Indian Lawyers and Human Rights Activists' Association (ILHRAA)

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Date: 11.10.2022

Case No Before Hon'ble President of India : PRSEC/E/2022/31786

To,

1.Hon'ble Chief Justice of India.

2. Hon'ble President of India

With Copy to:

1. All Hon'ble Judges of Supreme Court

2. Hon'ble Prime Minister of India

3. Hon'ble Law Minister of India

4. Hon'ble Judges of High Courts & all subordinate Courts in India

5. All Bar Association in India

Subject: i) Taking strict action against sycophant Bar members publishing letters in gross Contempt of the specific directions given by Hon'ble Supreme Court in the case **C. Ravichandran Iyer vs. Justice A.M. Bhattacharjee, (1995) 5 SCC 547**, where it is specifically ruled that, when Hon'ble Chief Justice of India is seized of the matter the bar bodies should not take any steps to influence the decision and allow Hon'ble Chief Justice of India to conduct enquiry and take impartial, fair and just decision on the basis outcome of enquiry.

ii) Calling investigation report from CBI and taking action against Justice D. Y. Chandrachud if the complaint given by R. K. Pathan has substance.

OR

iii) Taking action under section **211, 192, 193, 471, 474 Etc.**, of Indian Penal Code against complainant **R.K. Pathan** if his complaint is false & frivolous and against the record of the case.

iv) Taking Suo-moto action of contempt against Justice D.Y. Chandrachud for his new offence on **10.10.2022**, of hearing the similar case related with his son.

Hon'ble Sir,

1. That, Shri **R.K. Pathan**, President of **Supreme Court & High Court Litigants' Association,** has filed a complaint, before Hon'ble President of India bearing Case No. **PRSEC/E/2022/30960**. Can be downloaded.

Link: https://drive.google.com/file/d/1pB4REDIFTfUdgDA-bZm2j4VCmsVF7y9a/view?usp=sharing

The prayers in the said complaint reads thus;

"i) Direction to appropriate authority and CBI to complete the formality of consultation with Hon'ble Chief Justice of India (CJI) as per the law laid down in the case of **K. Veeraswami Vs. Union of India (1991) 3 SCC 655,** and register an F.I.R. against accused Judge Dr. D.Y. Chandrachud and others :-

(a) under **Section 52, 109, 385, 409, 218, 219, 166, 385, 192, 193, 511, 120 (B), 34, Etc.** of Indian Penal Code for corruption and misusing the machinery of Supreme Court and public property and passing an extremely bogus order in to help his son's client even if he was disqualified to hear the case but he took the matter to himself and passed an unlawful order in a

non existent issue with ulterior motive to facilitate the extortion in a multi crore scam;

(b) under **Section 52, 115, 302, 109, 304-A, 304, 409, 218, 219, 166, 201, 341, 342, 323, 336, 192, 193, 120 (B), 34, Etc.** of Indian Penal Code for their various acts of corruption, misuse of power as a Supreme Court Judge for giving wrongful profits of thousands of crores to vaccine companies causing wrongful loss of public money and abating, promoting, facilitating the offences of murders and other injuries causing lifetime disability to Lacs of people with full knowledge of his unlawful acts.

ii) Directions to appropriate authority to file a contempt petition in the Supreme Court as per law and ratio laid down in **Re: C.S. Karnan (20170 1 SCC 1,** against Justice Dr. D.Y. Chandrachud and others for their willful disregard and defiance of the binding precedents of Hon'ble Supreme Court.

iii) Directions to Directorate of Enforcement(E.D.), Income Tax Department, **Central Vigilance Commission**, **Intelligence Bureau,** and all other agencies to investigate the links and commercial transactions of the accused with anti-national elements like Bill Gates, George Soros, and others who by their systematic and well-orchestrated conspiracy are involved in damaging the progress and wealth of the country with a further plan to commit mass murders (Genocide) and make people sicker and ultimately to make them slaves;

iv) OR IN ALTERNATIVE: -

To grant sanction and permission to the complainant to prosecute accused Judges Shri D.Y. Chandrachud and others for the offences disclosed in the present complaint or may be disclosed on the basis of further evidences disclosed;

v) Direction to appropriate authorities to make a request to the Hon'ble Chief Justice of India to exercise the powers as per **'In-House-Procedure'** as laid down in the case of **Additional District and Sessions Judge 'X' Vs. Registrar General (2015) 4 SCC 91,** and to forthwith withdraw the judicial works assigned to accused Judges and forward a reference of impeachment to dismiss the accused Judges;

vi) Direction to authorities of the department of law & justice the of Union of India to complete the formalities of sanction within three months as per the time limit given in the case of **Vineet Narain Vs. Union of India (1998) 1 SCC 226** and **Subramanian Swamy Vs. Arun Shourie (2014) 12 SCC 344**;

vii) Appropriate consultation and request to Hon'ble Chief Justice of India to ask accused Judges to resign from their post as per 'In-House-Procedure' and as per the directions given and law laid by the Constitution Bench in the case of **K. Veeraswami Vs. Union of India (1991) 3 SCC 655**;

viii) Appropriate representation and request to Hon'ble Chief Justice of India to not to recommend the name of Justice D.Y. Chandrachud for the post of Chief Justice of India."

2. Thereafter, thousands of members of Awaken India Movement (AIM) have sent representation to Hon'ble Chief Justice of India.

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The prayer of representation reads thus;

> ***"(i)*** *Request to go through the proofs and not to recommend the name of Shri Justice Dr. D.Y. Chandrachud as a next Chief Justice of India as :*
>
> > ***(a)*** *his serious criminal offences of corruption, forgery, contempt, anti-national activities, misuse of Supreme Court machinery and public money for unauthorized purpose and to help his son, by passing an extremely bogus order to help his son's client even if he was disqualified to hear the case, but he took the matter to himself and passed an unlawful order in a non existent issue with ulterior motive to facilitate the extortion in a multi crore scam and nexus with pharma and vaccine mafia is ex-facie proved from the record and complaint on affidavit filed by Sh. R.K. Pathan, President of* ***'Supreme Court & High Court Litigants Association of India'****.*
> >
> > ***(b)*** *And, already deemed sanction is accorded by Hon'ble President of India under section 52, 109, 115, 166, 167, 201, 202, 218, 219, 302, 304, 304(A), 409,120(B), 34 of IPC in* **Case No. *PRSEC/E/2022/04661*** *against Justice D.Y. Chandrachud, Justice (Retd.) N.V. Ramanna & Ors.*
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> ***(ii)*** *Immediate direction to registry to seize the record of the* ***SLP (Cri.) No. 9131 of 2021*** *filed by Anita Chavan where Justice Chandrachud committed forgery, Contempt and fraud on power to help his son's client and where Justice Chandrachud was disqualified to hear the case;*

*(**iii**) Immediate exercise of power as per **'In-House-Procedure'** as ruled in **Additional District and Sessions Judge 'X' Vs. Registrar General, High Court of Madhya Pradesh (2015)4 SCC 91** and to immediately withdraw all judicial work assigned to him and request him to resign from the post of Judge as per direction and law laid down by the Constitution Bench Judgment in **K. Veeraswami Vs.Union Of India (1991) 3 SCC 655;***

*Further, if Justice D. Y. Chandrachud refuses to resign, then to forward a reference to Rajya Sabha for impeachment proceeding as per **'In-House-Procedure'** ruled in **(2015)4 SCC 91**(Supra);*

(iv) To, c**all for enquiry report from CBI/IB and on the basis of enquiry report direct Secretary General of the Supreme Court as per section 340 r/w 195 of Cr.P.C. to register case under section **166, 191, 192, 193, 199, 200, 219, 218, 409, 466, 471, 474, 120(B), 109, 34, 52** etc. of IPC against Justice D.Y. Chandrachud and Others, as per the law and ratio laid down in ABCD Vs. Union of India **(2020) 2 SCC 52**, K. Rama Reddy Vs State **1998 (3) ALD 305**, Govind Mehta Vs. State Of Bihar **(1971) 3 SCC 329**, Dr. Sarvapalli Radhakrishnan Vs. Union of India **2019 SCC OnLine SC 51;

*(**v**) To initiate suo moto civil & criminal Contempt proceedings against Justice D.Y. Chandrachud for his wilful disregard and deliberate defiance of binding precedents of the Supreme Court and misusing the process of the Supreme Court for unlawful and for unauthorized purposes with the ulterior motive to help the extortionist who is his son's client and also to help the pharma mafias and thereby polluting the pure fountain of the*

administration Justice and undermining the majesty and dignity of the Supreme Court;

(vi) *Immediate direction to Supreme Court registry to not to place any matter related with a covid pandemic, vaccines, pharma companies, Bill Gates or any matters directly or indirectly connected with the issues, before the bench where Justice D. Y. Chandrachud is a member and to withdraw all the matters assigned to him;*

(vii) *Further appropriate directions to Justice D. Y. Chandrachud to recuse from the cases where this type of issue are involved and the complainant, his advocates, and his witnesses members of Awaken India Movement, Indian Bar Association et al are appearing in the matter;*

(viii) ***OR,*** *taking action against the complainant if his complaint is false;"*

3. That, as per **'In-House-Procedure'** and as per the law laid down by Hon'ble Supreme Court both the Hon'ble authorities i.e. Hon'ble President of India & Hon'ble Chief Justice of India are seized of the matter and they are likely to take their decision on the basis of proofs, enquiry report and settled legal position.

4. Hon'ble Supreme Court in the case of **C. Ravichandran Iyer vs. Justice A.M. Bhattacharjee (1995) 5 SCC 547** has given specific direction to Bar bodies that they should maintain equanimity when Hon'ble Chief Justice of India is seized of the matter unless the Bar body should face Contempt action.

It is ruled as under;

*"**40.** Bearing all the above in mind, we are of the considered view that **where the complaint relates to the Judge of the High Court, the Chief Justice of that High Court, after verification, and if necessary, after confidential enquiry from his***

independent source, should satisfy himself about the truth of the imputation made by the Bar Association through its office-bearers against the Judge and consult the Chief Justice of India, where deemed necessary, by placing all the information with him. When the Chief Justice of India is seized of the matter, to avoid embarrassment to him and to allow fairness in the procedure to be adopted in furtherance thereof, the Bar should suspend all further actions to enable the Chief Justice of India to appropriately deal with the matter. This is necessary because any action he may take must not only be just but must also appear to be just to all concerned, i.e., it must not even appear to have been taken under pressure from any quarter. ***The Chief Justice of India, on receipt of the information from the Chief Justice of the High Court, after being satisfied about the correctness and truth touching the conduct of the Judge, may tender such advice either directly or may initiate such action, as is deemed necessary or warranted under given facts and circumstances***. *If circumstances permit, it may be salutary to take the Judge into confidence before initiating action.* ***On the decision being taken by the Chief Justice of India, the matter should rest at that***. *This procedure would not only facilitate nipping in the bud the conduct of a Judge leading to loss of public confidence in the courts and sustain public faith in the efficacy of the rule of law and respect for the judiciary,* ***but would also avoid needless embarrassment of contempt proceedings against the office-bearers of the Bar Association and group libel against all concerned***. *The independence of judiciary and the stream of public justice would remain pure and unsullied. The Bar Association could remain a useful arm of the judiciary and in*

the case of sagging reputation of the particular Judge, the Bar Association could take up the matter with the Chief Justice of the High Court and await his response for the action taken thereunder for a reasonable period."

5. However, Adv. Manan Kumar Mishra, Chairman of Bar Council of India had published a **5 Page** letter on **08.10.2022** thereby giving clean cheat to Justice Chandrachud and declared that the complaint is frivolous.

Link:
https://drive.google.com/file/d/1Pw_1f5YTFGsAPmrbzNhOosgK2KUPUKNF/view?usp=sharing

6. On **10.10.2022 'Supreme Court Bar Association'** also published a one-page letter declaring complaint as frivolous. (without giving any reason for their conclusion).

Link:
https://drive.google.com/file/d/1byq7BLGXhpAx2pIj2mV2CO56ZNI7kb4c/view?usp=sharing

7. On 10th October,2022 Bombay Bar Association published a letter terming the complaint as frivolous.

Link: https://drive.google.com/file/d/1Y7Xkr-G5BXhZydmY3Mj1yNtmOBcc0bKf/view?usp=sharing

8. That, the abovesaid act of Adv. Manan Mishra of BCI, SCBA & BBA is gross contempt of Hon'ble Supreme Court direction in the case of Justice **Justice A.M. Bhattacharjee (1995) 5 SCC 547** *(Supra).*

In fact, both these people holding responsible post have encroached the jurisdiction of the Hon'ble Chief Justice of India and Hon'ble President of India.

They tried to influence the enquiry and to create prejudice against the complainant and also tried to shield Justice **D.Y. Chandrachud** by adopting strawman fallacies and making statement against law and binding precedents of Hon'ble Supreme Court & Hon'ble High Court which is grossest of the Contempt.

9. In Earlier Hon'ble Supreme Court & High Court have taken Contempt action against bar bodies acting against the binding precedents.

10. The advocate for Complainant already issued a notice to Adv. Manan Mishra, Chairman, BCI and called upon him to **:-**

(a) Forthwith withdraw the said letter.

(b) Publish an apology in all print & electronic media.

(c) Pay compensation of **₹ 100 Crore** by way Demand Draft (D.D), **within 3 days** of receipt of this notice.

(d) Refrain from such unlawful activities forthwith.

(e) Provide the proof of authorization given by all citizens of India and all the members Bars in of India, authorizing you to make statement on their behalf, that they are having complete faith in Justice D.Y. Chandrachud.

Link:- https://drive.google.com/file/d/1H-itK4INgL03JUvWrj8Wd0ZbXrTnAy37/view?usp=sharing

11. Similar notice is likely to be issued to Supreme Court Bar Association & Bombay Bar Association.

12. That, it is settled law that, Criminal law can be set in motion by any person whenever any complaint of such nature is filed then identity of the complainant or accused is immaterial and only thing is to see is to verify whether there is really any offence against administration of justice is committed, which seriously affects

and shake the foundation of justice and confidence/ faith of a common man in the courts of law. **[Re: C.S. Karnan (2017)7 SCC 1(para 1 & 60), Lalita Kumari Vs. Govt. of U.P. AIR 2014 SC 187]**

13. That, the unimpeachable evidences available on Supreme Court record are ex-facie sufficient to prove that **Justice D.Y. Chandrachud** on many occasion have breached the **oath** taken as a Supreme Court Judge and acted in wanton breach of law and defied the Constitutional mandates and by his act of Commission & omission he is responsible for:

(i) Failure to accord hearing to many common people whose life and liberty was in danger;

(ii) Causing a wrongful loss of thousands of crores of public money and wrongful profit to vaccine companies;

(iii) Undue favor by giving ex-parte order to a petitioner related with his son's client by violating basic principles of natural justice of **Audi Alterim Partem;**

(iv) Acting in utter disregard and defiance of binding precedents of larger Benches and thereby bringing the majesty and dignity of the Supreme court in disrepute;

(v) Making blatant false statement that Supreme Court has decided to not to interfere the vaccine mandate cases even if they violate fundamental rights of the citizen.

However, Bench of Hon'ble Justices Shri. L. Nageshwar Rao and Shri. Bhushan Gavai passed a nice order thereby protecting rights of the citizen and exposing the lies of Justice D. Y. Chandrachud.

14. That the serious offences under Indian Penal Code and Contempt committed by Justice **D. Y. Chandrachud** with proofs are given in detail in following paragraphs.

Sr Nos	Particulars	Para Nos	Page Nos
1.	Contempt of Supreme Court by making false statement to help vaccine mafia and to push the citizen to compromise their life and liberty.	**15**	**13**
2.	Criminal offence of failure to protect citizen from violation of their rights by the authorities: -	**16**	**18**
3.	Order passed by Justice D.Y. Chandrachud have effect of ultimately giving wrongful profit of thousands of crores to vaccine & pharma mafia causing wrongful loss to public/government money to a tune of thousands of Crores.	**17**	**23**
4.	Justice Chandrachud is responsible for cold blooded murders and life time disabilities caused to lakhs of citizen due to side effects of vaccines forcefully given against their wills. Provisions of Section 120(b) of Indian Penal Code makes him liable for punishment as that of main accused.	**18**	**54**
5.	Legal position mandates that Justice Chandrachud is liable to be removed from the judiciary. He is bound to resign from his post.	**19**	**54**
6.	Breach of oath taken as a Supreme Court Judge terminates Justice Chandrachud's position as a Supreme Court judge as ruled	**20**	**68**

	in **Indirect Tax Association Vs. R.K.Jain 2010) 8 SCC 281**		
7.	Offence under section 2(b), 12, 16 of Contempt of Courts Act, 1971 by acting in utter disregard of binding precedents.	**21**	**70**
8.	Legal Malice & Malice in fact - No defence available to a Judge when he inflict injury upon a person.	**22**	**83**
9.	Order is vitiated as Perverse order when Judge ignores the material on record and considers extraneous factors.	**23**	**85**

15. Contempt of Supreme Court by making false statement to help vaccine mafia and to push the citizen to compromise their life and liberty.

15.1. That, a three Judge Bench of Hon'ble Supreme Court in the case of **Distribution of Essential Supplies & Services during Pandemic, In re, (2021) 7 SCC 772,** had made a specific law that, even during pandemic, the constitutional rights of the citizen cannot forgotten or waived off. If there is any violation by the state authority by bringing any unlawful mandate then the court will interfere to protect the citizen. **Justice D. Y. Chandrachud himself was one of the members of said Bench.**

15.2. Constitution Bench in the case of **Common Cause v. Union of India, (2018) 5 SCC 1**, had made it clear that, as per constitutional protection under Article 21 of the Constitution of India **every citizen has right to refuse to take any treatment and compel any party to disclose reason for not taking any treatment (vaccines).**

Here also Justice Chandrachud was one of the Judge in the above Bench.

15.3. But he acted against the abovesaid binding precedents and instead of doing justice to the victim and protecting their fundamental rights he not only dismissed the petition without hearing but also asked the petitioners to disclose their reason to not to get vaccines and also, he gave directions to the advocates to ask their clients to get vaccinated. The details of such cases are as under: -

i) Mathew Thomas Vs. The Government of India (S.L.P. No. 15830/2021)

ii) Nayadhar Padhial Vs. Union of India (**S.**L.P. No. 8601/2021)

iii) Nishant Prajapati Vs Union of India (S.L.P. No. 5030/ 2022)

15.4. That, On **10th September, 2021** in the case of **Shri. Nayadhar Padhial Vs. Union of India S.L.P. No. 8601/2021,** Justice Chandrachud directed the counsel for petitioner to ask his client to get vaccinated.

Title : Can't order use of red ant chutney as Covid cure...take jab: Supreme Court

Link:- https://www.hindustantimes.com/india-news/cant-order-use-of-red-ant-chutney-as-covid-cure-take-jab-sc-101631211181223.html

"Ask your client to get vaccinated," said the judge."

15.5. The height of misuse of power, and judicial dishonesty and impropriety was in the case of **Nishant Prajapati Vs.Union of India. SLP to Appeal (C) No. 5030/2022.**

In the said case the petitioner in his petition have made a specific reference of the various judgements. The council also informed the Bench about the case of **Jacob Puliyel Vs. Union of India W.P.(C) 607 of 2021** where another bench has closed the case for pronouncing judgement.

The copy of the petition is at;

Link: https://drive.google.com/file/d/1a_nQZuyIlTWWBu2f57YYbY7oE4-Xv6G-/view?usp=sharing

15.6. Justice Chandrachud in other two cases have passed orders that the issue be decided by the bench hearing the case of Jacob Pulliyel.

i) Ajay Kumar Gupta Vs. Union of India order dated **12.12.2021** in **Writ Petition (c) No. 588/2021.**

Link: https://drive.google.com/file/d/16I3F54k29HPdEnfQK935nAwOJQ-N9-dH/view?usp=sharing

ii) Amber H. Koiri Vs. The State of Maharashtra order dated **24.01.2021** in **Writ Petition (c) No. 12/2022.**

Link: https://drive.google.com/file/d/14rhepg-6PyAYevB1zUAQxjYJqzsp09Af/view?usp=sharing

15.7. In many cases the salary, ration and other facilities of poor people was withdrawn by some dishonest & corrupt bureaucrats.

15.8. Abovesaid circulars, SOP and mandates were unconstitutional, unscientific, and unlawful as passed against the binding precedents.

Hon'ble Supreme and various High Court have quashed such mandates in following reported judgment.

(i) Jacob Puliyel Vs. Union of India and Others **2022 SCC OnLine SC 533**

(ii) Feroze Mithiborwala Vs. The state of Maharashtra and Others **2022 SCC OnLine Bom 457**

(iii) Re Dinthar Incident Vs. State of Mizoram **2021 SCC OnLine Gau 1313**.

(iv) Registrar General Vs. State of Meghalaya **2021 SCC OnLine Megh 130**.

(v) Osbert Khaling Vs. State of Manipur **2021 SCC OnLine Mani 234**.

(vi) Dr. Aniruddha Babar Vs. State of Nagaland **2021 SCC OnLine Gau 1504**.

15.9. Despite having knowledge of death-causing side effects. Justice Chandrachud was duty bound to not to force people to get vaccinated. But accused Justice Dr. D. Y. Chandrachud in many cased gave suggestions to the petitioner to get vaccinated.

15.10. Justice Chandrachud refused to follow the law and put the benefit of vaccine companies above the Constitution. He did not referred or discussed any ratio relied by the petitioner and more particularly by Shri Nishant Prajapati.

15.11. On **25th October 2021,** accused Judge D.Y. Chandrachud refused to entertain the SLP by taking a stand as under;

> *"A bench of Justices DY Chandrachud and BV Nagarathna refused to entertain the plea challenging the May 26 order of Karnataka High Court dismissingthe plea of an ex-serviceman Mathew Thomas.*
> *The bench said, "The High Court is right in dismissingthe plea.* ***Let us not cast doubt on the vaccination process. It is a key to protecting the population. We don't want the petition to be argued at all. Evenissuing notice on this appeal will be subject to great mischief."***

Link: https://economictimes.indiatimes.com/news/india/supreme-court-dismisses-plea-to-stop-mass-covid-19-vaccination-programme/articleshow/87261877.cms

15.12. But Justice Chandrachud on **04.04.2022** straightaway dismissed the petition by making a blatant false statement that Supreme Court had decided to not to interfere in such vaccine mandates. This was not only false but an attempt to create pressure upon another Bench in Jacob Puliyel case where judgement was expected. This is also a case of judicial impropriety.

15.13. This also a case of judicial adventurism to refuse to refer the binding precedents. **[Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engg. Works (P) Ltd., (1997) 6 SCC 450,Authorized Officer, State Bank of Travancore and Ors. Vs. Mathew K.C. 2018 (3) SCC 85]**

15.14. The illegality, falsity, judicial dishonesty of Justice Chandrachud was ex-facie proved from the judgement passed by another Bench in **Jacob Puliyel Vs Union of India, 2022 SCC OnLine SC 533,** where it is ruled as under;

> *"**25.** There can be no ambiguity in the principles of law relating to judicial review laid down by this Court. A perusal of the judgments referred to above would clearly show that this Court would be slow in interfering with matters of policy, especially those connected to public health. There is also no doubt that wide latitude is given to executive opinion which is based on expert advice. However, **it does not mean that this Court will not look into cases where violation of fundamental rights is involved and the decision of the executive is manifestly arbitrary or unreasonable. It is true that this Court lacks the expertise to arrive at conclusions from divergent opinions of scientific issues but that does not prevent this Court from examining the issues raised in this Writ Petition, especially those that concern violation of Article 21 of the Constitution of India."***

16. Criminal offence of failure to protect citizen from violation of their rights by the authorities: -

16.1. That, it is settled law that, **if judge or any public servant acts against the duty assigned to him and fails to protect the fundamental rights of the citizen then he will be guilty of various offence under Indian Penal Code.** Act of omission and commission both are punishable.

16.2. That in **<u>Re. M.P.Dwivedi (1996) 4 SCC 152,</u>** it is ruled as under:

> *"Contemner No.7, B. K. Nigam, was posted as Judge - contemner was completely insensitive about the serious violations of the human rights of accused and defiance of guidelines by Police - This is a serious lapse on the part of the contemner in the discharge of his duties as a judicial officer who is expected to ensure that the basic human rights of the citizens are not violated - Keeping in view that the contemner is a young Judicial Officer, we refrain from imposing punishment on him. We, however, record our strong disapproval of his conduct and direct that a note of this disapproval by this Court shall be kept in the personal file of the contemner.*
>
> *We also feel that judicial officers should be made aware from time to time of the law laid down by this Court and the High Court, more especially in connection with protection of basic human rights of the people and, for that purpose, short refresher courses may be conducted at regular intervals so that judicial officers are made aware about the developments in the law in the field."*

16.3. Hon'ble Supreme court in the case of **<u>State of Odisha Vs. Partima Mohanty 2021 SCC OnLine SC 1222</u>**, the public servant if failed to take action as expected then he/she will be liable for prosecution under section **218, 201, 202, 120(B), 34, 109 etc.** of Indian Penal Code. It is ruled that;

> ***"20.*** *It is further observed after referring to the decision of this Court in the case of Common Cause, A Registered Society (supra) that* ***<u>if a public servant abuses his office whether by his act of omission or commission, and the consequence of that is injury to an individual or loss of public property, an action may be maintained against such public servant.</u>*** *It is further observed that no public servant can arrogate to himself powers in a manner which is arbitrary. In this regard we wish to recall the observations of this Court as under:*
>
> *"The concept of public accountability and performance of functions takes in its ambit, proper and timely action in accordance with law. Public duty and public obligation both are essentials of good administration whether by the State or its instrumentalities." [See Delhi Airtech Services (P) Ltd. v. State of U.P., (2011) 9 SCC 354]*
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> *"The higher the public office held by a person the greater is the demand for rectitude on his part."[See Charanjit Lamba v. Army Southern Command, (2010) 11 SCC 314]*
>
> *"The holder of every public office holds a trust for public good and therefore his actions should all be above*

board." [See Padma v. Hiralal Motilal Desarda, (2002) 7 SCC 564]

"Every holder of a public office by virtue of which he acts on behalf of the State or public body is ultimately accountable to the people in whom the sovereignty vests. As such, all powers so vested in him are meant to be exercised for public good and promoting the public interest. This is equally true of all actions even in the field of contract. Thus, every holder of a public office is a trustee whose highest duty is to the people of the country and, therefore, every act of the holder of a public office, irrespective of the label classifying that act, is in discharge of public duty meant ultimately for public good." [See Shrilekha Vidyarthi (Kumari) v. State of U.P., (1991) 1 SCC 212]

"Public authorities should realise that in an era of transparency, previous practices of unwarranted secrecy have no longer a place. Accountability and prevention of corruption is possible only through transparency." [See ICAI v. Shaunak H. Satya, (2011) 8 SCC 781]"

16.4. In **Regina vs. Dytham [1979] Q.B. 722**, it is ruled as under:

" Failure of Duties - Law Enforcement-Misconduct of officer of justice-Constable witnessing assault wilfully omitting to preserve peace or protect victim or arrest assailants - Wilful neglect without reasonable excuse of justification- Guilty Police officer sentenced to fine of £ 150 or three months imprisonment. He was also

directed to pay £ 150 towards legal aid cost of his defence.

Ninthly, the only authority against the appellant's eighth submission is Reg. v. Wyat, 1 Salk. 380, which is distinguishable and need not be followed. Since the Act of 1964 provides a code of conduct, it is unnecessary to go back to ancient authority. A constable is not to be distinguished from any other public servant.

So also in Reg. v. Wyat (1705) 1 Salk. 380 it was held that "where an officer" (in that case a constable) "neglects a duty incumbent on him, either by common law or statute, he is for his default indictable." Counsel for the appellant contended that this was too wide a statement of principle since it omitted any reference to corruption or fraud; but in Stephen's Digest of the Criminal Law , 9th ed. (1950), p. 114, art. 145 are to be found these words:

"Every public officer commits a misdemeanour who wilfully neglects to perform any duty which he is bound either by common law or by statute to perform provided that the discharge of such duty is not attended with greater danger than a man of ordinary firmness and activity may be expected to encounter."

In the present case it was not suggested that the appellant could not have summoned or sought assistance to help the victim or to arrest his assailants. The charge as framed left this answer open to him. Not surprisingly he did not seek to avail himself of it, for the facts spoke

strongly against any such answer. The allegation made was not of mere non-feasance but of deliberate failure and wilful neglect.

This involves an element of culpability which is not restricted to corruption or dishonesty but which must be of such a degree that the misconduct impugned is calculated to injure the public interest so as to call for condemnation and punishment. Whether such a situation is revealed by the evidence is a matter that a jury has to decide. It puts no heavier burden upon them than when in more familiar contexts they are called upon to consider whether driving is dangerous or a publication is obscene or a place of public resort is a disorderly house: see Reg. v. Quinn [1962] 2 Q.B. 245.

The judge's ruling was correct. The appeal is dismissed.

***2**. In Mr. Colin Adesokan vs. Sainsbury Supermarkets Ltd [2017] EWCA Civ 22, it is ruled as under ;*

"25. However, I have come to the view that this was a conclusion open to the judge in the particular circumstances of this case. In my view the critical feature justifying this conclusion is that the appellant, as Regional Manager, was responsible for ensuring the successful implementation of the TP in his region. He was not the person who would carry out the exercise – that would have been the responsibility of Mr Briner - but once it became known to him that the integrity of the process was being undermined or at least was at risk of being undermined as a result of the email, it was his duty

to ensure that this was remedied. Given the critical role which TP played in the culture of Sainsbury's, he had to correct the message sent by Mr Briner in the email, or at least take steps to ensure that this was done. The step he did take, requiring Mr Briner to clarify the situation, was not enough, or at least it was plainly insufficient once he knew that this order had been ignored and thereafter he did nothing further about it.

17. **Order passed by Justice D.Y. Chandrachud have effect of ultimately giving wrongful profit of thousands of crores to vaccine & pharma mafia causing wrongful loss to public/government money to a tune of thousands of Crores:**

17.1. The observations made by the Hon'ble Supreme Court, High Court, the Government record, and authentic scientific research has ex-facie proved the following things:

(i) To take a vaccine or to refuse to take a vaccine is the fundamental right of every citizen and no one can be compelled to get vaccinated.

(ii) Vaccination is no guarantee of protection from the corona. A vaccinated person can also get infected. They can spread infection and they can also be a super-spreader and therefore there cannot be any discrimination between vaccinated & unvaccinated.

(iii) **Vaccines are having side effects of death**, paralysis, blindness, blood clotting, heart attacks… Etc**.** The government of India's AEFI committee admitted that many deaths are due to side effects of Covishield & Covaxin.

(iv) The vaccination increase chance of infection and death. Wherever vaccination is increased the infection increased.

(v) Around 21 European countries banned Covishield due to death.

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

(vi) Vaccines are found to be ineffective against omicron & Delta Variant.

(vii) People with natural immunity are 27 times better protected than fully vaccinated people. Suggesting such people get vaccinated will damage their immunity and causes the loss of thousands of crores of public money.
[Link: https://www.israelnationalnews.com/news/326734**]**

17.2. Despite having knowledge of death-causing side effects. Justice Chandrachud was duty bound to not to force people to get vaccinated. But accused Justice Dr. D. Y. Chandrachud in many cased gave suggestions to the petitioner to get vaccinated.

17.3. On **25th October 2021,** accused Judge D.Y. Chandrachud refused to entertain the SLP by taking a stand as under;

> *"A bench of Justices DY Chandrachud and BV Nagarathna refused to entertain the plea challenging the May 26 order of Karnataka High Court dismissingthe plea of an ex-serviceman Mathew Thomas.*
>
> *The bench said, "The High Court is right in dismissingthe plea.* ***Let us not cast doubt on the vaccination process. It is a key to protecting the population. We don't want the petition to be argued at all. Evenissuing notice on this appeal will be subject to great mischief."***

Link: https://economictimes.indiatimes.com/news/india/supreme-court- dismisses-plea-to-stop-mass-covid-19-vaccination-programme/articleshow/87261877.cms

17.4. The mindset of accused Judge **D.Y. Chandrachud** from various interactions with the counsel for the parties in all above said cases is summarized as:

i) Vaccines are completely safe and any argument or court actions, which creates hesitancy in the mind of public about vaccines is to be avoided. Even if it has an effect of violation of fundamental rights of crores of Indians and causing deaths of thousands of people due to side effects of vaccines.

ii) Vaccine is the only solution to deal with the covid- 19 infection. There is no other solution. If there is any better solution then also he i.e. accused Judge D.Y. Chandrachud, will not hear it at all.

17.5. That, accused Judge D.Y. Chandrachud acted against the constitutional mandate while discouraging the citizen's right to raise a petition and expose the malpractices of the Government authority and pharma mafia, which is fundamental duty of every citizen as enshrined under Article 51(A) of the Constitution of India.

17.6. That, accused Judge D.Y. Chandrachud committed wilful disregard, defiance and contempt of Hon'ble Supreme Court and our Constitution. He also acted against the **Universal Declaration on Bioethics and Human Rights, 2005 (UDBHR). It mandates for promoting opportunities for informedpluralistic public debate, seeking the expression of all relevant opinions.**

“Article 18 – Decision-making and addressing bioethical issues

1. Professionalism, honesty, integrity and transparency in decision-making should be promoted, in particular declarations of all conflicts of interest and appropriate sharing of knowledge. Every endeavour should be made to use the best available scientific knowledge and methodology in addressing and periodically reviewing bioethical issues.

2. Persons and professionals concerned and society as a whole should be engaged in dialogue on a regular basis.

3. Opportunities for informed pluralistic public debate, seeking the expression of all relevant opinions, should be promoted.”

17.7. Double Standard of that, accused Judge D.Y. Chandrachud can be ex facie seen from the very facts that, on one side telling the India’s public that **“the Government hides data, gives false information on covid-19 pandemic and intellectual citizen of the country should bring the truth.”**

Link:https://www.newindianexpress.com/thesundaystandard/2021/aug/29/state-can-spread-lies-but-citizens-must-be-vigilantsupreme-court- justice-dy-chandrachud-2351171.html

“Supreme Court Judge Hon’ble Justice Dr. D. Y. Chandrachud on 29th August, 2021 said that the State officer can spread lies, but citizens must be vigilant. Public intellectuals have a duty to expose lies of the state. *Emphasizing the need for truth in a democracy, he said the state can indulge in falsehood and it was theduty of citizens*

to strengthen public institutions and question the state to determine the truth. In the context of the Covid-19 pandemic, we see that there is an increasing trend of countries across the world trying to manipulate data. Hence, one cannot only rely on the state to determine the truth"

However, on the other hand, accused Judge D.Y. Chandrachud, himself is discouraging the people who are performing their duties and acting by believing his advice. This is double standard on the part of accused Judge D.Y. Chandrachud. It is also unbecoming of a Judge of Supreme Court orany Court of Law.

17.8. Hon'ble Supreme Court in the case of **Amar Pal Singh Vs. State ofU.P. (2012) 6 SCC 491,** has ruled that the Judge who applies the law is only called as **'Vidvana'**. Others are **'Intellectually Dishonest Judges'**. Itis ruled as under;

> ***"20.*** *Every judge has to remind himself about the aforesaid principles and religiously adhere to them. Inthis regard it would not be out of place to sit in the timemachine and dwell upon the sagacious saying of an eminent author who has said that* ***there is a distinctionbetween a man who has command over 'Shastras' andthe other who knows it and puts into practice. He whopractises them can alone be called a 'vidvan'.*** *Thoughit was told in a different context yet the said principle can be taken recourse to, for one may know or be aware of that use of intemperate language should be avoided in judgments but while penning the same the control over the language is forgotten and acquired knowledgeis not applied to the arena of practice. Or to put it differently the knowledge stands still and not*

verbalised into action. Therefore, a committed comprehensive endeavour has to be made to put the concept to practiceso that it is concretised and fructified and the litigationsof the present nature are avoided."

17.9. In addition to the acts of dismissing the above said petitions, accused Judge D.Y. Chandrachud in the case of **Gaurav Kumar Bansal Vs. Mr. Dinesh Kumar, Contempt Petition (C) No. 1653 of 2018** in **Writ Petition (C) No. 412 of 2016**, have passed an unlawful and unconstitutional order on **01.09.2021** and **06.07.2021** **directing mandatory vaccinationof all Health workers staff of mental clinic**.

17.10. That more than 20,000 people died due to side effects of vaccines.

Link: https://drive.google.com/file/d/1swnFIj26kljvzUkrrGcS9Ng-s_Lsic9N/view?usp=sharing

17.11. There are many cases but, I would like to cite only one example of **Dr. Snehal Lunawat, where Government of India's AEFI Committee issued certificate that her death was due to side effects of covishield.** Hon'ble Bombay High Court took cognizance of the Writ Petition filed by father Dilip Lunawat. Notice are issued.

In a similar case of vaccine murder of two children, Supreme Court on **29.08.2022** took serious cognizance and issued notice to Central Government.

https://indianbarassociation.in/wp-content/uploads/2022/09/Order_29-Aug-2022-Rachana-Gangu-Vs.-Union-of-India.pdf

17.11.1. In another case of vaccine death of a school girl Nova Sabu, the Kerala High Court also took cognizance and asked the central Government to file a reply.

News link : https://www.livelaw.in/news-updates/19-year-old-dies-post-covishield-vaccination-kerala-high-court-seeks-centres-response-on-parents-plea 196742?infinitescroll=1

17.11.2. On **10.08.2022**, Kerala High Court in the case of **Sayeeda Vs Union of India in WP (C) No. 17628 of 2022** has issued directions to the Central Government to immediately formulate guidelines for giving compensation to the victims of deaths or other side effects of vaccines.

Order Link:
https://drive.google.com/file/d/1APHixFHhQTGXwzc29CS2g5V7y1Z_-IUH/view?usp=sharing

17.11.3. On **August 10 2022,** the central government submitted before Kerala High Court that they are in process of formulating policies to provide monetary compensation to victims of side effects of these vaccines.

The matter came before Kerala High Court. The Court observed;

> **"This is a national calamity which we faced. Of course, I do understand the case is very genuine and it has to be dealt with. As far as the Central government is concerned, similar issues are cropping up in other states also. There has to be an effort to formulate a proper guideline, a proper scheme for compensating these persons and that is being done. Let them bring on record what steps have been taken so that I can pass a reasoned and considered order, rather than an order in a vacuum. It is not a laughing matter, I consider it to be very serious",** he orally observed."

> The Court acknowledged the seriousness of the petitioners' submission that the process has to be hastened since the family

members of the victims are facing extreme difficulties consequent to the death of the earning member of the family.

"I find the apprehension expressed by the learned counsel to be well founded. The situation requires urgent action on the part of the National Disaster Management Authority", the Court said in its order.".

17.11.4. On 1st September, 2022, the Kerala High Court in **Sayeeda Vs Union of India in WP (C) No. 17628 of 2022** has passed following order;

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

"i) Set aside Exhibit P9 issued by the 5th respondent in response to Exhibit P8.

ii) Issue a writ in the nature of mandamus or any other writ, direction or order directing the respondents to grant ex gratia compensation offered to families of deceased who have succumbed to Covid 19 to the petitioner and her children."

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

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

17.11.5. Needless to mention here that, the CoviShield's manufacturing company i.e. Serum Institute was also spreading the similar misinformation as beingspread by Justice Chandrachud. The CoviShield's manufacturing company Serum Institute, keep on saying that their vaccine does not cause any such side effects. But their narratives are proven to be false from the abovesaid evidences. They were also rejected by the AEFI committee.

17.12. WHO also issued a warning about the side effects of the CoviShield vaccine? :-

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

17.13. The lack of knowledge on the part of accused Judge D. Y. Chandrachud about the 81 Research proving that Natural Immunity

developed due to covid-19 infection is 13 times better, more robust andlong lasting than the vaccine immunity.

Research also proved that, giving vaccines to such person with Natural Immunity will cause damage to their health and will also cause loss of thousands of crores to public exchequer and wrongful profit to vaccine companies.

Link:
https://www.researchgate.net/publication/362182150_Persistent_Health_Issues_Adverse_Events_and_Effectiveness_of_Vaccines_during_the_Second_Wave_of_COVID-19_A_Cohort_Study_from_a_Tertiary_Hospital_in_North_India

17.14. The research data shows that the persons with natural immunity cannot get re-infection and they cannot spread infection. The vaccinated people can spread infection they can die due to Covid infection.
Dr. Sanjay K. Rai, President of Indian Public Health Association (IPHA) and Processor at Department of Community Medicine at AIIMS, Delhi in his interview at;

Link: https://www.youtube.com/watch?v=btDk0eSi5U

He made it clear that,

> *"the best protection and possibly life time immunity only comes from Natural immunity/natural infection i.e. those who have recovered from COVID-19. He further stated that death due to Covid-19, among those who acquired Natural Immunity is nearly zero and possibility of re-infection is rare.Further those vaccines could cause harm or result in adverseeffects if administered to those who have already acquired natural immunity and are also non-susceptible.*

(A copy of excerpt of comments of Dr. Sanjay K Rai, Proffessor at Department of community Medicine at AIIMS, Delhi in conversation with Girijesh Vashistha of Knocking News is annexed as Annexure …"

17.15. The Brownstone Institute lists 81 of the highest-quality, complete, most robust scientific studies and evidence reports/position statements on natural immunity as compared to the COVID-19 vaccine-induced immunity.

Link: https://childrenshealthdefense.org/defender/research-natural-immunity-covid-brownstone-institute/

17.16. Study shows that, giving vaccines to the person with previous Covid-19 infection is causing more harm than the disease itself.

17.16.1. Most recently, researchers in Israel reported that, the fully vaccinated persons are up to 13 times more likely to get infected than those who havehad a natural COVID infection.

"As explained by Science Mag: The study 'found in two analyses that people who were vaccinated in January and February were, inJune, July and the first half of August, six to 13 times more likely to get infected than unvaccinated people who were previously infectedwith the coronavirus "In one analysis, comparing more than 32,000 people in the healthsystem, the risk of developing symptomatic COVID-19 was 27 timeshigher among the vaccinated, and the risk of hospitalization eight times higher.'

"The study also said that, while vaccinated persons who also had natural infection did appear to have additional protection against the Delta variant, the vaccinated were still at a greater risk for COVID-19-related-hospitalizations compared to those without the vaccine, but

who were previously infected.

"Vaccines who hadn't had a natural infection also had a 5.96-fold increased risk for breakthrough infection and a 7.13-fold increasedrisk for symptomatic disease.

"This study demonstrated that natural immunity confers longer lasting and stronger protection against infection, symptomatic disease and hospitalization caused by the Delta variant of SARS- CoV-2, compared to the BNT162b2 two-dose vaccine-induced immunity,' study authors said.

Link:
https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1

17.17. Giving vaccines to persons with allergies to vaccine ingredients and previous infection is having death causing serious side effects:

17.17.1. Even the vaccine manufacturing companies have given the list of the person prohibited from taking vaccines.

17.17.2. That Union of India in their Affidavit has confirmed that the person with allergic are advised to not to take vaccines. But accused judge Dr. D. Y. Chandrachud Straightway gave forceful suggestive orders to many petitioners to get vaccinated and put their life into trouble.

Hence he is guilty of offences under section 166,52,109,115,304,302,304A, etc. of Indian Penal Code.

17.18. Vaccinated people are at higher risk: -

17.18.1. "A majority of gravely ill patients in Israel are double vaccinated. A majority of deaths over 50 in England are also double vaccinated. **[Exhibit]**

Link: https://www.science.org/content/article/grim-warning-israel- vaccination-blunts-does-not-defeat-delta

17.18.2. A study published Sept. 30, in the peer-reviewed European Journal of Epidemiology Vaccines found "no discernible relationship" between the percentage of population fully vaccinated and new COVID cases.

In fact, the study found the most fully vaccinated nations had the highest number of new COVID cases, based on the researchers' analysis ofemerging data during a seven-day period in September.

The authors said the sole reliance on vaccination as a primary strategy to mitigate COVID-19 and its adverse consequences "needs to be re- examined," especially considering the Delta (B.1.617.2) variant and the likelihood of future variants.

They wrote:

> *"Other pharmacological and non-pharmacological interventions may need to be put in place alongside increasingvaccination rates. Such course correction, especially with regards to the policy narrative, becomes paramount withemerging scientific evidence on real-world effectiveness of the vaccines."*
>
> *As part of the study, researchers investigated the relationshipbetween the percentage of population fully vaccinated and new COVID cases across 68 countries and 2,947 U.S.counties that had second dose vaccine, and available COVIDcase data.*

Link: https://link.springer.com/article/10.1007/s10654-021-00808-7

17.18.3. A paper published Sept. 30 in Euro surveillance raises questions about the legitimacy of "vaccine-generated herd immunity."

The study cites a COVID outbreak which spread rapidly among hospital staff at an Israeli Medical Center — despite a 96% vaccination rate, use ofN-95 surgical masks by patients and full personal protective equipment worn by providers.

The calculated rate of infection among all exposed patients and staff was 10.6% (16/151) for staff and 23.7% (23/97) for patients, in a population with a 96.2% vaccination rate (238 vaccinated/248 exposed individuals).

The paper noted several transmissions likely occurred between two individuals both wearing surgical masks, and in one instance using full PPE, including N-95 mask, face shield, gown and gloves.

Link: https://www.eurosurveillance.org/content/10.2807/1560 7917.ES.2021.26.39.2100822

17.19. Cases where vaccine causing more harm than the disease itself:

17.19.1. Healthy boys may be more likely to be admitted to the hospital withheart inflammation from the Pfizer-BioNTech COVID vaccine than with COVID itself, according to a new pre-print study.

U.S. researchers found boys between the ages of 12 and 15, with no underlying medical conditions, were four to six times more likely to be diagnosed with vaccine -related myocarditis than they were to behospitalized with COVID.

Link: https://www.medrxiv.org/content/10.1101/2021.08.30.21262866v1

17.20. Majority of Hospitalizations Are Actually in the Vaccinated

The oft-repeated refrain is that we're in a "pandemic of the unvaccinated," meaning those who have not received the COVID jab make up the bulk of those hospitalized and dying from the Delta variant. However, we'realready

seeing a shift in hospitalization rates from the unvaccinated to thosewho have gotten one or two injections.

For example, in Israel, the fully "vaccinated" made up the bulk of serious cases and COVID-related deaths in July 2021, as illustrated in the graphs below. The red is unvaccinated, yellow refers to partially "vaccinated" andgreen fully "vaccinated" with two doses. By mid-August, 59% of serious cases were among those who had received two COVID injections.

Data from the U.K. show a similar trend among those over the age of 50. In this age group, partially and fully "vaccinated" people account for 68% of hospitalizations and 70% of COVID deaths.

Link: 1. https://cdn.altnews.org/wp-content/uploads/2021/08/new-hospitalizations-thumb.jpg

2. https://cdn.nexusnewsfeed.com/images/2021/8/new-severe-covid- 19-patients-thumb-1631973102161.png

3. https://cdn.nexusnewsfeed.com/images/2021/8/deaths-trend-thumb-1631973112475.png

4. https://cdn.nexusnewsfeed.com/images/2021/8/covid-19-delta-variant-hospital-admission-and-death-in-england-1631973123881.png

5. https://www.science.org/content/article/grim-warning-israel-vaccination-blunts-does-not-defeat-delta

6. https://www.standard.co.uk/news/uk/england-delta-donald-trump- government-public-health-england-b951620.html

7. https://timesofindia.indiatimes.com/city/guwahati/assam-80-covid-19-infections-among-vaccinated-in-guwahati/articleshow/86791235.cms

17.21. In Bangalore more than 56% of hospitalization of covid positive patient are vaccinated.

Link: https://www.deccanherald.com/amp/state/top-karnataka-stories/more-than-half-of-hospitalised-covid-19-cases-among-vaccinated-in-bengaluru1015918.html?twitter _impression=true&s=04%5C

> ***"Source Name: Deccan HeraldDate:03.08.2021***
>
> ***More than half of hospitalised Covid-19 cases amongvaccinated in Bengaluru***
>
> *These hospitalisations are indicative of the extent of vaccine penetration in the public, explained BBMP Chief Commissioner, Gaurav Gupta"*

17.22. Over 50% new COVID-19 cases, deaths in Kerala from vaccinated section.

Link:- https://www.onmanorama.com/news/kerala/2021/10/12/kerala-covid-cases-deaths -among-vaccinated.html

17.23. In K.E.M Hospital 27 out of 29 Covid-19 positive patients were vaccinated. [Around 93%]

Link: https://www.freepressjournal.in/mumbai/mumbai-29-mbbs- students-at-kem-hospital-test-positive-for-covid-19-27-were-fully- vaccinated

> ***"29 MBBS students at KEM hospital test positive for COVID-19, 27 were fully vaccinated***
>
> ***SOURCE:- FREE PRESS JOURNAL"***

17.24. In Nagpur 13 people tested positive for the virus out of which 12were already vaccinated.”.

Link:- https://www.freepressjournal.in/mumbai/covid-19-third-wave-has-entered-nagpur-guardian-minister-nitin-raut-urges-people-to-avoid-crowding

“Source:- *Free Press Journal.*

Date:- *Monday, September 06, 2021, 11:02 PM IST*

Relevant Important Para to be taken;

The district guardian minister, Dr Nitin Raut, told the Free Press Journal after a review meeting, ''The third wave has started in Nagpur, which is reporting a rise in positive cases for the last few days. Notably, on Monday, 13 people tested positive for the virus out of which 12 were already vaccinated.”

17.25. Covishield unable to halt breakthrough Delta infections: StudyFresh evidence on Covishield’s inability to halt “breakthroughinfections” caused by the Delta variant of SARS-CoV-2 in fullyvaccinated individuals emerged on Sunday with a group of Indianresearchers reporting an unexpectedly large proportion of Covid-19infections among the vaccine recipients.

https://www.medrxiv.org/content/10.1101/2021.02.28.21252621v4
https://www.deccanherald.com/science-and-environment/covishield-unable-to-halt-breakthrough-delta-infections-study-1024960.html

17.25.1. Half of India’s 87k breakthrough Covid cases in Kerala Contributing over half of the new Covid positive cases in the country,the state has also accounted for half of the breakthrough infections reported till date.

https://www.newindianexpress.com/states/kerala/2021/aug/20/half-of- indias-87k-breakthrough-covid-cases-in-kerala-2347145.html

17.25.2. Nearly 80% (91 out of 114) Covid-19 cases reported from Sept 1 tillOct 23 in Lucknow were of breakthrough infections, according to data accessed by TOI from the office of Chief Medical Officers.

http://timesofindia.indiatimes.com/articleshow/87277252.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

17.26. Vaccines don't stop transmission, admitted by WHO

At a virtual press conference held by the World Health Organization onDec.28, 2020,officials warned there is no guarantee COVID-19vaccines will prevent people from being infected with the SARS-CoV-2virus and transmitting it to other people.

https://www.who.int/emergencies/diseases/novel-coronavirus-2019/media-resources/press-briefings

17.27. Judge's duty to respect dissenting view and see 'what is right'and not to see 'who is right':-

17.27.1. That, if accused Judge D.Y. Chandrachud and his associate Judges i.e. Co-accused Judges were misinformed due to the **'false narratives'** and **'conspiracy theories'** then the fair hearing with open mind of the dissenting views would have made a lot of difference and many lives couldhave been saved.

But accused Judge D.Y. Chandrachud apart from his underhand dealing with vaccine mafia, also he acted with the understanding that only they are correct and brilliant and all others are wrong, fools etc.

This is a breach of the oath taken as a Supreme Court Judge, which mandates to do justice without fear or favor, malice or ill will. It is unbecoming of a Judge.

17.27.2. The acts of accused Judge D.Y Chandrachud and others in passingorders or taking stand in a caviliar fashion or acting carelessly and to put the life of Crores of people in danger and let them die, and also to cause a loss of thousands of Crores of public money to give wrongful benefit to vaccine companies is an offence undersection 52 of IPC.

Section 52 of 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.****"***

In **Noor Mohamed Mohd. Shah R. Patel Vs. Nadirshah Ismailshah Patel 2003 SCC OnLine Bom 1233,** it is ruled as under;

> *"It has to be kept in mind that nothing can be said to bedone in good faith which is not done with due care andcaution. If these ingredients are indicated by the complaint, the Magistrate is obliged to take the cognizance of the complaint so presented before him unless there are the other grounds for acting otherwise which has to be justified by reasons recorded in writing."*

17.27.3. This is also an offence of **"Fraud on Power "** as explained by theHon'ble Three Judge Bench in the case of **Vijay Shekhar Vs. Union Of India (2004)4 SCC 666**, where it is ruled as under;

> **"***(9.) This Court in Express Newspapers Pvt. Ltd. andOrs. v. Union of India and Ors.1 at has held thus :*
>
> *"Fraud on power voids the order if it is not exercised bona fide for the end design. There is a distinction between exercise*

of power in good faith and misuse in bad faith. The former arises when an authority misusesits power in breach of law, say, by taking into account bona fide, and with best of intentions, some extraneousmatters or by ignoring relevant matters. That would render the impugned act or order ultra vires. It would be a case of fraud on powers. The misuse in bad faith arises when the power is exercised for an improper motive, say, to satisfy a private or personal grudge or for wreaking vengeance of a Minister as in S. Pratap Singh v. State of Punjab, (1964) 4 SCR 733 A power is exercised maliciously if its repository is motivated by personal animosity towards those who are directlyaffected by its exercise. Use of a power for an 'alien' purpose other than the one for which the power is conferred is mala fide use of that power. Same is the position when an order is made for a purpose other than that which finds place in the order. The ulterior oralien purpose clearly speaks of the misuse of the powerand it was observed as early as in 1904 by Lord Lindleyin General Assembly of Free Church of Scotland v. Overtown, 1904 AC 515, 'that there is a condition implied in this as well as in other instruments which create powers, namely, that the power shall be used bona fide for the purpose for which they are conferred'.It was said by Warrngton, C.J. in Short v. Poole Corporation, (1926) 1 Ch 66 that: "No public body canbe regarded as having statutory authority to act in badfaith or from corrupt motives, and any action purporting to be of that body, but proved to be committed in bad faith or from corrupt motives, wouldcertainly be held to be inoperative." In Lazarus Estates Ltd. V. Beasley, (1956) 2 QB 702 at Pp. 712-13 Lord Denning, LJ. said : "No judgment of a court, no order of minister, can

be allowed to stand if it has been obtained by fraud. Fraud unravels everything." (emphasis supplied) See also, in Lazarus case at p. 722per Lord Parker, C.J. : "'Fraud' vitiates all transactions known to the law of however high a degreeof 527 solemnity." All these three English decisions have been cited with approval by this Court in Pratap Singh's case."

(10.) Similar is the view taken by this Court in the caseof Ram Chandra Singh v. Savitri Devi and Ors.1 wherein this Court speaking through one of us (Sinha, J.) held thus :

"Fraud as is well known vitiates every solemn act. Fraud and justice never dwell together. Fraud is a conduct either by letter or words, which induces the other person or authority to take a definite determinative stand as a response to the conduct of theformer either by word or letter. It is also well settled that misrepresentation itself amounts to fraud. Indeed, innocent misrepresentation may also give reason to claim relief against fraud. A fraudulent misrepresentation is called deceit and consists in leading a man into damage by wilfully or recklessly causing him to believe and act on falsehood. It is a fraud in law if a party makes representations which heknows to be false, and injury ensues therefrom althoughthe motive from which the representations proceeded may not have been bad. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of others in relation toa property would render the transaction void ab initio.Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraudis anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application

of any equitable doctrine including resjudicata."

(11.) Thus, it is clear a fraudulent act even in judicial proceedings cannot be allowed to stand. "

17.27.4. That, accused Judge D.Y. Chandrachud and co accused judges , while refusing to hear the concerned petitioners on merits and discouraging their Counsels/Lawyers also acted in contempt of Hon'ble Supreme Court's judgment in the case of **Indirect Tax Practitioners Association Vs. R.K.Jain (2010) 8 SCC 281,** where it is ruled as under;

> *"25…**Voltaire expressed a democrat's faith when he told, an adversary in arguments : "I do not agree with a word you say, but I will defend to the death your right to say it".** Champions of human freedom of thought and expression throughout the ages, have realised that intellectual paralysis creeps over a society which denies, in however subtle a form, due freedom of thought and expression to its members."*

17.28. Judge cannot deny hearing to a person. Denying hearing isviolation of basic human rights and also contempt of Court:

17.28.1. A Full Bench in **National Human Rights Commission Vs. State MANU/2009/SC/0713,** had ruled as under;

> ***''Failure to accord fair hearing violates even minimum standards of due process of law. It is inherent in the concept of due process of law, that condemnation should be rendered only after the trialin which the hearing is a real one, not sham or a merefarce and pretence. Since the fair hearing requires anopportunity to preserve the process, it may be vitiatedand violated by an over hasty stage- managed, tailored and partisan trial.***

*“In **Zahira Habibullah Sheikh (5) and Anr. v. State ofGujarat and Ors. MANU/SC/1344/2006: 2006 CriLJ 1694** it was observed as under:*

If the court acts contrary to the role it is expected to play, it will be destruction of the fundamental edifice on which the justice delivery system stands. People forwhose benefit the courts exist shall start doubting theefficacy of the system. "Justice must be rooted in confidence; and confidence is destroyed when right- minded people go away thinking: `The Judge was biased.

The perception may be wrong about the Judge's bias,but the Judge concerned must be careful to see thatno ***such impression gains ground. Judges like Caesar's wife should be above suspicion.***

A criminal trial is a judicial examination of the issues in the case and its purpose is to arrive at a judgment onan issue as to a fact or relevant facts which may lead tothe discovery of the fact in issue and obtain proof of such facts at which the prosecution and the accused have arrived by their pleadings; the controlling question being the guilt or innocence of the accused. Since the object is to mete out justice and to convict theguilty and protect the innocent, the trial should be a search for the truth and not about over technicalities, and must be conducted under such rules as will protectthe innocent, and punish the guilty. The proof of chargewhich has to be beyond reasonable doubt must dependupon judicial evaluation of the totality of the evidence,oral and circumstantial, and not by an isolated scrutiny.

The fair trial for a criminal offence consists not only in technical observance of the frame, and forms of law, but also in recognition and just application of its principles in substance, to find out the truth and prevent miscarriage of justice.

It was significantly said that law, to be just and fair hasto be seen devoid of flaw. It has to keep the promise tojustice and it cannot stay petrified and sit nonchalantly.The law should not be seen to sit by limply, while thosewho defy it go free and those who seek its protection lose hope (see Jennison v. Baker). Increasingly, people are believing as observed by Salmon quoted by Diogenes Laertius in Lives of the Philosophers, "Lawsare like spiders' webs: if some light or powerless thingfalls into them, it is caught, but a bigger one can break through and get away." Jonathan Swift, in his "Essay on the Faculties of the Mind" said in similar lines: "Laws are like cobwebs, which may catch small flies, but let wasps and hornets break through.

Right from the inception of the judicial system it has been accepted that discovery, vindication and establishment of truth are the main purposes underlying the existence of the courts of justice. The operative principles for a fair trial permeate the common law in both civil and criminal contexts. Application of these principles involves a delicate judicial balancing of competing interests in a criminal trial: the interests of the accused and the public and toa great extent that of the victim have to be weighed notlosing sight of the public interest involved in the prosecution of persons who commit offences.''

17.28.2. While protecting some anti national, 'anti-Indian Army' and pro-Chinese elements, accused Judge D.Y. Chandrachud, in his speech at Justice P.D. Desai, Memorial Lecture at Gujrat have delivered a lecture onrespecting dissent but while acting as a Judge acted against his own stand.**This is called as hypocrisy and double standard.**

17.29. Doing any act against law, while sitting on a Dias as a Judge anddoing something to help the vaccine syndicate is also an offence punishableunder section **166, 219, 218, 192, 193, 120(B), 34** etc. of IPC.

17.30. Offences done and violation of fundamental rights whilepassing order dated 01.09.2021 in <u>Gaurav Kumar Bansal's case</u> <u>Contempt Petition (C) No. 1653 of 2018</u> in <u>Writ Petition (C) No. 412 of2016</u>.

17.30.1. That in the abovesaid case, accused Judge D.Y. Chandrachud, vide order dated **01.09.2021** give a blanket direction to the authorities thatall the staff of Health care institutes be vaccinated.

The relevant para read thus;

> ***"3…*** *All the States/Union Territories are directed to lay down a time schedule* ***<u>for facilitating the vaccination of all persons who are lodged in mental health care institutions within a period of one month from the date of this order.</u>***
>
> ***<u>The vaccination of the inmates must also be coupled with vaccination of all the service providers as well ashealth care professionals and other staff associated with these institutions</u>****. The progress shall be monitoredand details submitted to this Court when a status reportis next filed in pursuance of the directions contained inthis order."*

17.30.2. That, the earlier order dated **06.07.2021** passed by accused Judge D.Y. Chandrachud (**Coram:** Shri. Dr. Justice D.Y. Chandrachud, Mr. Justice M.R. Shah) reads thus;

> **"**7*. Mr. Gaurav Kumar Bansal, petitioner in person, has submitted and,* ***in our view, in justification, that the issue oftesting, tracing and vaccinating those suffering from mentalillness must be taken up on a priority. Persons who are institutionalized in mental health establishments need to bevaccinated so as to protect them."***

17.30.3. The gross illegalities in the said directions are that the person with allergies to the contents of the vaccines or the person having natural immunity die to previous covid-19 infection also directed to be vaccinated. The discretion of consent or right to refuse treatment was taken away by the said order. This order have death causing sideeffects. It is an offence u/s **115, 52, 307, 304, 304-A, 166, 120(B), 34, 109**etc. of IPC.

17.30.4. This is also an offence of misappropriation of public resources and money to give wrongful profit to vaccine companies and it is an offence punishable u/s 409, 120(B) and 34 of IPC.

17.31. THE RISK AND POSSIBLE DEATH CAUSING SIDE – EFFECTS AND IMPACT DUE TO SUCH BLANKET DIRECTIONSOF VACCINATIONS OF STAFF WITHOUT THEIR CONSENT ORFREE WILL:

17.31.1. That, the abovesaid directions are illegal on two counts as they are;

> **(i)** Violative of Constitutional protection granted to every citizen regarding their right to choose medication [**Common Cause v. Union of India, (2018) 5 SCC 1, Jacob Pulliyel vs Union of India 2022 SCC Online SC 533**];

(ii) The order is passed without hearing the people like parents, relatives of those suffering mental illness and all staff in the institution who arelikely to be affected by the decision. It is violation of **Audi - Alterim - Partem** rule.

17.31.2. CONSTITUTIONAL MANDATE

17.31.3. That, as per **Universal Declaration on Bioethics & HumanRights 2005** and as per **International Covenant on Civil & Political Rights** the person should not be subjected to any medication against his informed consent.

17.31.4. The relevant articles of **<u>Universal Declaration on Bioethicsand Human Rights, 2005 (UDBHR)</u>** are as under;

"Article 3 – Human dignity and human rights

1. Human dignity, human rights and fundamentalfreedoms are to be fully respected.

2. The interests and welfare of the individual should have priority over the sole interest of science or society.

Article 6 – Consent

1. Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information. The consent should, where appropriate, be express and may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice.

2. Scientific research should only be carried out

with the prior, free, express and informed consent of the person concerned. The information should be adequate, providedin a comprehensible form and should include modalities for withdrawal of consent. Consent may be withdrawn by the person concerned at any time and for any reason without any disadvantage or prejudice. Exceptions to this principle should be made only in accordance with ethical and legal standards adopted by States, consistent with the principles and provisions set out in this Declaration, in particular in Article 27, and international human rights law.

3. In appropriate cases of research carried out on a groupof persons or a community, additional agreement of the legal representatives of the group or community concerned may be sought. In no case should a collective community agreement or the consent of a community leader or other authority substitute for an individual's informed consent.

Article 7 – Persons without the capacity to consent

In accordance with domestic law, special protection is to be given to persons who do not have the capacity to consent:

(a) authorization for research and medical practice shouldbe obtained in accordance with the best interest of the person concerned and in accordance with domestic law. However, the person concerned should be involved to the greatest extent possible in the decision-making process ofconsent, as well as that of withdrawing consent;

(b) research should only be carried out for his or her directhealth benefit, subject to the authorization and the protective conditions prescribed by law, and if there is no research alternative of comparable effectiveness with research participants able to consent. Research which does not have potential direct health benefit should only be undertaken by way of exception, with the utmost restraint, exposing the person only to a minimal risk and minimal burden and, if the research is expected to contribute to the health benefit of other persons in the same category, subject to the conditions prescribed by law and compatible with the protection of the individual's human rights. Refusal of such persons to take part in research should be respected.

Article 8 – Respect for human vulnerability and personal integrity

In applying and advancing scientific knowledge, medical practice and associated technologies, human vulnerability should be taken into account. Individuals and groups of special vulnerability should be protected and the personal integrity of such individuals respected.

Article 10 – Equality, justice and equity

The fundamental equality of all human beings in dignity and rights is to be respected so that they are treated justly and equitably.

Article 11 – Non-discrimination and non-stigmatization

No individual or group should be discriminated against or stigmatized on any grounds, in violation of human dignity, human rights and fundamental freedoms.

Article 16 – Protecting future generations

The impact of life sciences on future generations, including on their genetic constitution, should be given due regard.

Application of the principles.

17.32. DOUBLE STANDERS BY TREATING THE COMMON MANAND RICH PEOPLE DIFFERENTLY:

Accused Judge in a case of Arnab Goswami laid down the law that it is theduty of the Judges to act immediately by keeping all the work aside when the matter is related with the life and liberty of a citizen.

In the case of **Arnab Goswami Vs. State (2021) 2 SCC 427,** it is ruled asunder;

> ***"72…. Every court in our country would do well to remember Lord Denning's powerful invocation in the first Hamlyn Lecture****, titled "Freedom under the Law"[Sir Alfred Denning, "Freedom under the Law", the Hamlyn Lectures, First Series, available at .] :* ***"Whenever one of the Judges takes seat, there is one application which by long tradition has priority over all others. The counsel has but to say, 'My Lord, I have an application which concerns the liberty of thesubject', and forthwith the Judge will put all other matters aside and hear it…." It is our earnest hope that our courts will exhibit acute awareness to the need to expand the footprint of liberty and use our approach as a decision-****making yardstick for future cases.*

17.32.1. All the Honest and efficient Judges respected the rights of an individual and granted immediate stay to the vaccine mandates and protected the rights of the Citizen. They stayed the rules and orders of conditions of fully vaccination. But accused Judge acted with double standard and failed to protect the rights of the Crores of victims. On the contrary passed orders and remarks aginast the constitutional mandates.

17.32.2. In **Nand Lal Mishra Vs Kanhaiya Lal Mishra [AIR 1960 SC 882**, it is ruled that there should not be double standard by a Judge.

> ***"Double standard and biased conduct of Judge- In the courts of law, there cannot be a double-standard - one for the highly placed and another for the rest: the Judge should have no concern with personalities who are parties to the case before him but only with its merits.***
>
> ***The record discloses that presumably the Magistrate was oppressed by the high status of the respondent, and instead of making a sincere attempt to ascertain the truth proceeded to adopt a procedure which is notwarranted by the Code , and to make an unjudicial approach to the case of the appellant. In the courts oflaw, there cannot be a double-standard-one for the highly placed and another for the rest: the Magistrate has no concern with personalities who are parties to the case before him but only with its merits.***
>
> ***10.*** *After carefully going through the entire record, weare satisfied that the appellant was not given full opportunity to establish his case in the manner prescribed by law."*

18. Justice Chandrachud is responsible for cold blooded murders and life time disabilities caused to lakhs of citizen due to side effects of vaccines forcefully given against their wills. Provisions of Section 120(b) of Indian Penal Code makes him liable for punishment as that of main accused.

18.1. In **Raman Lal Vs. State of Rajasthan 2000 SCC Online Raj 226, it is ruled as under;**

> *''**Conspiracy – I.P.C. Sec. 120 (B) –** Apex court made it clear that an inference of conspiracy has to be drawn on the basis of circumstantial evidence only because it becomes difficult to get direct evidence on such issue – The offence can only be proved largely from the inference drawn from acts or illegal omission committed by them in furtherance of a common design – Once such a conspiracy is proved, act of one conspirator becomes the act of the others – A Co-conspirator who joins subsequently and commits overt acts in furtherance of the conspiracy must also be held liable – Proceeding against accused Judge cannot be quashed.''*

19. Legal position mandates that Justice Chandrachud is liable to be removed from the judiciary. He is bound to resign from his post.

19.1 In **R.R. Parekh Vs. High Court of Gujrat (2016) 14 SCC 1: 2016 SCC OnLine SC 692,** case Hon'ble Supreme Court had upheld the order of dismissal of a Judge. It is ruled as under;

> ***"A Judge passing an order against provisions of law in order to help a party is said to have been actuated by an oblique motive or corrupt practice - breach of the governing principles of law or procedure by a Judge is indicative of judicial officer has been actuated by an oblique motive or corrupt practice - No direct evidence is necessary - A charge of misconduct against a Judge has***

to be established on a preponderance of probabilities - The Appellant had absolutely no convincing explanation for this course of conduct - Punishment of compulsory retirement directed.

A wanton breach of the governing principles of law or procedure by a Judge is indicative of judicial officer has been actuated by an oblique motive or corrupt practice. In the absence of a cogent explanation to the contrary, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that the judicial officer was actuated by extraneous considerations can be drawn - It is not the correctness of the verdict but the conduct of the officer which is in question- . There is on the one hand a genuine public interest in protecting fearless and honest officers of the district judiciary from motivated criticism and attack. Equally there is a genuine public interest in holding a person who is guilty of wrong doing responsible for his or his actions. Neither aspect of public interest can be ignored. Both are vital to the preservation of the integrity of the administration of justice - A charge of misconduct against a Judge has to be established on a preponderance of probabilities - No reasons appear from the record of the judgment, for We have duly perused the judgments rendered by the Appellant and find merit in the finding of the High Court that the Appellant paid no heed whatsoever to the provisions of Section 135 under which the sentence of imprisonment shall not be less than three years, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court. Most significant is the fact that the Appellant imposed a sentence in the case of each accused in such a manner that after the order was passed no accused would remain in jail any longer. Two of the accused were handed down sentences of five months and three months in such a manner that after taking

account of the set-off of the period during which they had remained as under-trial prisoners, they would be released from jail. The Appellant had absolutely no convincing explanation for this course of conduct."

19.2 Constitution Bench in the case of **K. Veeraswami K. Veeraswami Vs. Union of India (1991) 3 SCC 655,** while dealing with the case of criminal prosecution of a Supreme Court Judge had ruled that;

"53. *It is inappropriate to state that conviction and sentence are no bar for the Judge to sit in the court. We may make it clear that if a Judge is convicted for the offence of criminal misconduct or any other offence involving moral turpitude, it is but proper for him to keep himself away from the court. He must voluntarily withdraw from judicial work and await the outcome of the criminal prosecution. If he is sentenced in a criminal case he should forthwith tender his resignation unless he obtains stay of his conviction and sentence. He shall not insist on his right to sit on the bench till he is cleared from the charge by a court of competent jurisdiction.* ***The judiciary has no power of the purse or the sword. It survives only by public confidence and it is important to the stability of the society that the confidence of the public is not shaken. The Judge whose character is clouded and whose standards of morality and rectitude are in doubt may not have the judicial independence and may not command confidence of the public. He must voluntarily withdraw from the judicial work and administration.***

54. *The emphasis on this point should not appear superfluous. Prof. Jackson says* ***"Misbehaviour by a Judge, whether it takes place on the bench or off the bench, undermines public confidence in the administration of justice, and also damages public respect for the law of the land; if nothing is seen to be done about it, the damage***

goes unrepaired. This must be so when the judge commits a serious criminal offence and remains in office". *(Jackson's Machinery of Justice by J.R. Spencer, 8th edn. pp. 369-70).*

55. *The proved "misbehaviour" which is the basis for removal of a Judge under clause (4) of Article 124 of the Constitution may also in certain cases involve an offence of criminal misconduct under Section 5(1) of the Act. But that is* ***no ground for withholding criminal prosecution till the Judge is removed by Parliament as suggested by counsel for the appellant. One is the power of Parliament and the other is the jurisdiction of a criminal court. Both are mutually exclusive. Even a government servant who is answerable for his misconduct which may also constitute an offence under the IPC or under Section 5 of the Act is liable to be prosecuted in addition to a departmental enquiry.*** *If prosecuted in a criminal court he may be punished by way of imprisonment or fine or with both but in departmental enquiry, the highest penalty that could be imposed on him is dismissal. The competent authority may either allow the prosecution to go on in a court of law or subject him to a departmental enquiry or subject him to both concurrently or consecutively.* ***It is not objectionable to initiate criminal proceedings against public servant before exhausting the disciplinary proceedings, and a fortiori, the prosecution of a Judge for criminal misconduct before his removal by Parliament for proved misbehaviour is unobjectionable."***

19.3. In **<u>Muzaffar Husain vs. State of Uttar Pradesh 2022 SCC OnLine SC 567</u>**, it is ruled as under;

"15. *In our opinion, showing undue favour to a party under the guise of passing judicial orders is the worst kind of judicial dishonesty and misconduct. The extraneous consideration for showing favour need not always be a monetary consideration. It is often said that "the*

public servants are like fish in the water, none can say when and how a fish drank the water". A judge must decide the case on the basis of the facts on record and the law applicable to the case. If he decides a case for extraneous reasons, then he is not performing his duties in accordance with law. As often quoted, a judge, like Caesar's wife, must be above suspicion.

14… *Nonetheless, in the instant case the appellant was found to have conducted the proceedings in the manner which had reflected on his reputation and integrity. There was enough evidence and material to show that the appellant had misconducted himself while discharging his duties as a judicial officer, and had passed the judicial orders in utter disregard of the specific provisions of law, to unduly favour the subsequent purchasers of the acquired lands who had no right to claim compensation, and that such orders were actuated by corrupt motive. Under the circumstances, the High Court was perfectly justified in exercising its supervisory jurisdiction under Article 235 of the Constitution.*

6. *In Sadhna Chaudhary v. State of Uttar Pradesh*[14]*, this court reiterated that the judicial officers must aspire and adhere to a higher standard of honesty, integrity and probity.*

> ***"19.*** *It has amply been reiterated by this Court that the judicial officers must aspire and adhere to a higher standard of honesty, integrity and probity. Very recently in Shrirang Yadavrao Waghmare v. State of Maharashtra [Shrirang Yadavrao Waghmare v. State of Maharashtra, (2019) 9 SCC 144 : (2019) 2 SCC (L&S) 582], a Division Bench of this Court very succinctly collated these principles and reiterated that : (SCC pp. 146-47, paras 5-10)*
>
> > *'5. The first and foremost quality required in a Judge is integrity. The need of integrity in the judiciary is much higher*

than in other institutions. The judiciary is an institution whose foundations are based on honesty and integrity. It is, therefore, necessary that judicial officers should possess the sterling quality of integrity. This Court in Tarak Singh v. Jyoti Basu [Tarak Singh v. Jyoti Basu, (2005) 1 SCC 201] held as follows : (SCC p. 203)

'Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary took utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe in the justice-delivery system resulting in the failure of public confidence in the system. It must be remembered that woodpeckers inside pose a larger threat than the storm outside.'

6. The behaviour of a Judge has to be of an exacting standard, both inside and outside the court. This Court in Daya Shankar v. High Court of Allahabad [Daya Shankar v. High Court of Allahabad, (1987) 3 SCC 1 : 1987 SCC (L&S) 132] held thus : (SCC pp. 4-5, para 11)

'11. ... Judicial officers cannot have two standards, one in the court and another outside the court. They must have only one standard of rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy.'

7. Judges are also public servants. A Judge should always remember that he is there to serve the public. A Judge is judged not only by his quality of judgments but also by the quality and purity of his character. Impeccable integrity should be reflected both in public and personal life of a Judge. One who stands in judgments over others should be incorruptible. That is the high standard which is expected of Judges.

8. Judges must remember that they are not merely employees but hold high public office. In R.C. Chandel v. High Court of M.P. [R.C. Chandel v. High Court of M.P., (2012) 8 SCC 58 : (2012) 2 SCC (Civ) 343 : (2012) 3 SCC (Cri) 782 : (2012) 2 SCC (L&S) 469], this Court held that the standard of conduct expected of a Judge is much higher than that of an ordinary person. The following observations of this Court are relevant : (SCC p. 70, para 29)

> *'29. Judicial service is not an ordinary government service and the Judges are not employees as such. Judges hold the public office; their function is one of the essential functions of the State. In discharge of their functions and duties, the Judges represent the State. The office that a Judge holds is an office of public trust. A Judge must be a person of impeccable integrity and unimpeachable independence. He must be honest to the core with high moral values. When a litigant enters the courtroom, he must feel secured that the Judge before whom his matter has come, would deliver justice impartially and uninfluenced by any consideration. The standard of conduct expected of a Judge is much higher than an ordinary man. This is no excuse that since the standards in the society have fallen, the Judges who are drawn from the society cannot be expected to have high standards and ethical firmness required of a Judge. A Judge, like Caesar's wife, must be above suspicion. The credibility of the judicial system is dependent upon the Judges who man it. For a democracy to thrive and the rule of law to survive, justice system and the judicial process have to be strong and every Judge must discharge his judicial functions with integrity, impartiality and intellectual honesty.'*

9. There can be no manner of doubt that a Judge must decide the case only on the basis of the facts on record and the law applicable to the case. If a Judge decides a case for any extraneous reasons then he is not performing his duty in accordance with law.

10. In our view the word "gratification" does not only mean monetary gratification. Gratification can be of various types. It can be gratification of money, gratification of power, gratification of lust etc., etc."

7. *It may further be noted that when a disciplinary action can be taken against the officer exercising judicial or quasi-judicial powers, has also been succinctly laid down by this court in case of Union of India v. K.K. Dhawan (supra):—*

"28. Certainly, therefore, the officer who exercises judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge. Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:

(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;

(ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;

(iii) if he has acted in a manner which is unbecoming of a government servant;

(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;

(v) if he had acted in order to unduly favour a party;

(vi) if he had been actuated by corrupt motive, however small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great."

19.4 Hon'ble Supreme Court in **Tarak Singh Vs. Jyoti Basu (2005) 1 SCC 201** ruled as under;

<u>Personal ambitions of a judge</u> – Conflict with judicial duty – Held, <u>the function of the judiciary is distinctly different from other organs of the State, in the sense its function is divine.</u> *Today, judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock at all the doors failed people approach the judiciary as the last resort. It is the only temple worshipped by every citizen of this nation, regardless of religion, caste, sex or place of birth. Because of the power he wields, a Judge is being judged with more stricter than others. Integrity is the hall-mark of judicial discipline, apart from others. It is high time the judiciary must take utmost care to see that temple of justice do not crack from inside, which will lead to catastrophe in the justice delivery system resulting in the failure of Public Confidence in the system. We must remember that woodpeckers inside pose a larger threat than the storm outside.* ***[para 22]***

19.5. In **Umesh Chandra Vs State of Uttar Pradesh & Ors. 2006 (5) AWC 4519 ALL** it is ruled as under;

> ***"If Judge is passing illegal order either due to negligence or extraneous consideration giving undue advantage to the party then that Judge is liable for action in spite of the fact that an order can be corrected in appellate/revisional jurisdiction - The acceptability of the judgment depends upon the creditability of the conduct, honesty, integrity and character of the officer and since the confidence of the litigant public gets affected or shaken by the lack of integrity and character of the Judicial Officer, in such cases imposition of penalty of dismissal from service is well justified***
>
> ***The order was passed giving undue advantage to the main accused - grave negligence is also a misconduct and warrant initiation of disciplinary proceedings - in spite of the fact that an order can be corrected in appellate/revisional jurisdiction but if the order smacks of any corrupt motive or reflects on the integrity of the judicial officer, enquiry can be held .***
>
> ***The Inquiry Judge has held that even if the petitioner was competent to grant bail, he passed the order giving undue advantage of discharge to the main accused and did not keep in mind the gravity of the charge. This finding requires to be considered in view of the settled proposition of law that grave negligence is also a misconduct and warrant initiation of disciplinary proceedings.***
>
> *The petitioner, an officer of the Judicial Services of this State, has challenged the order of the High Court on the administrative side dated 11.02.2005 (Annex.11) whereby the*

petitioner has been deprived of three increments by withholding the same with cumulative effect.

The petitioner, while working as Additional Chief Metropolitan Magistrate, Kanpur, granted bail on 29.06.1993 to an accused named Atul Mehrotra in Crime Case No. 3240 of 1992 under Section 420, 467, 468, I.P.C. Not only this, an application was moved by the said accused under Section 239, Cr.P.C. for discharge which was also allowed within 10 days vide order dated 06.08.1993. The said order of discharge was however reversed in a revision filed by the State According to the prosecution case, the accused was liable to be punished for imprisonment with life on such charges being proved, and as such, the officer concerned committed a gross error of jurisdiction by extending the benefit of bail to the accused on the same day when he surrendered before the Court. Further, this was not a case where the accused ought to have been discharged and the order passed by the officer was, therefore, an act of undue haste.

The then Chief Manager, Punjab National Bank, Birhana Road Branch, Kanpur Nagar made a complaint on the administrative side on 11.11.1995 to the then Hon'ble Chief Justice of this Court. The matter was entrusted to the Vigilance Department to enquire and report. After almost four and half years, the vigilance inquiry report was submitted on 14.03.2002 and on the basis of the same the petitioner was suspended on 30th April, 2002 and it was resolved to initiate disciplinary proceedings against the petitioner. A charge sheet was issued to the petitioner on 6th September, 2002 to which he submitted a reply on 22.10.2002. The enquiry was entrusted to Hon'ble Justice Pradeep Kant, who conducted the enquiry and

submitted a detailed report dated 06.02.2002 (Annex-8). A show cause notice was issued to the petitioner along with a copy of the enquiry report to which the petitioner submitted his reply on 19.05.2004 (Annex.10). The enquiry report was accepted by the Administrative Committee and the Full Court ultimately resolved to reinstate the petitioner but imposed the punishment of withholding of three annual grade increments with cumulative effect which order is under challenge in the present writ petition.

B) JUDICIAL OFFICERS - has to be examined in the light of a different standard that of other administrative officers. There is much requirement of credibility of the conduct and integrity of judicial officers - the acceptability of the judgment depends upon the creditability of the conduct, honesty, integrity and character of the officer and since the confidence of the litigant public gets affected or shaken by the lack of integrity and character of the judicial officer, in such cases imposition of penalty of dismissal from service is well justified - Judges perform a "function that is utterly divine" and officers of the subordinate judiciary have the responsibility of building up of the case appropriately to answer the cause of justice. "The personality, knowledge, judicial restrain, capacity to maintain dignity" are the additional aspects which go into making the Courts functioning successfully - the judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock of all the doors fail, people approach the judiciary as a last resort. It is the only temple worshipped by every citizen of this nation, regardless of religion, caste, sex or place of birth

because of the power he wields. A Judge is being judged with more strictness than others. Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary must take utmost care to see that the temple of justice does not crack from inside which will lead to a catastrophe in the justice delivery system resulting in the failure of public confidence in the system. We must remember woodpeckers inside pose larger threat than the storm outside

In <u>Government of Tamil Nadu Vs. K.N. Ramamurthy, AIR 1997 SC 3571,</u> the Hon'ble Supreme Court held that exercise of judicial or quasi judicial power negligently having adverse affect on the party or the State certainly amounts to misconduct.

In M.H. Devendrappa Vs. The Karnataka State Small Industries Development Corporation, AIR 1998 SC 1064, the Hon'ble Supreme Court ruled that any action of an employee which is detrimental to the prestige of the institution or employment, would amount to misconduct.

In <u>High Court of Judicature at Bombay Vs. Udaysingh & Ors., A.I.R. 1997 SC 2286</u> the Hon'ble Apex Court while dealing with a case of judicial officer held as under:-

"Since the respondent is a judicial officer and the maintenance of discipline in the judicial service is a paramount matter and since the acceptability of the judgment depends upon the creditability of the conduct, honesty, integrity and character of the officer and since the confidence of the litigant public gets affected or shaken by the lack of integrity and character of the judicial officer, we think that imposition of penalty of dismissal from service is well justified."

This Court in Ram Chandra Shukla Vs. State of U.P. & Ors., (2002) 1 ALR 138 held that the case of judicial officers has to be examined in the light of a different standard that of other administrative officers. There is much requirement of credibility of the conduct and integrity of judicial officers.

In High Court of Judicature at Bombay V. Shirish Kumar Rangrao Patil & Anr., AIR 1997 SC 2631, the Supreme Court observed as under:-

"The lymph nodes (cancerous cells) of corruption constantly keep creeping into the vital veins of the judiciary and the need to stem it out by judicial surgery lies on the judiciary itself by its self-imposed or corrective measures or disciplinary action under the doctrine of control enshrined in Articles 235, 124 (6) of the Constitution. It would, therefore, be necessary that there should be constant vigil by the High Court concerned on its subordinate judiciary and self-introspection.

When such a constitutional function was exercised by the administrative side of the High Court any judicial review thereon should have been made not only with great care and circumspection, but confining strictly to the parameters set by this Court in the aforesaid decisions.--------"

In Government of Andhra Pradesh Vs. P. Posetty, (2000) 2 SCC 220, the Hon'ble Supreme Court held that sense of propriety and acting in derogation to the prestige of the institution and placing his official position under any kind of embarrassment may amount to misconduct as the same may ultimately lead that the delinquent had behaved in a manner which is unbecoming of an employee/Government servant.

In <u>All India Judges' Association Vs. Union of India & Ors., AIR 1992 SC 165,</u> the Hon'ble Supreme Court observed that Judges perform a "function that is utterly divine" and officers of the subordinate judiciary have the responsibility of building up of the case appropriately to answer the cause of justice. "The personality, knowledge, judicial restrain, capacity to maintain dignity" are the additional aspects which go into making the Courts functioning successfully.

In <u>Tarak Singh & Anr. Vs. Jyoti Basu & Ors., (2005) 1 SCC 201</u>, the Hon'ble Supreme Court observed as under:-

"Today, the judiciary is the repository of public faith. It is the trustee of the people. It is the last hope of the people. After every knock of all the doors fail, people approach the judiciary as a last resort. It is the only temple worshipped by every citizen of this nation, regardless of religion, caste, sex or place of birth because of the power he wields. A Judge is being judged with more strictness than others. Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary must take utmost care to see that the temple of justice does not crack from inside which will lead to a catastrophe in the justice delivery system resulting in the failure of public confidence in the system. We must remember woodpeckers inside pose larger threat than the storm outside."

20. Breach of oath taken as a Supreme Court Judge terminates Justice Chandrachud's position as a Supreme Court judge as ruled in <u>Indirect Tax Association Vs. R.K.Jain</u> <u>2010) 8 SCC 281</u>:-

20.1. That, the **Oath taken by the Supreme Court Judge** is given in our Constitution. It reads thus;

<u>“EVERY JUDGE WHEN APPOINTED HAS TO TAKE OATH AS UNDER;</u>

The constitution of India **<u>Schedule III Articles 75 (4), 99, 124 (6) 148 (2) 164 (3), 188 and 219</u>** provides that forms of oaths or Affirmation No. VIII is as follows.

> ***“ Form of oath or a affirmation to be made by the Judges of a Supreme Court.”***
>
> *I, A.B., having been appointed Chief Justice (or a Judge) of the Supreme Court at (or of) ----------------- do that I will bear true faith and allegiance to the Constitution of India as by law established, [that I will uphold the sovereignty and integrity of India] that,* ***I will duly and faithfully and to the best of my ability, Knowledge and judgement <u>perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.</u>***

20.2. In **<u>Indirect Tax Association Vs. R.K.Jain</u> <u>2010) 8 SCC 281</u>** *(Supra)*,it is ruled by Hon’ble Supreme Court that;

> *<u>“Judge have their accountability to the society and their accountability must be judged by their conscience and oath of their office, that is to defend and uphold the Constitution and the laws without fear and favor with malice towards none, with charity for all, we strive to do the right.”</u>*

20.3. That above proofs ex-facie shows that Justice Chandrachud has breached the oath and acted against the law and constitution. He had done favors to vaccine mafia, his son and acted with malice & ill will towards common and poor man.

20.4. Breach of oath is ground to terminate a Judge:

Breach of Oath by a Judge is a case where justice is not done and is denied. It is a case of misbehaviour by the Judge essential for his termination from job. Breach of oath requires a termination of the tenure of office. This power can be exercised by the appointing authority under the Constitution, and according to the procedure, if any, prescribed therein. [**S. Gunasekaran vs The Ministry Of Home Affairs on 21 August, 2019**]

20.5. In the Judges transfer case, S.P. Gupta v. President of India **AIR 1982 SC 149** Pathak J., observed thus:

> ***"When a Judge permits his judgments in a case to be influenced by the irrelevant consideration of caste and creed, of relationship or friendship, of hostility or enmity, he commits a breach of his oath. It is a case where justice is not done and is denied. It is a case of misbehaviour to which the provisions of Art. 218 read with Cls. (4) and (5) of Art. 124 are attracted."***

20.6. Hence, it is just and necessary that immediate action needs to be taken to save the loss to other litigants. [**Superintendent of Central Excise and others Vs. Somabhai Ranchhodhbhai Patel AIR 2001 SC 1975**]

21. Offence under section 2(b), 12, 16 of Contempt of Courts Act, 1971 by acting in utter disregard of binding precedents.

21.1. When case law is clear the Judge has no discretion. But Justice Chandrachud refused to follow the rule and acted in utter disregard and defiance of the binding precedents and therefore he is liable for punishment under section 2(b), 12, 16 of Contempt of Courts Act, 1971 & Article 129, 142 of the Constitution of India.

21.2. In **<u>Sundarjas Kanyalal Bhatija Vs. Collector, Thane, (1989) 3 SCC 396</u>,** it is ruled as under;

> ***"Constitution of India, Art.141- PRECEDENTS*** *- Judges are bound by precedents and procedure - They could use their discretion only when there is no declared principle to be found, no rule and no authority."*

21.3. Hon'ble Supreme Court in **<u>Medical Council of India Vs G.C.R.G. Memorial Trust & Others</u> <u>(2018) 12 SCC 564</u>** has ruled as under:

> ***The judicial propriety requires judicial discipline. <u>Judge cannot think in terms of "what pleases the Prince has the force of law". Frankly speaking, the law does not allow so, for law has to be observed by requisite respect for law.</u>***
>
> ***<u>A Judge should abandon his passion. He must constantly remind himself that he has a singular master "duty to truth" and such truth is to be arrived at within the legal parameters. No heroism, no rhetorics.</u>***
>
> ***A Judge even when he is free, is still not wholly free; he is not to innovate at pleasure; he is not a knighterrant roaming at will in pursuit of his own ideal of beauty or of goodness; he is to draw inspiration from consecrated principles***
>
> *10. In this context, we may note the eloquent statement of Benjamin Cardozo who said:*
>
> *The judge is not a knight errant, roaming at will in pursuit of his own ideal of beauty and goodness.*
>
> *11. In this regard, the profound statement of Felix Frankfurter1 is apposite to reproduce:*

For the highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law of which we are all guardians-<u>those impersonal convictions that make a society a civilized community, and not the victims of personal rule.</u>

The learned Judge has further stated:

What becomes decisive to a Justice's functioning on the Court in the large area within which his individuality moves is his general attitude toward law, the habits of the mind that he has formed or is capable of unforming, his capacity for detachment, his temperament or training for putting his passion behind his judgment instead of in front of it. The attitudes and qualities which I am groping to characterize are ingredients of what compendiously might be called dominating humility.

13. In this context, we may refer with profit the authority in Om ***Prakash Chautala v. Kanwar Bhan MANU/SC/0075/2014 : (2014) 5 SCC 417*** *wherein it has been stated:*

<u>19. It needs no special emphasis to state that a Judge is not to be guided by any kind of notion. The decision making process expects a Judge or an adjudicator to apply restraint, ostracise perceptual subjectivity, make one's emotions subservient to one's reasoning and think dispassionately. He is expected to be guided by the established norms of judicial process and decorum.</u>

And again:

20. A Judge should abandon his passion. He must constantly remind himself that he has a singular master "duty to truth"

and such truth is to be arrived at within the legal parameters. No heroism, no rhetorics.

*14. In **Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engineering Works (P) Ltd. and Anr. MANU/SC/0639/1997 : (1997) 6 SCC 450**, the threeJudge Bench observed:*

32. When a position in law is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops.

*15. The aforestated thoughts are not only meaningfully pregnant but also expressively penetrating. They clearly expound the role of a Judge, especially the effort of understanding and attitude of judging. **A Judge is expected to abandon his personal notion or impression gathered from subjective experience. The process of adjudication lays emphasis on the wise scrutiny of materials sans emotions. A studied analysis of facts and evidence is a categorical imperative. Deviation from them is likely to increase the individual gravitational pull which has the potentiality to take justice to her coffin.”***

21.4. In **Baradakant Mishra Vs. Registrar of Orissa High Court (1973) 1 SCC 374,** it is ruled as under;

> *"15.* ***The conduct of the appellant in not following the previous, decision of the High Court is calculated to create confusion in the administration of law. It will undermine respect for law laid down by the High Court and impair the constitutional authority of the High Court. His conduct is therefore comprehended by the principles underlying the law of Contempt. The analogy of the inferior court's disobedience to the specific order of a superior court also suggests that his conduct falls within the purview of the law of Contempt****. Just as the disobedience to a specific order of the Court undermines the authority and dignity of the court in a particular case, similarly* ***the deliberate and malafide conduct of not following the law laid down in the previous decision undermines the constitutional authority and respect of the High Court****. Indeed, while the former conduct has repercussions on an individual case and on a limited number of persons, the latter conduct has a much wider and more disastrous impact****. It is calculated not only to undermine the constitutional authority and respect of the High Court, generally, but is also likely to subvert the Rule of Law 'and engender harassing uncertainty and confusion in the administration of law."***

21.5. In **Legrand Pvt. Ltd . 2007 (6) Mh.L.J.146** it is ruled as under;

> ***9(c).*** *If in spite of the earlier exposition of law by the High Court having been pointed out and attention being pointedly drawn to that legal position, in utter disregard of that position, proceedings are initiated, it must be held to be a wilful*

disregard of the law laid down by the High Court and would amount to civil contempt as defined in Section 2(b) of the Contempt of Courts Act, 1971.

21.6. **<u>In Re: M.P. Dwivedi, (1996) 4 SCC 152</u>**, the Supreme Court initiated suo moto contempt proceedings against seven persons including the Judicial Magistrate, who disregarded the law laid down by the Supreme Court against handcuffing of under-trial prisoners. The Supreme Court held this to be a serious lapse on the part of the Magistrate, who was expected to ensure that basic human rights of the citizens are not violated. The Supreme Court took a lenient view considering that Judicial Magistrate was of young age. The Supreme Court, however, directed that a note of that disapproval to be placed in his personal file. Relevant portion of the said judgment is reproduced hereunder : -

> ***"22. ……*** *It appears that the contemner was completely insensitive about the serious violations of the human rights of the undertrial prisoners in the matter of their handcuffing inasmuch as when the prisoners were produced before him in court in handcuffs, he did not think it necessary to take any action for the removal of handcuffs or against the escort party for bringing them to the court in handcuffs and taking them away in handcuffs without his authorisation. This is a serious lapse on the part of the contemner in the discharge of his duties as a judicial officer who is expected to ensure that the basic human rights of the citizens are not violated. Keeping in view that the contemner is a young judicial officer, we refrain from imposing punishment on him. We, however, record our strong disapproval of his conduct and direct that a note of this disapproval by this Court shall be kept in the personal file of the contemner.* ***<u>We also feel that judicial officers should be made aware from time to time of the law laid down by this</u>***

<u>Court and the High Court, more especially in connection with protection of basic human rights of the people and, for that purpose, short refresher courses may be conducted at regular intervals so that judicial officers are made aware about the developments in the law in the field</u>.”

21.7. Hon'ble Supreme Court is upheld by Supreme Court in **<u>Smt. Prabha Sharma Vs. Sunil Goyal and Ors.</u> (2017) 11 SCC 77** where it is ruled as under;

> *"Article 141 of the Constitution of India - disciplinary proceedings against Additional District Judge for not following the Judgments of the High Court and Supreme Court - judicial officers are bound to follow the Judgments of the High Court and also the binding nature of the Judgments of this Court in terms of Article 141 of the Constitution of India. We make it clear that the High Court is at liberty to proceed with the disciplinary proceedings and arrive at an independent decision.*
>
> *BRIEF HISTORY (From : (MANU/RH/1195/2011))*
>
> *High Court initiated disciplinary proceedings against Appellant who is working as Additional District Judge, Jaipur City for not following the Judgments of the High Court and Supreme Court. Appellant filed SLP before Supreme Court - Supreme Court dismissed the petition.*
>
> *Held, the judgment, has mainly stated the legal position, making it clear that the judicial officers are bound to follow the Judgments of the High Court and also the binding nature of the Judgments of this Court in terms of Article 141 of the Constitution of India. We do not find any observation in the impugned judgment which reflects on the integrity of the Appellant. Therefore, it is not necessary to expunge any of the observations in the*

impugned Judgment and to finalise the same expeditiously.

Based on this Judgment, disciplinary proceedings have been initiated against the Appellant by the High Court. We make it clear that the High Court is at liberty to proceed with the disciplinary proceedings and arrive at an independent decision and to finalise the same expeditiously."

21.8. In **Dwarikesh Sugar Industries Ltd. Vs. Prem Heavy Engineering Works (P) Ltd., (1997) 6 SCC 450**, it is ruled as under;

*"**29**. It is unfortunate that the High Court did not consider it necessary to refer to various judicial pronouncements of this Court in which the principles which have to be followed while examining an application for grant of interim relief have been clearly laid down. The observation of the High Court that reference to judicial decisions will not be of much importance was clearly a method adopted by it in avoiding to follow and apply the law as laid down by this Court… **If the High Court had taken the trouble to see the law on the point it would have been clear that in encashment of bank guarantee the applicability of the principle of undue enrichment has no application**.*

__30__. We are constrained to make these observations with regard to the manner in which the High Court had dealt with this case because this is not an isolated case where the courts, while disobeying or not complying with the law laid down by this Court.

__31__. It is unfortunate, that notwithstanding the authoritative pronounce-ments of this Court, the High Courts and the courts subordinate thereto, still seem intent on affording to

this Court innumerable opportunities for dealing with this area of law, thought by this Court to be well settled.

33**. Before concluding we think it appropriate to mention about the conduct of the respondent Bank which has chosen not to be represented in this case. From the facts stated hereinabove it appears to us that the respondent Bank has not shown professional efficiency, to say the least, and has acted in a partisan manner with a view to help and assist Respondent 1. At the time when there was no restraint order from any court, the Bank was under a legal and moral obligation to honour its commitments. It, however, failed to do so. It appears that the Bank deliberately dragged its feet so as to enable Respondent 1 to secure favourable order of injunction from the court. Such conduct of a Bank is difficult to appreciate. We do not wish to say anything more lest it may feel that it will be prejudicial in the event of the appellant taking action against it."**

21.9. In **Dattani and Co. Vs. Income Tax Officer2013 SCC OnLine Guj 8841** it is ruled as under;

"*Precedents - Applicability of case Law - Held, whenever any decision has been relied upon and/or cited by any party, the authority/tribunal is bound to consider and/or deal with the same and opin whether in the facts and circumstances of the particular case, the same will be applicable or not.*

*In the instant case, the tribunal has failed to consider and/or deal with the aforesaid decision cited and relied upon by the assesse. Under the circumstances, all these appeals are required to be remanded to the tribunal***."**

21.10. Hon'ble Bombay High court in the matter between **Yogesh Waman Athavale Vs. Vikram Abasaheb Jadhav 2020 SCC OnLine Bom 3443,** it is ruled as under;

> *"**1.** The petitioner, by way of filing the present petition* ***prays for initiating contempt proceedings against respondent No. 1, who is Civil Judge, Junior Division and Judicial Magistrate First Class, Chiplun, District Ratnagiri, for allegedly disregarding the binding precedents of the Superior Courts.***
>
> ***13****. This takes us to the third instance wherein the petitioner had closed his evidence in D.V. Application No. 39 of 2015. The grievance of the petitioner is that despite there being no pleadings, respondent therein filed an application (Exh. 79 and 80) soliciting the issuance of witness summons which came to be eventually allowed by respondent No. 1 without adhering to the ratio laid down in National Textile Corporation Ltd. (supra). We have gone through the order passed below Exh. 79 and 80 in D.V. Application No. 39 of 2015, copy of which is filed on record.* ***Though the judgments relied on by the present petitioner are referred in the said order but there is no clarity as to how those judgments were distinguishable and not applicable to the case in question. This is not the way of differentiating the authorities vis-a-vis the facts and circumstances of the case in hand.***
>
> ***14.*** *The last instance is in respect of criminal proceeding in S.C.C. No. 2134 of 2013 filed under Section 138 of the N.I. Act. According to petitioner although the complainant in his cross examination had clearly and unequivocally admitted the receipt of payments in lieu of blank signed cheques given*

to him yet accused came to be convicted ***by overlooking the ratio laid down in the case of John v. Returning Officer (supra***). *The copy of judgment is made available on record.*

15. *Paragraph 16 of the judgment though shows the reliance placed by accused in John v. Returning Officer (supra*)***, surprisingly, there is no comment/opinion/observation of respondent No. 1 about the utility or otherwise of ratio laid down therein. The judicial mind does not reflect it as to how ratio laid down in the said judgment was not applicable to the case in hand. We prima facie intuitively feel that learned Counsel for the petitioner is right when he laments approach of respondent No. 1 vis-a-vis the above noted authorities/pronouncements. A common sense would prompt the conclusion that respondent No. 1 ought to have carefully gone through the decisions and the ratio laid down therein and then would have formed opinion about applicability or otherwise of the same. Unfortunately, it is clear that exercise was not properly undertaken and orders came to be passed in oblivion of the pronouncements/ provisions.***

19. *Here we deem it proper to take into account the submission of Mr. Nargolkar. According to him* ***respondent No. 1 has already been summoned by this Court on the administrative side and has been properly counseled pursuant to the similar complaint of the petitioner***. *It appears that respondent No. 1 has been properly and suitably counseled on the administrative side of the High Court.*

*20. **We hope and trust that in future respondent No. 1 will exercise his judicious mind while dealing with judicial work with greater care, caution and circumspection. We issue direction to learned Principal District and Sessions Judge with a request to monitor the performance of respondent No. 1 for one year henceforth by randomly checking the judgments and orders and keep the High Court informed, if required, for necessary action."***

21.11. In **Official Liquidator v. Dayanand, (2008) 10 SCC 1** it is ruled as under;

89. It is interesting to note that in Coir Board v. Indira Devi P.S. [(1998) 3 SCC 259 : 1998 SCC (L&S) 806] , a two-Judge Bench doubted the correctness of the seven-Judge Bench judgment in Bangalore Water Supply & Sewerage Board v. A. Rajappa [(1978) 2 SCC 213 : 1978 SCC (L&S) 215] and directed the matter to be placed before Hon'ble the Chief Justice of India for constituting a larger Bench. However, a three-Judge Bench headed by Dr. A.S. Anand, C.J., refused to entertain the reference and observed that the two-Judge Bench is bound by the judgment of the larger Bench—Coir Board v. Indira Devai P.S. [(2000) 1 SCC 224 : 2000 SCC (L&S) 120]

90. We are distressed to note that despite several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and law laid down by coordinate and even larger Benches by citing minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to the constitutional ethos and breach of discipline have grave impact

on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in the last six decades and increase in the frequency of conflicting judgments of the superior judiciary will do incalculable harm to the system inasmuch as the courts at the grass roots will not be able to decide as to which of the judgments lay down the correct law and which one should be followed.

91. We may add that in our constitutional set-up every citizen is under a duty to abide by the Constitution and respect its ideals and institutions. Those who have been entrusted with the task of administering the system and operating various constituents of the State and who take oath to act in accordance with the Constitution and uphold the same, have to set an example by exhibiting total commitment to the constitutional ideals. This principle is required to be observed with greater rigour by the members of judicial fraternity who have been bestowed with the power to adjudicate upon important constitutional and legal issues and protect and preserve rights of the individuals and society as a whole. Discipline is sine qua non for effective and efficient functioning of the judicial system. If the courts command others to act in accordance with the provisions of the Constitution and rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law.

92. In the light of what has been stated above, we deem it proper to clarify that the comments and observations made by the two-Judge Bench in U.P. SEB v. Pooran Chandra Pandey [(2007)

11 SCC 92 : (2008) 1 SCC (L&S) 736] should be read as obiter and the same should neither be treated as binding by the High Courts, tribunals and other judicial foras nor they should be relied upon or made basis for bypassing the principles laid down by the Constitution Bench.

22. Legal Malice & Malice in fact:- No defence available to a Judge when he inflict injury upon a person.

22.1. In the case of **West Bengal State Electricity Board** Vs. **Dilip Kumar Ray (AIR 2007 SC 976),** it is ruled as under;

> *"Malice in law""**A person who inflicts an injury upon another person in contravention of the law is not allowed to say that he did so with the innocent mind: he is taken to know the law, and he must act within the law. He may, therefore, be guilty of malice in law, although, so far the state of mind is concerned, he acts ignorantly, and in that sense innocently". Malice in its legal sense means malice such as may be assumed from the doing of a wrongful act intentionally but without just cause or excuse, or for want of reasonable or probable cause.** See S. R. Venkataraman v. Union of India, (1979) 2 SCC 491.*

22.2. Hon'ble Supreme Court in **Kalabharati Advertising Vs. Hemant Vimalnath Narichania And Ors**.**(2010) 9 SCC 437** had ruled as under;

> ***A. Legal Malice: The State is under obligation to act fairly without ill will or malice in fact or in law. "Legal malice" or "malice in law" means something done without lawful excuse. It is an act done wrongfully and wilfully without reasonable or probable cause, and***

not necessarily an act done from ill feeling and spite. It is a deliberate act in disregard to the rights of others. *Where malice is attributed to the State, it can never be a case of personal ill-will or spite on the part of the State. It is an act which is taken with an oblique or indirect object. It means exercise of statutory power for "purposes foreign to those for which it is in law intended."* ***It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, which intent is manifested by its injurious acts. Passing an order for an unauthorized purpose constitutes malice in law.***

22.4. In **Manohar Lal v. Ugrasen, (2010) 11 SCC 557** it is ruled as under;

"43. In State of Punjab v. Gurdial Singh [(1980) 2 SCC 471 : AIR 1980 SC 319] this Court dealing with such an issue observed as under: (SCC p. 475, para 9)

"9. ... Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. Pithily put, bad faith which invalidates the exercise of power—sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfaction—is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is

vested the court calls it a colourable exercise and is undeceived by illusion."

22.5. In **Selvi J. Jayalalithaa Vs. State (2014) 2 SCC 401**it is ruled as under;

*"**26.** In Ravi Yashwant Bhoir v. District Collector, Raigad & Ors., AIR 2012 SC 1339, while dealing with the issue, this Court held:*

"37..... Legal malice" or "malice in law" means something done without lawful excuse. It is a deliberate act in disregard to the right s of others. It is an act which is taken with an oblique or indirect object. It is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill-feeling and spite. Mala fide exercise of power does not imply any moral turpitude. It means exercise of statutory power for "purposes foreig n

to those for which it is in law intended." It means conscious violatio n

of the law to the prejudice of another, a depraved inclination on th e part of the authority to disregard the rights of others, where intent is manifested by its injurious acts. Passing an order for unauthorize d purpose constitutes malice in law." (See also: Kalabharati Advertising v. Hemant Vimalnath Narichania & Ors., AIR 2010 SC 3745)."

23. Order is vitiated as Perverse order when Judge ignores the material on record and considers extraneous factors.

23.1. That in **Prem Kaur Vs. State of Punjab (2013) 14 SCC 653,** it is ruled as under;

*"**15.** In **Excise & taxation officer-cum-Assessing Authority Vs. Gopi Nath & Sons** this court held that:*

"7. … if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse, then, the finding is rendered infirm in law."

*__2.__ In **Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341]**, this Court held that **an order suffers from perversity, if relevant piece of evidence has not been considered or if certain inadmissible material has been taken into consideration or where it can be said that the findings of the authorities are based on no evidence at all or if they are so perverse that no reasonable person would have arrived at those findings.***

*__3.__ In **Gaya Din v. Hanuman Prasad**, this Court further added that an order is perverse, if it suffers from the vice of procedural irregularity.*

*__4.__ In **Rajinder Kumar Kindra v. Delhi Admn**, the Court while dealing with a case of disciplinary proceedings against an employee considered the issue and held as under:*

*"17. It is equally well settled that where a quasi-judicial tribunal or arbitrator records findings based on no legal evidence and the findings are either his ipse dixit or based on conjectures and surmises, **the enquiry suffers from the additional infirmity of non-application of mind and stands vitiated. … they disclose total non-application of mind.** … The High Court, in our opinion, was clearly in error in declining to*

examine the contention that the findings were perverse on the short, specious and wholly untenable ground that the matter depends on appraisal of evidence."

5. This Court in **Satyavir Singh v. State of U.P.** *, held:*

"21. … 'Perverse' was stated to be behaviour which most of the people would take as wrong, unacceptable, unreasonable and a ***'perverse' verdict may probably be defined as one that is not only against the weight of the evidence but is altogether against the evidence. Besides, a finding being 'perverse', it could also suffer from the infirmity of distorted conclusions and glaring mistakes."***

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21. *The trial court did not decide the case giving adherence to the provisions of Section 354 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC"). The said provisions provide for a particular procedure and style to be followed while delivering a judgment in a criminal case and such format includes a reference to the points for determination, the decision thereon, and the reasons for the decision, as pronouncing a final order without a reasoned judgment may not be valid, having sanctity in the eye of the law. The judgment must show proper application of the mind of the Presiding Officer of the court, and that there was proper evaluation of all the evidence on record, and the conclusion is based on such appreciation/evaluation of evidence. Thus, every court is duty-bound to state reasons for its conclusions.*

***22.** In **State of Punjab v. Jagir Singh** this Court held as under:*

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*"23. **A criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and phantasy.** It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the crime with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although **the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures.**"*

24. As per law laid down in **Vijay Shekhar Vs. Union of India (2004) 4 SCC 666.** Justice Chandrachud is guilty of 'fraud on Power' for ignoring material on record and considering extraneous factors.

26. Request: It is therefore humbly requested for;

(a) Taking strict action against sycophant Bar members publishing letters in gross Contempt of the specific directions given by Hon'ble Supreme Court in the case **C. Ravichandran Iyer vs. Justice A.M. Bhattacharjee, (1995) 5 SCC 547**, where it is specifically ruled that, when Hon'ble Chief Justice of India is seized of the matter the bar bodies should not take any steps to influence the decision and allow Hon'ble Chief Justice of India to conduct enquiry and take impartial, fair and just decision on the basis outcome of enquiry.

(b) Calling investigation report from CBI and taking action against Justice D. Y. Chandrachud if the complaint given by R. K. Pathan has substance.

OR

(c) Taking action under section **211, 192, 193, 471, 474 Etc.**, of Indian Penal Code against complainant **R.K. Pathan** if his complaint is false & frivolous and against the record of the case.

(d) Taking Suo-moto action of contempt against Justice D.Y. Chandrachud for his new offence on **10.10.2022**, of hearing the similar case related with his son.

Date: 11.10.2022

Place: Mumbai

A. H. Koiri

(Secretary General)

Indian Lawyers and Human Rights Activists' Association