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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C)/2021 (*to be registered and numbered*)

COURT ON ITS OWN MOTION Petitioner

Through:
versus

..... Respondents

UNION OF INDIA & ORS.

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

03.03.2021

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1. To deal with the raging COVID-19 Pandemic, and to provide protection to the masses, the Central Government and the State Governments have rolled out the vaccination drive. In the first round, the frontline workers, particularly of the medical community were covered, and other frontline workers such as the Police Force have already been covered.

2. From 01.03.2021, the Government has initiated the programme to vaccinate persons above 60 years of age, and those having the specified co-morbidities falling in the age group of 45-60 years. The co-morbidities listed by the Government are the following:

- *Heart failure with hospitalization in the last one year*
- *Post cardiac transplant/Left Ventricular Assist Device*
- *Significant left ventricular systolic dysfunction*
- *Moderate or severe valvular heart disease*
- *Congenital heart disease with severe PAH or Idiopathic PAH*

- *Coronary Artery Disease with past CABG/PTCA/MI AND hypertension/diabetes on treatment*
- *Angina and Hypertension/Diabetes on treatment*
- *CT/MRI documented stroke and Hypertension/Diabetes on treatment*
- *Pulmonary artery hypertension and Hypertension/Diabetes on treatment*
- *Diabetes (>10 years or with complications) and Hypertension/Diabetes on treatment*
- *Kidney/liver/Hematopoietic stem cell transplant: Recipient/on wait list*
- *End stage kidney disease on haemodialysis/CAPD*
- *Current prolonged use of oral corticosteroids/ immunosuppressant medication*
- *Decompensated cirrhosis*
- *Severe respiratory disease with hospitalisations in last two years/FEV1 <50%*
- *Lymphoma/leukaemia/Myeloma*
- *Diagnosis of any solid cancer on or after 1st July 2020 or currently on any cancer therapy*
- *Sickle Cell Disease/Bone marrow failure/ Aplastic Anemia/Thalassemia major*
- *Primary Immunodeficiency disease/ HIV Infection*
- *Persons with disabilities due to intellectual disabilities/ muscular dystrophy/ acid attack with involvement of respiratory system/ persons with disabilities having high support needs/ multiple disabilities including deaf blindness*

3. The Chairman, Bar Council of Delhi has sent a communication to Hon'ble the Chief Justice on 01.03.2021 – requesting that appropriate directions be issued to the concerned administrative/ medical authorities to make available necessary infrastructure in Court premises, particularly in medical dispensaries and other appropriate places conducive for vaccination,

for vaccination of the members of the Judiciary, the employees/ staff working in the Courts, as well as the advocates who throng the Courts to attend to their cases, by treating them as well, as frontline workers. The said communication has been marked by the Hon'ble the Chief Justice to one of us (*Vipin Sanghi, J.*).

4. The need of the hour is to vaccinate the masses, in view of the raging Pandemic, on a war footing so as to secure the life and health of all those who step out of their homes to attend to their avocations and professions. Courts, by their very nature, are places which have very high density congregations of people on a daily basis. Hundreds and thousands of cases are listed in any given Court complex every day. Apart from judges, the Court staff – which is substantial, and Advocates – who have to attend to their respective cases, and a large number of litigants visit Courts in which their cases are listed, on a daily basis. Since, the cases listed on any given day are mostly different from those listed on the previous day, or the next day, the litigants visiting the Courts constitute a different group from day to day to a great extent. The aforesaid peculiarity exposes the Judges, the Court staff, and the lawyers functioning in the Court system to the risk of contracting the disease from not only each other, but also from the large number of litigants who visit the Courts every day to attend to their cases. In fact, the number of persons visiting a Court complex – such as the Tiz Hazari Courts on any given day, may well be in excess of the number of persons visiting and thronging the hospital for treatment of patients.

5. The Full Court of the Delhi High Court has already taken a decision to re-open the full-fledged physical functioning of the Delhi High Court and all Courts subordinate to it from Monday, 15.03.2021. Once the Courts re-open

fully, there is bound to be a surge in the number of litigants, Advocates, Court staff and the Judges attending the Courts physically who, till now, have been conducting their cases partially through the online mode, and partially physically.

6. There is a clear pattern emerging that the number of COVID-19 positive cases increases with greater intermingling and congregation of people. Court premises of the Delhi High Court and some of the District Courts, and all the Court rooms are air-conditioned. With increased footfall, there is likelihood of the rate of infection amongst those who attend the Courts spiking, once the full-fledged physical functioning of Courts in Delhi resumes.

7. In the light of the aforesaid, prima facie, it appears to us that there is weight in the claim made by the Bar Council of Delhi for declaring all persons associated with the judicial functioning, which includes the Judges, the Court Staff and the lawyers as frontline workers, so that they could receive vaccination on priority, and without limitations of their age or physical condition. We may observe that the co-morbidities enlisted by the Government to accommodate persons falling in the age group of 45 to 60 years, taken note of hereinabove, are serious conditions from which the Judges, the Court staff and Advocates may, or may not, be suffering. Even if, they are not found to be suffering from one of the co-morbidities, it does not mean that the risk of their contracting the disease and suffering serious health issues – including fatality, does not exist. To examine the aforesaid aspects, we are inclined to register this communication of Mr. Ramesh Gupta, Chairman, Bar Council of Delhi dated 01.03.2021 as a Public Interest Litigation.

8. It would be necessary to ascertain the availability of the two vaccinations in use in India, namely COVISHIELD and COVAXIN manufactured by Serum Institute of India and Bharat Biotech.

9. We, therefore, direct issuance of notice to the Secretary, Ministry of Health and Family Welfare, Government of India; the Principal Secretary, Ministry of Health and Family Welfare, GNCT of Delhi; the Serum Institute of India and; Bharat Biotech returnable on 04.03.2021 before Hon'ble the Chief Justice. Notice be issued to the Union of India and GNCT of Delhi through their respective standing counsels. Notice be issued to Serum Institute of India and Bharat Biotech through email. Along with the notice, the communication of Mr. Ramesh Gupta, Senior Advocate, Chairman, Bar Council of Delhi dated 01.03.2021, and a copy of this order shall accompany.

VIPIN SANGHI, J

REKHA PALLI, J

MARCH 03, 2021

N.Khanna