



06.12.2021

प्रति,

1. श्री. अमोल येडगे, जिल्हाधिकारी, यवतमाळ.
2. श्री मुख्य अधिकारी, नगर परिषद, पुसद.
3. श्री. दिलीप पाटील भुजबळ, जिल्हा पोलीस अधीक्षक, यवतमाळ.

विषय:- (i) मास्क घालणे बंधनकारक नसल्याबाबत केंद्र शासनाने दिलेल्या निर्देशानंतर सुद्धा आपत्ती व्यवस्थापन कायद्या, 2005 च्या कलम 38, 39 चे उल्लंघन करून महाराष्ट्र शासनाने बेकायदेशीररीत्या मास्कची सक्ती करण्याचा नियम आणून सरकारी कर्मचाऱ्यांकडून भादंवि चे कलम 166, 120(B), 34 आणि आपत्ती व्यवस्थापन कायद्याच्या कलम 51(B), 55 अंतर्गत होत असलेले गुन्हे त्वरीत रोखणे बाबत;

- (ii) मास्कचा दंड घेण्यासाठी फिरणाऱ्या मार्शल/अधिकारी/कर्मचाऱ्यां विरुद्ध खंडणी वसुलीसाठी गैरकायदेशीरपणे नागरिकांना रोखणे याकरीता भादंवि 341, 342, 220, 385, 120(B), 34, 109 अंतर्गत गुन्हे दाखल करणेबाबत;

किंवा

- (iii) जर केंद्र शासनाचे आदेश व पुरावे चुकीचे असतील व महाराष्ट्र शासनास केंद्र सरकारच्या विरुद्ध जावून नियम बनविण्याचा अधिकार असेल तर माझ्याविरुद्ध मास्क न घातल्यामुळे होणारी योग्य ती कायदेशीर कारवाई करणेबाबत.

संदर्भ:- (i) केंद्र सरकारचे दि. 19.05.2021 व दि. 27.05.2021 रोजीचे पत्र.

- (ii) मा. उच्च न्यायालयाचे व मा. सर्वोच्च न्यायालयाचे आदेश **Re Dinthar Incident Vs. State of Mizoram 2021 SCC OnLine Gau 1313, Madan Mili Vs. UOI 2021 SCC OnLine Gau 1503, Common Cause Vs. Union of India (2018) 5 SCC 1, Nandini Satpathy Vs. P.L. Dani (1978) 2 SCC 42.**

मा. महोदय,

1. केंद्र सरकारच्या स्वास्थ मंत्रालयाने दि. 19.05.2021 रोजी दिलेल्या उत्तरामध्ये स्पष्ट केले आहे की मास्क घातल्यामुळे सद्वृ लोकाना फायदा होत असल्याबाबत कोणतेही शास्त्रीय पुरावे नाहीत. तसेच ज्या लोकांना कोरोना लक्षणे नाहीत त्यांनी मास्क घालू नये.

“In reply dated 19.05.2021 to Shri. Amit Chauhan RTI Application No. INCMR/R/E/21/00355, it is specifically pointed out as under;

4. Use of masks by general public

4.1. Persons having no symptoms are not to use mask

Medical masks should not be used by healthy persons who are not having any symptoms because it create a false sense of security that can lead to neglecting other essential measures such as washing of hands.

Further, there is no scientific evidence to show health benefit of using masks for non-sick persons in the community. In fact erroneous use of masks or continuous use of a disposable mask for longer than 6 hours or repeated use of same mask may actually increase risk of getting an infection. It also incurs unnecessary cost.”

Link:-<https://drive.google.com/file/d/1wacZL6qyo-5McYESTO0cH4i9pZONg5xg/view?usp=sharing>

त्या पत्राची प्रत सोबत जोडली आहे.

2. दि. 27.05.2021 च्या उत्तरामध्ये केंद्र सरकारने स्पष्ट केले आहे की मास्क घालणे हे ऐच्छिक असून बंधनकारक नाही. मास्क घालणाऱ्यांनी आठ तासांपेक्षा जास्तवेळ मास्क लावू नये.

“In reply dated 27th May, 2021 to Mr. Sourav Bysack Being RTI Application No. F.No. Z.28016/133/2021-DM CELL it is made clear that mask are not mandatory.

“Use of mask/face cover has been advised to all in various SOPs/Guidelines issued by MoHFW. However as per these guidelines/SOPs its use has not been explicitly made mandatory.”

Link:-

https://drive.google.com/file/d/1qNZGh4DMCWQUVPQ4_Di-D7f3nhdB9Nq/view?usp=sharing

त्या पत्राची प्रत सोबत जोडली आहे.

3. जगप्रसिद्ध विविध तज्ञांनी शोध करून 47 शोध पत्रामध्ये स्पष्ट केले आहेत कि मास्क लावल्याने कोरोना चा प्रसार थांबतो याचा कोणताही पुरावा नाही परंतु मास्क लावल्यामुळे लोकांना श्वसनाचे आजार होतात व त्यांचे फुफुसे कमजोर होणे (Lungs damage) असे विविध आजार जडतात याचे विविध शास्त्रीय पुरावे उपलब्ध आहेत.

Link:https://m.facebook.com/story.php?story_fbid=410683863978040&id=100051092899107

“मास्क हा अवैज्ञानिक, धोकादायक व निरूपयोगी आहे. त्याची सक्ती करण्यामुळे आरोग्य बिघडत आहे. परिस्थिती अधिक गंभीर होत आहे.

47 studies confirm ineffectiveness of masks for COVID and 32 more confirm their negative health effect”

4. केंद्र सरकारने दि. 17.07.2021 रोजी दिलेल्या पत्रात हे स्पष्ट केले आहे की उच्च प्रतीचा मास्क (Surgical Mask) च्या छिद्रांची साईझ ही $0.3 - 10 \mu m$ & $0.1 - 0.3 \mu m$ एवढी असते आणि कोरोना विषाणू हा त्यापेक्षा कित्येक पटीने लहान असतो. म्हणजेच मास्क लावल्यानंतर सुद्धा त्यामधून हजारो कोरोना विषाणू जावू शकतात व संसर्ग पसरवू शकतात.

केंद्र सरकारचे उत्तर पुढील प्रमाणे आहे:

"1. SARS-CoV-2 virus is round shaped virus with an average size of 70-80 nm.

2. Pore size of standard surgical mask and N95 mask is $0.3 - 10 \mu m$ & $0.1 - 0.3 \mu m$ respectively."

5. एका परीक्षणात असेही दिसून आले आहे की 15 थर (15 Layers) च्या मास्कमधून सुद्धा विषाणू जावू शकतात.

6. परंतु महाराष्ट्र टास्क फोर्सचे भ्रष्ट, अज्ञानी व अपात्र सदस्य श्री. राहुल पंडीत, श्री. संजय ओक हे मास्क लावण्याचा पुरस्कार करीत आहेत.

7. यावरून असे स्पष्ट होते की मास्क घालण्याचे निर्बंध आणतांना गैरहेतू साध्य करण्याचा प्रयत्न असल्याचे दिसून येत असून त्याकरीता भादंवि 409, 52, 120(B), 34 व साक्षीपुरावा अधिनियम चे कलम 10 नुसार टास्क फोर्स चे सदस्य हे सहआरोपी ठरतात व त्यांना कठोर शिक्षा होणे आवश्यक आहे.

8. याशिवाय ज्या लोकांना मास्क घातल्यामुळे श्वसनाचा त्रास होतो अस्थमाचा त्रास आहे त्या लोकांनी डॉक्टर कडून प्रमाणपत्र बनवून घेतल्यास त्यांना सूट देणे सरकारवर बंधनकारक आहे. अन्यथा त्या व्यक्तीच्या मृत्यूसाठी व इतर दुखापतींसाठी संबंधित अधिकारी जबाबदार राहतील अशी तरतूद भादंवि चे कलम 52, 115, 304, 304-A, 302 मध्ये आहे.

9. यावरून सरकारला नागरिकांच्या हिताचे काहीही पडलेले नसून त्यांना नागरिकांना अजून आजारी पाडून लस व औषधी कंपन्यांचा लाखो हजारो कोटींचा फायदा करण्याचे आणि लोकांना गुलामीत लोटण्याचे षडयंत्र असल्याचे दिसून येत आहे.

10. केंद्र सरकारच्या माहितीनंतर हे स्पष्ट झाले आहे की, महाराष्ट्राचे मुख्य सचिव सीताराम कुंटे यांनी दि. 27 नोव्हेंबर, 2021 रोजी काढलेले आदेश किंवा त्या स्वरूपाचे राज्यातील कोणत्याही अधिकाऱ्यांनी काढलेले आदेश किंवा निर्बंध हे बेकायदेशीर असून ते रद्दबातल (Overruled) ठरतात. याशिवाय आपत्ति निवारण कायदा, 2005 चे कलम 38 (a) आणि 39(क) नुसार राज्य शासनाला किंवा कोणत्याही जिल्हा स्तरीय जिल्हाधिकारी किंवा कोणतीही अधिकाऱ्यास केंद्र शासनाच्या निर्णयाविरुद्ध जाऊन कोणतेही नियम काढण्याचा अधिकार नाही.

“39. राज्य सरकारच्या खात्यांच्या जबाबदाऱ्या,

राज्य सरकारच्या प्रत्येक विभागाची ही जबाबदारी असेल की त्यांनी

(क) राष्ट्रीय प्राधिकरण आणि राज्य प्राधिकरणाने निर्धारित केलेल्या मार्गदर्शक तत्वांना अनुसरून आपत्ती प्रतिबंध, शमन, सज्जता आणि क्षमता निर्मिती करण्यासाठी आवश्यक असलेले उपाय योजावे;

10.1. As per section 38(1), 39(a) of Disaster Management Act, 2005, the State Government has to act in line of the guidelines laid down by the National Authority.

Section 38(1) reads thus;

“38. State Government to take measures.-

(1) Subject to the provisions of this Act, each State Government shall take all measures specified in the guidelines laid down by the National Authority and such further measures as it deems necessary or expedient, for the purpose of disaster management.”

10.2. Section 39(a) reads thus;

“39. Responsibilities of departments of the State Government. - It shall be the responsibility of every department of the Government of a State to-

(a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority and the State Authority;”

10.3. Section 78(3) of Disaster Management Act, 2005 makes it mandatory for State Authority that every rule made by the state should be laid before House of State Legislature.

It reads thus;

“78.3. The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act. -

Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House before that House.”

11. भारतीय राज्यघटनेचे कलम 19 (6) नुसार नुसते सर्कुलर, आदेश G.R. काढून कोणत्याही लोकांच्या व्यक्तिस्वातंत्र्यावर, त्यांच्या व्यवसायावर गदा आणली जाऊ शकत नाही हे स्पष्ट करत माननीय उच्च न्यायालयाने In Re: Dinthar 2021 SCC OnLine Gau 1313 आणि Madan Mili Vs. UOI 2021 SCC OnLine Gau 1503 प्रकरणात आदेश पारीत करून जिल्हाधिकारी व मुख्य सचिवांचे, लसीकरणाचे निर्बंध घालणारे आदेश रद्द व खारीज केले आहेत. त्या आदेशाची लिंक खाली उपलब्ध आहेत.

(i) Madan Mili Vs. UOI 2021 SCC OnLine Gau 1503

https://drive.google.com/file/d/1vuwmYwPu2zqony8An-7X5cQn9_yNHEZ2/view

(ii) In Re: Dinthar 2021 SCC OnLine Gau 1313

https://drive.google.com/file/d/1R26lX2FWuxwdYpzmrTqMN_RcBiA4Guw9/view?usp=sharing

(iii) Osbert Khaling Vs. State of Manipur and Ors. 2021 SCC OnLine Mani 234

<https://drive.google.com/file/d/1cLKR3LutxomKX3Bbm aIBwQ9SfUhdvIJQ/view>

12. महाराष्ट्र शासनाने दोन वेळा केंद्र शासनाच्या निर्देशाविरुद्ध जाऊन आणलेले नियम हे केंद्र शासनाने गैरकायदेशीर ठरवले होते व महाराष्ट्र शासनाने ते आदेश नंतर परत घेतले होते. उदाहरण म्हणजे दि. 30.11.2021 रोजी महाराष्ट्र शासनाने हे निर्बंध घातले होते की राज्यात येणाऱ्या लोकांना RT-PCR बंधनकारक आहे ते निर्देश केंद्र शासनाच्या नियमांविरुद्ध असल्यामुळे त्वरित मागे घेण्यासाठी केंद्र शासनाने आदेश काढले व

महाराष्ट्र शासनाने ते निर्देश त्वरित मागे घेतले आहेत. याची बातमी आजच 'Free Press Journal' व 'दैनिक सकाळ' मध्ये प्रकाशित झाली आहे.

i) Centre raps state govt, asks it to align with national norms; vaccinated domestic passenger can travel without test, Anow OVERRULED

Links:

(i) <https://epaper.freepressjournal.in/c/64692765>

(ii) https://epaper.esakal.com/FlashClient/Client_Panel.aspx#currPage=1

13. केंद्र सरकारचे स्वास्थ मंत्रालयाचे मुख्य सचिव राजेश भूषण यांनी महाराष्ट्र राज्याचे अति. मुख्य सचिव डॉ. प्रदीप व्यास यांना पाठविलेल्या पत्रातील मजकूर खालीलप्रमाणे आहे त्याची प्रत.

“This is with reference to the Govt. Of Maharashtra Order No. DMU/20201CR.92IDisM-1 dated 30th Nov. 2020, vide which the following restrictions have been imposed:

i. Mandatory RTPCR testing of all international travellers at the Mumbai airport, irrespective of country of origin

ii. Mandatory 14-day home quarantine for all international passengers, despite being tested RTPCR Negative upon arrival

iii. Mandatory RTPCR test for passengers planning to undertake connecting flights after disembarking at Mumbai and further travel subject to a negative RTPCR result

iv. Requirement of negative RTPCR test 48 hours prior to date of journey, for domestic passengers travelling from other States to Maharashtra

2. This is in divergence with the SoPs & Guidelines issued by Ministry of Health & Family Welfare, Govt. of India. I would, therefore, urge you to align the Orders issued by the State with the Guidelines issued by the Ministry of Health & Family Welfare, Govt. Of India, so that uniform implementation of the guidelines may be ensured across all States/UTs. I would also advise that such modified orders of the State Government are given wide publicity to obviate any inconvenience to travellers”

Link:<https://drive.google.com/file/d/1OTvnR04kQv7LwYGFru8IajJblBTll1wN/view?usp=sharing>

14. परंतु तरीसुद्धा काही अधिकारी व कर्मचारी हे बेकायदेशीरपणे सद्द (Healthy) नागरिकांना मास्क लावण्याची सक्ती करून त्यांचे जीव धोक्यात घालत आहेत व हा भादवि 327, 329, 323, 336, 109, 52, 120(B), 34 अंतर्गत गुन्हा आहे.

Section 323 in the Indian Penal Code:-

“323. Punishment for voluntarily causing hurt.- Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.”

Section 327 in the Indian Penal Code:-

“327. Voluntarily causing hurt to extort property, or to constrain to an illegal act.- Whoever voluntarily causes

hurt, for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

Section 329 in the Indian Penal Code:-

“329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.- *Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything that is illegal or which may facilitate the commission of an offence, shall be punished with [imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”*

Section 336 in the Indian Penal Code:-

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

Section 109 in the Indian Penal Code:-

“109. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.” Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence. *Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.”*

Section 52 in the Indian Penal Code:-

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

Section 120B in the Indian Penal Code:-

“120B. Punishment of criminal conspiracy.”

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

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

Section 34 in the Indian Penal Code:-

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

15. मास्कच्या बेकायदेशीर दंडाच्या वसूलीसाठी अधिकाऱ्यांनी एखाद्या व्यक्तीस रोखणे, त्याचा मार्ग अडविणे हा भादवि 341, 342 अंतर्गत फौजदारी शिक्षापात्र अपराध आहे.

Section 341 in the Indian Penal Code:-

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

Section 342 in the Indian Penal Code:-

“342. Punishment for wrongful confinement.- *Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.”*

16. केंद्र सरकारच्या निर्देशांविरुद्ध जावून कारवाईची भिती दाखवून बेकायदेशीरपणे वसूल केलेला दंड हा खंडणी वसूलीच्या प्रकारात मोडतो आणि हा भादवि 384, 385 अंतर्गत शिक्षापात्र अपराध आहे.

Section 384 in the Indian Penal Code:-

“384. Punishment for extortion.- Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

Section 385 in the Indian Penal Code:-

“385. Putting person in fear of injury in order to commit extor-tion.- Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

17. मास्कसंदर्भातील गैरकायदेशीर कारवायांबाबत पोलीसांविरुद्ध करण्यात येणाऱ्या कायदेशीर कारवाईचा तपशील:-

17.1. मास्क न घालणाऱ्या व्यक्तींना पोलीसांकडून खालील कलमे लावली जातात:

(a) **“188. Disobedience to order duly promulgated by public servant.-** Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to

human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(ii) **269. Negligent act likely to spread infection of disease dangerous to life.**—Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

(b) आपत्ती व्यवस्थापन कायदा चे कलम 51(b):-

“51. Punishment for obstruction, etc.-

Whoever without reasonable cause-

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act, shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.”

17.2. त्यापैकी भादंविचे कलम 188 लावण्याचा व कारवाईचा कोणताही अधिकार पोलिसांना नाही. कारण फौजदारी प्रक्रिया संहिता (Cr.P.C.) चे कलम 195 नुसार ज्या अधिकाऱ्याने आदेश काढले आहेत, म्हणजे मुख्य सचिव हेच तक्रार करू शकतात. अन्य

लोकांच्या किंवा पोलिसांच्या तक्रारीवर दखल घेण्याचा अधिकार न्यायालयास नाही. तसेच भादंविचे कलम 188 सोबत इतर कोणतेही कलम लावले असेल तरीही त्या सर्वाना Cr.P.C. 195 ची बाधा असून पोलिसांना कारवाईचा अधिकार नाही.

[Bandekar Brothers Pvt. Ltd. v. Prasad Vassudev Keni, 2020 SCC OnLine SC 707]

17.3. भादंविचे दुसरे कलम 269 हे जाणून बूजून रोगाचा प्रसार करणाऱ्यांविरुद्ध लावले जाते. त्याचा वापर मास्कच्या प्रकरणात व सद्वृद्ध लोकांविरुद्ध करता येत नाही. तसेच वर नमूद पुराव्यावरून मास्कसाठी ते कलम लागूच शकत नाही. कारण मास्क लावल्यामुळे रोगाचा प्रसार थांबतो किंवा मास्क न लावणारा प्रत्येक व्यक्ती हा रोगाचा प्रसार करतो असा कोणताही पुरावा नाही. जर पोलिसांनी ते कलम लावले तर त्यांच्याविरुद्ध कठोर कारवाई होवू शकते. चुकीचे कलम लावून गैरकायदेशीरपणे अटक करणे किंवा जामीन घेण्यास भाग पाडले किंवा आरोपपत्र दाखल केले तर संबंधीत पोलीस अधिकारी हे भादंवि चे कलम 211, 192, 193, 220, 120(B), 34, 52, 109 आणि महाराष्ट्र पोलीस कायदा चे कलम 145(2) अंतर्गत शिक्षेस पात्र ठरतात.

17.4. आपत्ती व्यवस्थापन कायदा चे कलम 51(B) हे मास्क न घालणाऱ्या व्यक्तीस लागू शकत नाही, कारण महाराष्ट्र शासनाचे नियम हे केंद्र सरकारच्या नियमांविरुद्ध असून मास्कचे बेकायदेशीर निर्बंध घातल्यामुळे संबंधीत अधिकारी, मुख्य सचिव, जिल्हाधिकारी हेच कलम 51(B) व 55 नुसार शिक्षेस पात्र आहेत.

17.5. Section 211 of the Indian Penal Code:-

“211. False charge of offence made with intent to injure.- Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a

term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, 1[imprisonment for life], or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

17.6. Section 192 of the Indian Penal Code:-

“192. Fabricating false evidence.- *Whoever causes any circumstance to exist or 1[makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement], intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said “to fabricate false evidence”.*

17.7. Section 193 of the Indian Penal Code:-

“193. Punishment for false evidence.- *Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to*

seven years, and shall also be liable to fine, and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.”

17.8. Section 220 of the Indian Penal Code:-

“220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.- *Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”*

17.9. Section 120(B) of the Indian Penal Code:-

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

(2) *Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence*

punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

17.11. Section 34 of the Indian Penal Code:-

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

17.12. Section 52 of the Indian Penal Code:-

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

17.13. Section 109 of the Indian Penal Code:-

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

17.14. Section 145(2) of the Bombay Police Act:-

“145(2) *Any Police officer who (a) is guilty of cowardice, or (b) resigns his office or withdraws himself from duties thereof in contravention of section 29, or (c) is guilty of any wilful-breach or neglect of any provision of law or of any rule or order which as*

such Police officer, it is his duty to observe or obey, or (d) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force, shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.”

18. कोरोनापासून बचाव करण्यासाठी शरीरात ऑक्सिजनचे प्रमाण पुरेसे असणे आवश्यक आहे. परंतु मास्क लावल्यामुळे पुरेसे ऑक्सिजन शरीरात मिळत नाही. त्यामुळे लोकांच्या जीवास धोका निर्माण होण्याची शक्यता असल्यामुळे कित्येक डॉक्टर्स सुद्धा मास्क न घालण्याच्या सूचना देत असून तसे वैद्यकीय प्रमाणपत्र (**Medical Certificate**) सुद्धा लाखो लोकांकडे उपलब्ध आहेत.

“Preliminary report on surgical mask induced deoxygenation during major surgery.

Face mask side effects include lowered oxygen levels.

This study proved that surgeons that wore a mask in surgery for an hour + had significant reductions in blood oxygen saturation.

This is relevant because most of us are being made to wear face masks at work for the whole shift, long journeys on public transport, and when we are in a public places doing shopping etc. and this requires a degree of exertion that is not taken into account.

“Considering our findings, pulse rates of the surgeon’s increase and SpO2 decrease after the first hour.”

Decreasing oxygen and increasing carbon dioxide in the bloodstream stimulates a compensatory response in the respiratory centers of the brain. These changes in blood gases result in increases in both frequency and depth of breaths. This exposes another risk – if your mask traps some virus you are breathing more hence increasing viral load and exposure.”

Link:

<https://www.sciencedirect.com/science/article/abs/pii/S1130147308702355?via%3Dihub>

Study article:

<https://pubmed.ncbi.nlm.nih.gov/18500410/>

19. महाराष्ट्र शासनाने नागरिकांच्या जीवाचा कोणताही विचार न करता लोकांचा जीव धोक्यात घालण्यासाठी व केवळ लोकांमध्ये भीतीचे वातावरण पसरविण्यासाठी असे निर्बंध लादल्याचे दिसून येते.

19.1. संजय राऊत यांच्या मुलीच्या लग्नात दि. 29.11.2021 रोजी सर्व लोक, मुंबईच्या महापौर किशोरी पेडणेकर, विविध जिल्हाधिकारी, मंत्री आदी कोणीच मास्कही घातले नाही किंवा सोशल डिस्टेंसिंग चे पालनही केले नाही. यावरून हे स्पष्ट होते की मंत्री, अधिकारी यांना हे माहित आहे की मास्क व सोशल डिस्टेंसिंगला काहीही शास्त्रीय आधार नाही तर हे फक्त जनतेला मुर्ख बनवून त्यांना गुलामासारखे वागविणे आणि स्वतः खुशाल नियम मोडणे असले प्रकार सुरु आहेत. त्यांच्यावर गुन्हे का दाखल केले नाहीत हा प्रश्न आहे.

Link: <https://youtu.be/3aMpOrhR7Cc>

19.2. आज संपूर्ण राज्यात कुठेही कोरोनाचा गंभीर प्रादुर्भाव असा नाही. लोक आनंदाने आपल्या व्यवसाय करीत आहेत. मुंबईत आज्ञाद मैदान येथे रोज दहा हजार पेक्षा जास्त

राज्य परिवहन (S.T.) कर्मचारी हे उपोषणाला बसले होते. वर्षभर शेतकऱ्यांचे आंदोलन सुरू होते आणि सगळे आमदार, खासदार, मंत्री हे आपले कार्यक्रम त्यांचे कार्यकर्ता त्यांचे मेळावे हे सगळे कार्यक्रम आपल्या राजे रोसपणे करत होते आणि करत आहेत. त्यांना कोणताही धोका झालेला नाही. मग का आणि कश्यासाठी हे निर्बंध घालण्यात आलेत याचे उत्तर सर्व जनतेला देणे हे प्रत्येक अधिकाऱ्यांचे कर्तव्य आहे.

19.3. शासनाचे नवीन नियम आल्यानंतर सुद्धा राज्याचे मंत्री श्री. नवाब मलिक हे जेव्हा श्री. मोहीत कंबोज यांच्या केसमध्ये न्यायालयात हजर झाले तेव्हा त्यांनी व त्यांच्या कार्यकर्त्यांनी स्वतः कोणत्याही सोशल डिस्टेंसिंगचे पालन केले नाही. ते स्वतःचे हजारों कार्यकर्ते घेऊन ते तिथे गेले होते.

19.4. गरीब नागरिकांना त्रास द्यायचा आणि त्यांना सांगायचे की तुम्ही नियमात वागा आणि स्वतः त्या नियमाच्या विरोधात वागायचे असे सरकारी अधिकारी व नेत्यांकडून सुरू आहेत. वरील सर्व पुरावे व कायद्यातील तरतूदींवरून असे दिसून येते की सरकारचा उद्देश्य हे लोकांचे भले करणाऱ्या नसून लोकांना कसेही करून फक्त गुलाम बनवण्याचा, लस कंपन्यांच्या हजारो कोटींचा गैरफायदा करून भ्रष्टाचार करून त्यांचा गैरहेतू साध्य करण्याचा दिसून येत आहे.

20. विनंती:- तरी आपणास नम्र विनंती की,

- (i) मास्क घालणे बंधनकारक नसल्याबाबत केंद्र शासनाने दिलेल्या निर्देशानंतर सुद्धा आपत्ती व्यवस्थापन कायद्याच्या कलम **38, 39** चे उल्लंघन करून महाराष्ट्र शासनाने बेकायदेशीररीत्या मास्कची सक्ती करण्याचा नियम आणून सरकारी कर्मचाऱ्यांकडून भादंवि चे कलम **166, 120(B), 34** आणि आपत्ती व्यवस्थापन कायद्याच्या कलम **51(B), 55** अंतर्गत होत असलेले गुन्हे त्वरीत रोखण्यात यावे.
- (ii) मास्कचा दंड घेण्यासाठी फिरणाऱ्या मार्शल/अधिकारी/कर्मचाऱ्यां विरुद्ध खंडणी वसुलीसाठी गैरकायदेशीरपणे नागरिकांना रोखणे याकरीता भादंवि **341, 342, 220, 385, 120(B), 34, 109** अंतर्गत गुन्हे दाखल करण्यात यावे.

किंवा

- (iii) जर केंद्र शासनाचे आदेश व पुरावे चुकीचे असतील व महाराष्ट्र शासनास केंद्र सरकारच्या विरुद्ध जावून नियम बनविण्याचा अधिकार असेल तर माझ्याविरुद्ध मास्क न घातल्यामुळे होणारी योग्य ती कायदेशीर कारवाई करण्यात यावी.

आपला नम्र,



श्री. मुर्सलीन शेख

(जिल्हाध्यक्ष)

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Final Status of INCMR/R/E/21/00355

| | |
|---------------------------|--|
| Applicant Name | Amit Chouhan |
| Date of receipt | 19/05/2021 |
| Request Filed With | Indian Council of Medical Research |
| Text of Application | <ol style="list-style-type: none"> 1. What are the side effects of using Face Mask 2. If a person feel uncomfortable while using face mask what he should do 3. Is oxygen saturation level fall in blood for using face mask 4. Is face mask are mandatory for everyone 5. Was government of India asses the side effects long term use of face mask. 6. Is government of India have any evidence/proof/trial regarding use of face mask and virus protection. |
| Request document (if any) | document not provided |
| Status | RTI REQUEST APPLICATION RETURNED TO APPLICANT as on 19/05/2021 |
| Date of Action | 19/05/2021 |
| Remarks | Remarks :- For face mask related issues, please visit link https://www.mohfw.gov.in/pdf/Useofmaskbypublic.pdf and https://www.mohfw.gov.in/pdf/Poster4GHFGA.pdf Regards |

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**Ministry of Health and Family Welfare
Directorate General of Health Services
[Emergency Medical Relief]**

Novel Coronavirus Disease (COVID-19)

Guidelines on use of masks by public

1. Introduction

A new disease named novel coronavirus (COVID-19) emerged in early December 2019 in China and has now spread to over 90 countries. As on 9th March 2020, India has reported 42 cases mostly among those who had travelled from affected countries. It causes a minor illness in majority of patients with symptoms of fever and or cough. A small proportion of such persons may progress to severe disease with difficulty in breathing.

It is spread by an infected person with COVID coughing and the droplets from his cough infecting others in close vicinity (less than 1 metre).

Any such new disease invariably related to cough leads to suggestions from various quarters, especially in social media, to use mask by general public to prevent the disease.

2. Purpose of this document

The purpose of this document is to give correct evidence based information to general public on use of mask.

3. Medical masks

Medical masks of different size and shapes are available in the market. The common ones are flat pleated masks of woven fabric which covers the nose and mouth and affixed behind the head with straps/ elastic fasteners. There are also conical or duck bill shaped masks with valves (or without valves) that fit in the contour of face over the nose and mouth, but are costlier.

4. Use of masks by general public

4.1. Persons having no symptoms are not to use mask

Medical masks should not be used by healthy persons who are not having any symptoms because it create a false sense of security that can lead to neglecting other essential measures such as washing of hands.

Further, there is no scientific evidence to show health benefit of using masks for non-sick persons in the community. In fact erroneous use of masks or continuous use of a disposable mask for longer than 6 hours or repeated use of same mask may actually increase risk of getting an infection. It also incurs unnecessary cost.

In such situation, more effective steps are:

- i. Wash hands frequently with soap and water for 40 seconds. An alcohol based hand sanitizer with 70% alcohol must be used for 20 seconds. If hands are dirty or soiled, do not use alcohol based hand sanitizer, but wash hands preferably with soap and water.
- ii. While coughing or sneezing cover nose and mouth with handkerchief, paper tissue. If handkerchief or tissue paper is not available cough into the flexed elbow. Dispose of tissue immediately after use and wash hands.
- iii. Refrain from touching **face, mouth, nose and eyes**.
- iv. Stay at least a metre away from those coughing or sneezing.
- v. Monitor your body temperature.

4.2. When and who should use medical masks (apart from health care worker).

4.2.1. When a person develops cough or fever.

Use of medical three layer masks when ill, will prevent your infection from spreading to others. However you also need to wash your hands frequently to avoid spreading infection to others.

4.2.2. While visiting a healthcare facility.

4.2.3. When you are caring for an ill person.

4.2.4. Close family contacts of such suspect/confirmed cases undergoing home care should also use Triple layer medical mask.

4.3. Duration for which a medical mask will remain effective

A medical mask, if properly worn, will be effective for 8 hours. If it gets wet in between, it needs to be changed immediately.

4.4. Correct procedure of wearing triple layer mask

While wearing a medical mask, the steps given below needs to be followed. If you do not follow them, you may get infected from the mask itself. These steps are:

- Unfold the pleats; make sure that they are facing down.
- Place over nose, mouth and chin.
- Fit flexible nose piece (a metallic strip that can easily be located) over nose-bridge.

- Secure with tie strings (upper string to be tied on top of head above the ears – lower string at the back of the neck.)
- Ensure there are no gaps on either side of the mask, adjust to fit.
- While in use, avoid touching the mask.
- Do not let the mask hanging from the neck.
- Change the mask after six hours or as soon as they become wet.
- Disposable masks are never to be reused and should be disposed off.
- While removing the mask great care must be taken not to touch the potentially contaminated outer surface of the mask
- To remove mask first untie the string below and then the string above and handle the mask using the upper strings.

4.5. Disposal of used masks

Used mask should be considered as potentially infected. Masks used by patients / care givers/ close contacts during home care should be disinfected using ordinary bleach solution (5%) or sodium hypochlorite solution (1%) and then disposed of either by burning or deep burial.

F. No. Z.28016/133/2021-DM Cell
Government of India
Ministry of Health & Family Welfare
(DM Cell)

Nirman Bhavan, New Delhi.
Dated the 27th May 2021.

To

Sourav Bysack
Saradapally Mathurdingi, Mrigalal,
Tantipara Haspu, Dankuni, Pin:712311
bysack.sourav@gmail.com

Subject: Request for information under RTI Act 2005.

With reference to your online RTI application bearing registration no. MOHFW/R/E/21/01528 dated 15/04/2021 for providing information on the above-mentioned subject. The point wise reply is as under:-

| S No. | Question | Answer |
|-------|--|---|
| 1. | Is face Masks are mandatory for everyone. | Use of mask/face cover has been advised to all in various SOPs/Guidelines issued by MoHFW. However as per these guidelines/SOPs its use has not been explicitly made mandatory. |
| 2. | what are the side effects of face mask. | No such information is available in records of DM Cell, MoHFW |
| 3. | how long use of face mask is safe. | Mask has to be worn for a maximum of 8 hours of use or earlier if it becomes wet or visibly soiled. |
| 4. | if a person feel very uncomfortable while using face mask then what he/she should do. | No such information is available in records of DM Cell, MoHFW. |
| 5. | Is face masks lower the oxygen saturation level in blood. | As per MoHFW's Guidelines on Preventive Measures to Contain Spread of COVID-19 in Yoga Institutes & Gymnasiums issued on 1st March 2021 (available at: https://www.mohfw.gov.in/pdf/GuidelinesonPreventiveMeasurestoContainSpr eadofCOVID19inYogaInstitutes&Gymnasiums.pdf), use of mask (in particular N-95 masks) during exercise may cause difficulty in breathing. No further information is available in records of DM Cell, MoHFW. |
| 6. | Is government of India conducted any trial/study on using face mask and face mask side effects . | No such information is available in records of DM Cell, MoHFW. |
| 7. | what type of mask is | No such information is available in records of DM Cell, MoHFW. |

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|---|--|
| effective and why with scientific evidence | |
|---|--|

If you are not satisfied with the above reply, you can prefer an appeal to Appellate Authority i.e. Shri. Govind Jaiswal, Director PH, Ministry of Health & Family Welfare, Room No. 205 “D”, Nirman Bhavan, New Delhi, as per the provision of RTI Act, 2005.

Yours sincerely

Digitally signed by YOGESH
Date: Thu May 27 19:31:12 IST
2021
Reason: Approved

(Dr.Yogesh)
CPIO&CMO (EMR)
Tel. No. 011- 23060777