on the lawmaking power of the State Government, which, even though permitted by Entry 6, List II of the Seventh Schedule, has to be in consonance with the

fundamental right to life and livelihood of an individual. In this case, there is a clear lack of legitimacy in prohibiting freedom of carrying on any occupation, trade or business amongst a certain category or class of citizens who are otherwise entitled to do so, making the notification/order ill-conceived, arbitrary and/or a colourable exercise of power. A notification/order of the State certainly cannot put an embargo and/or fetter on the *fundamental* right to life of an individual by stripping off his/her right to livelihood, except according to the procedure established by law. Even that procedure is required to be reasonable, just and fair (see *Olga Tellis*, supra). Till now, there has been no legal mandate whatsoever with regard to coercive or mandatory vaccination in general and the Covid19 vaccination drive in particular that can prohibit or take away the livelihood of a citizen on that ground.

In the “frequently asked questions” (FAQs) on COVID-19 vaccine prepared and uploaded by the Ministry of Health and Family Welfare, Government of India, in its official website, the question which appears under serial number 3 reads, “Is it mandatory to take the vaccine?” The “potential response”, which is provided in the official website reads, “Vaccination for COVID-19 is voluntary. However, it is advisable to receive the complete schedule of COVID-19 vaccine for protecting oneself against this disease and also to limit the spread of this disease to the close contacts including family members, friends, relatives and co-workers.”

In this context, around one hundred and seven (107) years ago, in *Schloendorff v Society of New York Hospitals* reported at (1914) 211 NY 125 = 105 NE 92; 1914 NY Justice Cardozo ruled that ‘every human being of adult years and sound mind has a right to determine what shall be done with their body’. Thus, by use of force or through deception if an unwilling capable adult is made to have the ‘flu vaccine would be considered both a crime and tort or civil’ wrong, as was ruled in *Airedale NHS Trust v Bland* reported at 1993 AC 789 = (1993) 2 WLR 316 = (1993) 1 All ER 821, around thirty years (30) ago. Thus, coercive element of vaccination has, since the early phases of the initiation of vaccination as a preventive measure against several diseases, have been time and again not only

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

There are several ambiguities on the procedural and substantive aspects of the concerned notification/order. Doubts are cast on whether *coercive* assertion of one's fundamental right can tend to abrogate another's equally placed fundamental right. Question also arises whether fundamental right can be forcefully imposed even if the beneficiary is not inclined to its exercise, because, if the latter is undertaken, then there is a risk of running into infringing on the fundamental right to privacy and exercise of personal liberty. Furthermore, whether to subject oneself to an intrusion of his/her body, even if of minor intensity, e.g., through a needle, concerns issues of personal and bodily autonomy and bodily integrity, similar to abortion rights or non-sterilization rights or even sex reassignment surgeries, irrespective of what consequences the individual might be inviting. This finds mention in decisions of the European Commission and Court of Human Rights [X vs. Netherlands of 1978 (decision rendered on 4th December, 1978); X vs. Austria of 1979 (decision rendered on 13th December, 1979)] which has become truer in the present times across the world than ever before. Compulsory administration of a vaccine without hampering one's right to life and liberty based on informed choice and informed consent is one thing. However, if any compulsory vaccination drive is coercive by its very nature and spirit, it assumes a different proportion and character.

In our view, the burden lies on the State to disseminate and sensitize the citizens of the entire exercise of vaccination with its pros and cons and facilitate informed decision making particularly in a situation where the beneficiaries are skeptical, susceptible and belonging to vulnerable/marginalised section of the society, some of whom are also gullible members of the indigenous communities who are constantly being fed with deliberate misinformation regarding the efficacy of vaccination by some persons/organisations with oblique motives. The welfare nature of the State isn't for coercive negative reinforcement by seizing their right to livelihood, proscribing them to earn from their occupation and/or profession without any justification in the garb of public interest, but lies in walking

together with concerted efforts attempting to effectuate a social order as mandated under Article 38 by approaching the people directly by engaging them in one-to-one dialogues and dwelling on the efficiency and the positive aspects of administering of the vaccine without compromising its duty under Article 47 nor abrogating its duty to secure adequate means of livelihood under Article 39(a). Therefore, right to and the welfare policy for vaccination can never affect a major fundamental right; i.e., right to life, personal liberty and livelihood, especially when there exists no reasonable nexus between vaccination and prohibition of continuance of occupation and/or profession. A harmonious and purposive construction of the provisions of law and principles of equity, good conscience and justice reveals that mandatory or forceful vaccination does not find any force in law leading to such acts being liable to be declared *ultra vires ab initio*.

At this stage, learned Advocate General draws our attention to certain guidelines issued by the Principal Secretary to the Government of Meghalaya, Health and Family Welfare Department, yesterday, i.e., 22nd June, 2021, to all the Deputy Commissioners of the districts of Meghalaya on the measures required to be taken by the districts for addressing the issue of vaccine hesitancy. Perusing the same, it appears that the Principal Secretary to the Government of Meghalaya, Health and Family Welfare Department, has observed inter alia that for public health administration, indigenous States like Meghalaya poses distinct challenges while mobilising people and introducing any new interventions. In such situations, the approach towards effecting any kind of behavioural change needs to be '*adaptive*' in nature, meaning thereby that the people need to be mobilised and convinced to see the impact of the new intervention for greater acceptance among the communities. It has also been advised by the Principal Secretary to the Government of Meghalaya, Health and Family Welfare Department, in the said guidelines that the orders in the districts have to be seen as a "**persuasive advisory**" and *not as a coercion* with regards to the issue of vaccination.

The Principal Secretary to the Government of Meghalaya, Health and Family Welfare Department, while issuing the guidelines dated 22nd June,

2021, has also laid down 7(seven) points that are required to be considered for effecting change in the COVID vaccine compliance in the respective districts of Meghalaya. The Principal Secretary has clearly stated that the existing orders on vaccine compliance may be modified in the light of the new policy directions as spelt out in the guidelines dated 22nd June, 2021 and requirement of vaccination should be directory and not mandatory.

This, in our view is a step in the right direction.

The learned Advocate General has further placed an order issued by the Deputy Commissioner, East Khasi Hills District, Shillong, yesterday, i.e., 22nd June, 2021, following the new guidelines issued by the Principal Secretary to the Government of Meghalaya, Health and Family Welfare Department, yesterday. A plain reading of this order reveals the same to be quite in sync with the observations made hereinbefore by this Court read with new guidelines issued yesterday by the Principal Secretary, Government of Meghalaya, Health and Family Welfare Department. We are of the view that this order is required to be complied with by all shops/establishments/local taxis/auto-rickshaws/maxi cabs and buses, forthwith.

In addition thereto, we issue the following directions so that the public at large are provided with an option of making an informed choice:-

- (i) All shops/establishments/local taxis/auto-rickshaws/maxi cabs and buses should display prominently at a conspicuous place, a sign, "VACCINATED", in the event all employees and staff of the concerned shop/establishment are vaccinated. Similarly, in the case of local taxis/auto-rickshaws/maxi cabs and buses where the concerned driver or conductor or helper(s) are vaccinated.
- (ii) All shops/establishments/local taxis/auto-rickshaws/maxi cabs and buses should display prominently at a conspicuous place, a sign, "NOT VACCINATED", in the event all the employees and staff of the concerned shop/establishment are not vaccinated. Similarly, in the case of local taxis/auto-rickshaws/maxi cabs and buses where the concerned driver or conductor or helper(s) are not vaccinated.

The actual dimension of the signs, “VACCINATED” or “NOT VACCINATED” and the conspicuous place where such sign is required to be affixed/displayed shall be decided by the concerned authority of the State. In the event, any shops/establishments/local taxis/auto-rickshaws/maxi cabs and buses flouts the above directions, the concerned authority of the State shall immediately direct its closure/stoppage of plying.

So far as vaccine hesitation issue is concerned, the same is required to be dealt with by the State Government in the manner specified in its new guidelines issued yesterday by the Principal Secretary, Health and Family Welfare Department, Government of Meghalaya, read with the observations made by us hereinbefore. This Court shall monitor this issue closely so that the State Government is able to overcome the vaccine hesitation problem at the earliest and all eligible persons in the State of Meghalaya are vaccinated well within the timeframe as may be specified by the State.

In the event, there is any attempt made by any person/organisation to spread misinformation regarding the efficacy of vaccination amongst the people of this State, the concerned authority of the State shall immediately step in and proceed against such person/organisation in accordance with law. The concerned authority of the State shall also bring such instances to the notice of this Court.

So far as the other issue with regard to the method of implementation of the Government Welfare Schemes meant for the marginalised section of the society is concerned, the learned Advocate General has placed an order dated 22nd June, 2021, issued by the Chief Secretary to the Government of Meghalaya. We request the learned Registrar General to intimate the Member Secretary of the Meghalaya State Legal Services Authority, Shillong, with regard to the said order dated 22nd June, 2021. The Member Secretary of the Meghalaya State Legal Services Authority, Shillong, shall bring the said order to the notice of all the Secretaries of the District State Legal Services Authorities in the State of Meghalaya who shall enquire and find out as to whether the concerned departments are actually taking steps to ensure that the Government Welfare Schemes for the marginalised section of the society are being properly and effectively implemented in a time

bound manner in accordance with the guidelines of the respective schemes. The Secretaries of all the District State Legal Services Authorities shall submit their respective reports to the Member Secretary, Meghalaya State Legal Services Authority, Shillong, within a period of four weeks from date so that the Member Secretary can compile the same and place the compilation before this Court through the learned Registrar General.

List this matter next Wednesday, i.e., 30th June, 2021 for further consideration.

(H.S. Thangkhiew)
Judge

(Biswanath Somadder)
Chief Justice

Meghalaya
23.06.2021
"Lam AR-PS"



Frequently Asked Questions on COVID-19 Vaccine

Target Group: General Public

S. No.	Question	Potential response
1.	Is a COVID vaccine scheduled anytime soon	Yes, vaccine trials are under different stages of finalization. Government of India is geared to launch a vaccine for COVID 19 soon. For more information and updates visit www.mohfw.gov.in
2.	Will COVID 19 vaccine be given to everyone simultaneously	Based on the potential availability of vaccines the Government of India has selected the priority groups who will be vaccinated on priority as they are at higher risk. The first group includes healthcare and frontline workers. The second group to receive COVID 19 vaccine will be persons over 50 years of age and persons under 50 years with comorbid conditions
3.	Is it mandatory to take the vaccine?	Vaccination for COVID-19 is voluntary. However, it is advisable to receive the complete schedule of COVID-19 vaccine for protecting one-self against this disease and also to limit the spread of this disease to the close contacts including family members, friends, relatives and co-workers.
4.	Will the vaccine be safe as it is being tested and introduced in a short span of time?	Vaccines will be introduced in the country only after the regulatory bodies clear it based on its safety and efficacy.

5.	Can a person presently having COVID-19 (confirmed or suspected) infection be vaccinated?	Person with confirmed or suspected COVID-19 infection may increase the risk of spreading the same to others at vaccination site. For this reason, infected individuals should defer vaccination for 14 days after symptoms resolution.
6.	Is it necessary for a COVID recovered person to take the vaccine?	Yes, it is advisable to receive complete schedule of COVID vaccine irrespective of past history of infection with COVID-19. This will help in developing a strong immune response against the disease.
7.	Out of the multiple vaccines available, how is one or more vaccine chosen for administration?	<p>The safety and efficacy data from clinical trials of vaccine candidates are examined by Drug regulator of our country before granting the license for the same. Hence, all the COVID-19 vaccines that receive license will have comparable safety and efficacy.</p> <p>However, it must be ensured that the entire schedule of vaccination is completed by only one type of vaccine as different COVID-19 vaccines are not interchangeable.</p>
8.	Does India have the capacity to store the COVID vaccine at temperature of +2 to +8 degree Celsius and transport them at required temperature?	India runs one of the largest Immunization programme in the world, catering to the vaccination needs of more than 26 million newborns and 29 million pregnant women. The programme mechanisms are being strengthened / geared up to effectively cater to the country's large and diverse population.

9.	Will the vaccine introduced in India be as effective as the ones introduced in other countries?	Yes. The COVID 19 vaccine introduced in India will be as effective as any vaccine developed by other countries. Various phases of vaccine trials are undertaken to ensure its safety and efficacy.
10.	How will I know if I am eligible for vaccination?	<p>In the initial phase, COVID 19 vaccine will be provided to the priority group- Health Care and Front-line workers.</p> <p>The 50 plus age group may also begin early based on vaccine availability.</p> <p>The eligible beneficiaries will be informed through their registered mobile number regarding the Health Facility where the vaccination will be provided and the scheduled time for the same. This will be done to avoid any inconvenience in registration and vaccination of beneficiaries.</p>
11.	Can a person get the COVID-19 vaccine without registration with Health Department?	No, registration of beneficiary is mandatory for vaccination for COVID 19. Only after registration the information on the session site to visit and time will be shared with the beneficiary.

12.	What documents are required for registration of eligible beneficiary?	<p>Any of the below mentioned ID with Photo may be produced at the time of registration:</p> <ul style="list-style-type: none"> • Aadhar Card • Driving License • Health Insurance Smart Card issued under the scheme of Ministry of Labour • Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) Job Card • Official identity cards issued to MPs/MLAs/MLCs • PAN Card • Passbooks issued by Bank/Post Office • Passport • Pension Document • Service Identity Card with photograph issued to employees by Central/ State Govt./ PSUs/Public Limited Companies • Voter ID • Smart card issued by RGI under NPR
13.	Will a Photo / ID be required at the time of registration?	The Photo ID produced at the time of registration must be produced and verified at the time of vaccination.
14.	If a person is not able to produce Photo ID at the session site, whether s/he be vaccinated or not?	Photo ID is a must for both registration and verification of beneficiary at session site to ensure that the intended person is vaccinated.
15.	How will the beneficiary receive information about due date of vaccination?	Following online registration, beneficiary will receive SMS on their registered mobile number on the due date, place and time of vaccination.

16.	Will vaccinated beneficiaries receive information on the status of their vaccination after completion?	<p>Yes. On getting due dose of COVID 19 vaccine, the beneficiary will receive SMS on their registered mobile number.</p> <p>After all doses of vaccine are administered, a QR code based certificate will also be sent to the registered mobile number of the beneficiary.</p>
17.	If one is taking medicines for illnesses like Cancer, Diabetes, Hypertension etc, can s/he take the COVID-19 vaccine?	<p>Yes. Persons with one or more of these comorbid conditions are considered high risk category. They need to get COVID -19 vaccination.</p>
18.	Are there any preventive measures and precautions that one needs to follow at the session site?	<p>We request you to rest at the vaccination centre for atleast half an hour after taking the COVID-19 vaccine. Inform the nearest health authorities / ANM / ASHA in case you feel any discomfort or uneasiness subsequently.</p> <p>Remember to continue following key COVID Appropriate Behaviours like wearing of mask, maintaining hand sanitization and physical distance (or 6 feet or Do Gaj).</p>
19.	What about the possible side-effects from COVID-19 vaccine?	<p>COVID Vaccine will be introduced only when the safety is proven. As is true for other vaccines, the common side effects in some individuals could be mild fever, pain, etc. at the site of injection.</p> <p>States have been asked to start making arrangements to deal with any Covid-19 vaccine-related side-effects as one of the measures towards safe vaccine delivery among masses.</p>

20.	How many doses of the vaccine would have to be taken by me and at what interval?	Two doses of vaccine, 28 days apart, need to be taken by an individual to complete the vaccination schedule.
21.	When would antibodies develop? After taking first dose, after taking second dose, or much later?	Protective levels of antibodies are generally developed two weeks after receiving the 2 nd dose of COVID-19 vaccine.

Priss

सीवीएसी अनुभाग

ANNEXURE P6



निर्माण भवन, नई दिल्ली
दिनांक 09 मार्च, 2021

To,

Sh. Anurag Sinha,
Qtr no. 10 po swang bokaro
Jharkhand, gomia, 829128
Jharkhand

विषय: आरटीआई अधिनियम, २००५ के अंतर्गत मांगी गई जानकारी के संबंध में।

महोदय,

कृपया आप अपनी आर.टी.आई. एमओएचएफडबल्यू/आर/ई/21/00630, आर.टी.आई. अधिनियम, 2005 के संदर्भ ले जोकि अधोहस्ताक्षरी को दिनांक 27.02.2021 को प्राप्त हुआ था जिसमें आर.टी.आई.(RTI) अधिनियम, २००५ के तहत जानकारी मांगी गई है

संख्या क्रम	आवेदक के प्रश्न	उत्तर
i.	कोरोना वैक्सीन लेना स्वैच्छिक है या अनिवार्य, जबरदस्ती	कोरोना वैक्सीन लेना स्वैच्छिक है।
ii	क्या वैक्सीन नहीं लेने पर सारी सरकारी सुविधाएं बंद कर दी जायगी, सरकारी योजना पंशन	आवेदन मे लिखी बार्ते निराधार है । किसी भी सरकारी सुविधा, नागरिकता, नौकरी इत्यादि से वैक्सीन का कोई सम्बन्ध नहीं है ।
iii	क्या वैक्सीन नहीं लेने पर नौकरी नहीं मिलेगा, ट्रेन, बस, मेट्रो मे चढ़ने नहीं मिलेगी	
iv	यदि कोई ias ips स्वास्थ्य या पुलिस कर्मचारी नागरिक को धमकी दे की वैक्सीन ले नहीं तो ये कर देगे तो नागरिक क्या कर सकती क्या कोर्ट जा सकते है	
v	क्या वैक्सीन नहीं लेने पर स्कूलों, कॉलेज, विश्वविद्यालय, गैस कनेक्शन, पानी, बिजली कनेक्शन, राशन आदि के लिए क्या वैक्सीन नहीं मिलेगे	
vi	क्या वैक्सीन नहीं लेने पर नौकरी से निकला जा सकता है वेतन रोका जा सकत है, निजी और सरकारी विभाग दोनों मे ।	

o/c



Coronavirus disease (COVID-19): Vaccines

28 October 2020 | Q&A

English version last updated on 22 June 2021 to reflect 15 June 2021 SAGE interim recommendations on the Pfizer/BionTech COVID-19 vaccine.

Is there a vaccine for COVID-19?

When will COVID-19 vaccines be ready for distribution?

Will COVID-19 vaccines provide long-term protection?

How quickly could COVID-19 vaccines stop the pandemic?

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[Coronavirus disease \(COVID-19\): COVID-19 Vaccine access and allocation](#)

[Coronavirus diseases \(COVID-19\): Vaccine safety](#)

What types of COVID-19 vaccines are being developed? How would they work?

Will other vaccines help protect me from COVID-19?

What are the benefits of getting vaccinated?

Who should get the COVID-19 vaccines?

Can we stop taking precautions after being vaccinated?

Vaccination protects you from getting seriously ill and dying from COVID-19. For the first fourteen days after getting a vaccination, you do not have significant levels of protection, then it increases gradually. For a single dose vaccine, immunity will generally occur two weeks after vaccination. For two-dose vaccines, both doses are needed to achieve the highest level of immunity possible.

While a COVID-19 vaccine will protect you from serious illness and death, we are still learning about the extent to which it keeps you from being infected and passing the virus on to others (transmission). The data that is emerging from countries is showing that the vaccines that are currently in use are protecting against severe disease and hospitalization. However,

no vaccine is 100% effective and breakthrough infections are regrettable, but to be expected.

The current evidence shows that vaccines provide some protection from infection and transmission, but that protection is less than that for serious illness and death. We are still learning also about the variants of concern and whether the vaccines are as protective against these strains as the non-variant virus. For these reasons, and while many of those in the community may not yet be vaccinated, maintaining other prevention measures is important especially in communities where SARS CoV-2 circulation is significant. To help keep you and others safe, and while efforts continue to reduce viral transmission and ramp up vaccine coverage, you should continue to maintain at least a 1-metre distance from others, cover a cough or sneeze in your elbow, clean your hands frequently and wear a mask, particularly in enclosed, crowded or poorly ventilated spaces. Always follow guidance from local authorities based on the situation and risk where you live.

Can I have the second dose with a different vaccine than the first dose?

Can the COVID-19 vaccine cause a positive test result for the disease, such as for a PCR or antigen test?

Should I be vaccinated if I have had COVID-19?

Is the vaccine safe for children?

Do the vaccines protect against variants?

Does the vaccine cause different side effects in men and women? Does age have an impact?

Does having side effects mean that the vaccine is working? What does having no side effects mean?

Should we eat or drink differently the day or two after getting vaccinated?

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GAHC030001062020



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/37/2020

In Re Dinthar Incident
Aizawl

VERSUS

State of Mizoram and 11 Ors
Aizawl

Advocate for the Petitioner : Mr Zochhuana (Amicus Curiae)

Advocate for the Respondent : Mr C Zoramchhana

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE NELSON SAILO
ORDER

Date : 02.07.2021

The proceeding is conducted via remote Video Conference.

2. Heard Mr. Zochhuana, the learned Amicus Curiae and Mr. C. Zoramchhana, learned Additional Advocate General for the State of Mizoram.

3. The case has been listed today as opportunity had been given to the learned Additional Advocate General to obtain instructions with regard to Clause 5(2), 6(1) and 6(5) of the Standard Operating Procedure (SOP) dated 29.06.2021. The above clauses requires all persons in the State of Mizoram to be vaccinated or else they would not be allowed to leave their houses to procure/obtain essential items/goods or earn their livelihood by working in

shops/stores, driving public/commercial transport vehicles etc. The other issue to be taken up today is with regard to the requirement of obtaining a pass or permit from the Deputy Commissioner, Aizawl for travelling outside Mizoram in terms of the notice No.C.16011/298/2020-DC(A)/PT-II dated 26.06.2021.

4. With regard to the requirement of obtaining a pass or permit from the Deputy Commissioner, Aizawl for travelling outside Mizoram in terms of the notice No.C.16011/298/2020-DC(A)/PT-II dated 26.06.2021, the learned Additional Advocate General has submitted Notice No.C.16011/298/2020-DC(A)/Misc dated 01.07.2021 issued by the Deputy Commissioner, Aizawl, the content of which is as follows:-

“NOTICE

Movement of vehicles have been restricted in some parts of Assam due to the area being declared as a containment zone/area. And it is learnt that due to this restriction some people used to have difficulties moving around. Therefore, in an effort to facilitate easy movement of travelers passing through Assam from Mizoram (by road) to Exit Permit may be issued on being applied as stated below.

This will supersede the earlier Notification issued vide No.C.16011/298/2020-DC(A)/Pt-II Dt. 26.06.2021.

1. The application may be submitted to the Deputy Commissioner, Aizawl through mcovid19.mizoram.gov.in (mPASS Exit Permit)

2. The applicant shall specify his/her name, address, phone number, final destination and the date and time of his/her proposed journey along with the reason for his/her journey and vehicle Registration number as prescribed in the Permit application form.”

5. On perusal of the above Notice dated 01.07.2021 issued by the Deputy Commissioner, Aizawl, which has been made in supercession of the earlier notification dated 26.06.2021, we are of the view that the Notice dated 01.07.2021 has clarified the earlier notification dated 26.06.2021, besides showing that Exit Permit is not a mandatory requirement for people wanting to leave the State. Accordingly, the said issue is closed. However, the State respondents will ensure that if similar notifications, like the earlier notification dated 26.06.2021, has been issued by other Deputy Commissioners from other Districts, the Deputy Commissioners in the other Districts should also issue a similar Notice dated 01.07.2021, which is reproduced above.

6. For a better understanding of the other issue involved, i.e. the legality of Clause 5(2), 6(1) and 6(5) of the Standard Operating Procedure (SOP) dated 29.06.2021, the Order dated 01.07.2021 passed by this Court is reproduced below:-

“The proceeding is conducted via remote Video Conference.

2. Heard Mr. Zochhuana, the learned Amicus Curiae as well as Mr. C. Zoramchhana, learned Additional Advocate General.

3. The learned Additional Advocate General submits that though he has received some instructions from the Deputy Commissioner, Aizawl with regard to the Notice dated 26.06.2021, he needs further instruction on the matter and in this regard, he will be communicating with the concerned Deputy Commissioner today.

4. In view of the partial opening up of the current restrictions in place in the State, the Chief Secretary, Mizoram has issued Order dated 29.06.2021 along with the Standard Operating Procedure (SOP) to be implemented w.e.f. 4:00 AM of 30.06.2021 till midnight of 15.07.2021. The specific restrictions that had been brought to the notice of this Court is with respect to Clause 5(2) which in effect does not allow non-vaccinated individuals to go outside their house/compound. Clause 6(1) and 6(5) restricts non-vaccinated individuals from manning shops, stores, undertaking any works and driving of public transports and commercial vehicles.

5. Clause 5(2), 6(1) and 6(5) of the latest SOP dated 29.06.2021 are reproduced below:-

“5. Other restrictions

*2) Persons going outside shall mandatorily cover their faces (with face mask or other materials). **In case of compelling circumstances, only vaccinated individuals of the family members may be detailed for errands within and around localities having significant COVID-19 active cases.***

6. Permitted And Regulated Activities

*1) **Only vaccinated individuals should be engaged for manning shops and stores or undertaking any works. Shop/stores attendants and other employees should be able to produce proof of vaccination, which will be regularly checked by the police/LLTF/VLTF/COVID-19***

executive duty.

5) Commercial passenger vehicles (city bus, taxi and two wheeler taxi) allowed to resume operation shall mandatorily provide hand-sanitizer for their passenger and they shall not exceed their seating capacity. Only Drivers and conductors who had been vaccinated should be allowed to operate public transports.”

6. A perusal of the above clauses implies that all persons would require to be vaccinated or else they cannot leave their houses or earn their livelihood with regard to activities mentioned in the said clauses.

7. The question that would arise for consideration with regard to the above clauses is whether a person can be vaccinated against his will and whether the non-vaccination of the said individual can debar him from earning his livelihood, keeping in mind the fundamental right of a person to practice any profession, or to carry on any occupation or trade or business under Article 19(1)(g) and his right to livelihood in terms of Article 21 of the Constitution. Though the State can make a law imposing reasonable restrictions in the exercise of any of the rights conferred under Article 19, so long as the said restriction is a reasonable restriction, no such law has been made by the Government and in any event, the above mentioned clauses do not appear to be reasonable.

8. In the case **Registrar General, High Court of Meghalaya Vs. State of Meghalaya**, PIL No. 6/2021, the Division Bench was seized of a matter, wherein the State of Meghalaya, through various orders of the Deputy Commissioners, had made it mandatory for shopkeepers, vendors, local taxi drivers and others to get themselves vaccinated before they could resume their businesses. The Division Bench of the Meghalaya High Court in its Order dated 23.06.2021 in PIL No. 6/2021 held that vaccination cannot be mandatory and non-vaccination can never affect a major fundamental right, i.e. right to life, personal liberty and livelihood, especially when there exists no reasonable nexus between vaccination and prohibition of continuance of occupation and/or profession.

9. In the meantime, it has also been brought to our notice that a notification was

issued by one association which allows the participation of only vaccinated individuals to participate in a particular sport. The said instructions seem to have been made in pursuance to the SOP dated 29.06.2021. There being a possibility of many interpretations of the above mentioned clauses being made by various Local Level Task Force/ Village Level Task Force (LLTFs/ VLTFs) or associations etc, while issuing guidelines, directions and orders, it would be prudent to reconsider them, lest it causes chaos. Though the above mentioned clauses of the SOP have been made for the greater good, the authorities shall have to bear in mind the fact that executive instructions have to be issued in consonance with the fundamental rights of the citizens and the Constitution.

10. *Though we are prima facie inclined to stay the above clauses, the learned Additional Advocate General has submitted that he will take up the matter with the authorities today itself so that necessary amendments are made to the SOP issued on 29.06.2021.*

11. *In view of the undertaking given by the learned Additional Advocate General, the case be listed again tomorrow i.e., 02.07.2021."*

7. With respect to the validity of Clause 5(2), 6(1) and 6(5) of the SOP dated 29.06.2021, the learned Additional Advocate General has submitted a letter dated 01.07.2021 issued by the Under Secretary to the Government of Mizoram, Disaster Management & Rehabilitation Department, which is to the effect that the State Government can make restrictions under the Disaster Management Act, 2005, curtailing the fundamental rights of a citizen, for the purpose of preventing the spread of Covid-19 and for mitigation of disaster. It is also stated in the said letter dated 01.07.2021 that unless shopkeepers, drivers and their employees have been vaccinated, they could become a super spreader of the covid virus.

8. The learned Additional Advocate General also submits that the State Government has made arrangements for mass vaccination of the people of the State free of cost and the said vaccination process is under way. He submits that the first dose of Covishield vaccination has been given to 5,19,452 persons (i.e. 67% of the eligible persons) as on date. He submits that the target for Covishield vaccination (first dose) is 7,75,106 persons. However, he

submits that he cannot say as to how many more months would be required for completion of the first dose of the vaccine on the targeted eligible persons.

9. The learned Additional Advocate General submits that as the restrictions imposed are reasonable restrictions made in larger public interest, the State Government would like to retain the above clauses in question in the SOP dated 29.06.2021.

10. Mr. Zochhuana, the learned Amicus Curiae submits that restrictions made under Disaster Management Act, 2005 cannot be said to be reasonable restrictions, as provided under Article 19(2) of the Constitution. Further, the restrictions imposed in the SOP discriminates between vaccinated and un-vaccinated persons, thereby violating Article 14 of the Constitution. He further submits that the restrictions that are imposed against un-vaccinated persons in the above mentioned three clauses, being in violation of the fundamental right to life and livelihood, the said clauses should be set aside or modified. He further submits that besides the above three clauses, Serial Nos. 31 & 42 of Annexure-3 of the SOP dated 29.06.2021 would also have to be set aside or modified as un-vaccinated persons are being discriminated against.

11. We have heard the learned counsels for the parties.

12. As per Clause 5(2) of the SOP dated 29.06.2021, un-vaccinated persons cannot leave their houses vis-à-vis vaccinated persons (first dose). The submission made by the learned Additional Advocate General clearly shows that 33% of the targeted persons are still to be vaccinated. There can be any number of reasons for a person to leave their house, for example, it could be for the purpose of procuring essential supplies, like food-stuff, medicines, attending to their near and dear/sick ones etc. However, the said clause has virtually put them under house arrest in violation of Article 21 of the Constitution of India, while persons who have been given the first dose of vaccine are allowed to leave their houses/compounds. Thus, on the ground of discrimination alone, Clause 5(2) is arbitrary. When the SOP requires all persons to cover their faces and to adhere to covid protocols as mentioned in the above SOP, there should not be any discrimination against un-vaccinated persons, as the Covid protocols are also applicable to un-vaccinated persons.

13. With respect to Clause 6(1) and 6(5) of the SOP, there is discrimination at large, as persons who have been vaccinated with the first dose of the vaccine are allowed to earn their

livelihood, but not the un-vaccinated persons. There is nothing to show that vaccinated persons (first dose) cannot be infected with the corona virus or that they cannot be spreaders. If the vaccinated person and un-vaccinated person cover their face with a mask, as per the covid behavior protocols laid down by the State respondents, there is no reason to discriminate only against un-vaccinated persons.

14. It has been brought to our notice that even persons who have been vaccinated can still be infected with the covid virus, which would in turn imply that vaccinated persons who are covid positive, can also spread the said virus to others. It is not the case of the State respondents that vaccinated persons cannot be infected with the covid virus or are incapable of spreading the virus. Thus, even a vaccinated infected covid person can be a super-spreader. If vaccinated and un-vaccinated persons can be infected by the covid virus and if they can both be spreaders of the virus, the restriction placed only upon the un-vaccinated persons, debarring them from earning their livelihood or leaving their houses to obtain essential items is unjustified, grossly unreasonable and arbitrary. As such, the submission made by the learned Additional Advocate General that the restrictions made against the un-vaccinated persons vis-à-vis the vaccinated persons is reasonable does not hold any water. As the vaccinated and un-vaccinated persons would have to follow the covid proper behavior protocols as per the SOP, there is no justification for discrimination.

15. Due to the above reasons, we find that Clause 6(1) and 6(5) of the SOP are also violative of Article 14 of the Constitution, especially when achieving the target for vaccinating the targeted population may take many more months, in which case unvaccinated persons would be deprived of their right to livelihood, which would in turn violate their right to life, which are guaranteed under Article 21 of the Constitution. The above mentioned clauses in the SOP basically implies that all individuals should be vaccinated, thereby giving rise to an inference that an individual cannot be allowed to opt out from being vaccinated. As can be seen from the earlier Order dated 01.07.2021 which has been reproduced, the Division Bench of the Meghalaya High Court in **Registrar General, High Court of Meghalaya Vs. State of Meghalaya**, PIL No. 6/2021 held that though vaccination is an absolute necessity, "a harmonious and purposive construction of the provisions of law and the principles of equity, good conscience and justice reveals that mandatory or forceful vaccination does not find any

force in law leading to such acts being liable to be declared *ultra vires ab initio*.

16. The issue at hand is the embargo placed against un-vaccinated individuals from being employed in shops and driving public/commercial vehicles. The fact that the State Government has not achieved its target of vaccinating all the eligible persons as stated by the learned Additional Advocate General, the State respondents cannot debar un-vaccinated persons from being employed in shops or driving commercial/public transport vehicles. The un-vaccinated citizens of the State cannot be faulted, due to the States' failure in not completing the vaccination of the targeted population.

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

18. The SOP provides that vaccinated persons who are employed in shops/stores and

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

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

20. The Order dated 29.06.2021 issued by the Chief Secretary Mizoram with the enclosed SOP dated 29.06.2021, the letter dated 01.07.2021 issued by the Under Secretary to the Government of Mizoram, Disaster Management & Rehabilitation Department and the Notice dated 01.07.2021 issued by the Deputy Commissioner, Aizawl are made a part of the record and marked as Annexure-X, Y & Z respectively.

21. List the matter again on 14.07.2021.

JUDGE

JUDGE

Comparing Assistant

ANNEXURE P9

CHIEF MINISTER
RAJASTHANNo. CMR/SS(RV)/2021
Jaipur, Dated 26th June, 2021

प्रति श्री नरिन्द्र मोदी नः

COVID-19 situation in the State presently is better with cases coming down sharply. This second wave of COVID had far greater impact in the State, as is the case across country. Though we have started further beefing up of medical infrastructure right down to Primary Health Care level (along with enhancing human resource capacity), still it is equally, or more important to take steps to prevent occurrence of third wave. Apart from COVID appropriate behavior, vaccination is the only way to effectively counter the threat.

As you are aware, along with exemplary COVID management in Rajasthan, during both first and second waves, our government has ensured that the State is among the best performer States regarding vaccination drive. Over 2.36 Crore people have already been vaccinated till date. It is also pertinent to mention that we have achieved negative (less than 0 %) wastage.

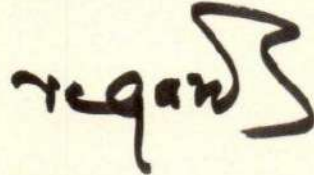
Due to our efforts, the number of people who got vaccinated early on was among the highest. As a result, more than 70 lac people would be due for their second dose by the end of July, 2021. To ensure time bound expeditious vaccination, we have created a capacity to vaccinate over 15 lac persons per day. Presently our daily vaccination is limited to the extent of supplies received from Central Government. The daily average of vaccine doses received, since the start of vaccination drive for 18 years plus, has been 3 to 4 lacs only.

Importance of ensuring 100 % vaccination at the earliest to prevent the third wave of COVID, and also to ensure that people are able to resume the activities related to their livelihood, cannot be overstressed. Therefore, I urge you to intervene personally and direct the concerned to ensure adequate supply of vaccines for the State.

Yours sincerely,



(Ashok Gehlot)



Shri Narendra Modi,
Hon'ble Prime Minister,
Government of India,
New Delhi – 110011.

**IN THE HIGH COURT OF JUDICATURE OF RAJASTHAN
AT JAIPUR BENCH, JAIPUR**

D.B. CIVIL PUBLIC INTEREST LITIGATION (PIL) NO. _____ 2021

Mrs. Jyotsana Rathore

Versus

State of Rajasthan

AFFIDAVIT IN SUPPORT OF DOCUMENTS

I, Mrs. Jyotsana Rathore, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] do hereby take oath and state as under :

1. That I am the petitioner in the present case and am well conversant with the facts and circumstances of the case.
2. That the annexed document Annex.P1 to P9 are true and exact photo copies of their originals.

DEPONENT

VERIFICATION

I, the above named deponent do hereby verify on oath that the contents of para 1 and 2 of my above affidavit are true and correct to the best of my personal knowledge. Nothing material has been concealed therefrom and no part of it is false.

Jaipur

Dated :

DEPONENT

IDENTIFIED BY :