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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION (L) NO. 9228 OF 2021

Dhruti Kapadia and Anr. .. Petitioners

Vs.

The Union of India & Ors. .. Respondents

Ms. Dhruti Kapadia and Mr. Kunal Tiwari, Petitioners-in-person.
Mr. Anil C. Singh, Addl. Solicitor General a/w Advait Sethna
i/by Anusha P. Amin for respondent No.1-UOI.

Ms. K. H. Mastakar for MCGM.

Mr. A. A. Kumbhakoni, Advocate General a/w Smt. Purnima
Kantharia, Govt. Pleader a/w Ms. Geeta Shastri, Addl. Govt.
Pleader for respondent-State.

**CORAM : DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE : APRIL 22, 2021

PC :

1. The petitioners ~ practicing advocates ~ showing utmost concern for the elderly and disabled citizens have presented this Public Interest Litigation and sought for orders on the respondents to introduce door-to-door vaccination for such citizens. Appreciating the said concern, we had by our order dated April 9, 2021 called upon the respondents to file reply-affidavits by April 20, 2021 and directed listing of this PIL petition on April 21, 2021.

2. In terms of such order, an affidavit-in reply has been filed on behalf of the respondent no.1. According to the said respondent, door-to-door policy for COVID-19 vaccines currently does not exist because of the following reasons:

“6.1 In case of any Adverse Event Following Immunization (“AEFI” for short), case management may not be proper and there will be delay in reaching health facility.

6.2 Challenges in maintaining protocol of observation of beneficiary for 30 minutes after vaccination.

6.3 The vaccine will be place in and out of Vaccine Carrier for each vaccination there by increasing chances of contamination and exposure beyond recommended temperature which could affect vaccine efficacy and cause Adverse Events Following Immunization which will be detrimental to vaccine confidence and programme performance.

6.4 high vaccine wastage due to increased time going from door to door taking more time for reaching out to each beneficiary.

6.5 Following protocols for Physical Distancing and Infection prevention and Control might not be possible during door to door campaign.”

3. Having read the reasons assigned by the respondent no.1, which in its opinion do not encourage a door-to-door vaccination of the elderly and disabled citizens, we are of the considered *prima facie* opinion that despite not being experts

in the field of medicine and health care, the said reasons, if indeed they form part of a policy decision of the Central Government, need to be revisited for what follows.

4. It could be true, as contended by Mr. Singh, learned Additional Solicitor General, that the elderly citizens are disabled to visit the vaccination centers for being administered the vaccine by reason of their advanced age and also because of suffering from one or the other comorbidity; and in such case, after vaccination, should there be an AEFI situation, appropriate medical facility may not be available where the vaccine is administered and it may not also be possible to give proper medical attention to such elderly citizen. Broadly, paragraphs 6.1 and 6.2 (supra) are relatable to this argument of Mr. Singh.

5. If indeed, vaccination of elderly citizens by adopting a door-to-door vaccination policy is being avoided because such elderly citizens are aged and suffer from comorbidities, we regretfully record that the elderly citizens are literally being asked to choose between the devil and the deep sea. A policy which leads to such conclusion has to be viewed as arbitrary and unreasonable, for the elderly citizens are entitled to the protection of Article 21 of the Constitution of India as much as the young and abled-bodied citizenry of the country. It is, thus, difficult to sustain such reason.

6. The reason at paragraph 6.3 (supra), it would appear, overlooks the fact that presently new generation ambulances with ICU facilities are even available. It is difficult to assume that ambulances fitted with refrigerators to maintain the

recommended temperature are not available and, therefore, efficacy of the vaccine would be compromised or that AEFI following vaccination would have a detrimental effect on vaccine confidence and programme performance. Should long exposure of the vaccine result in contamination, it is for the Government in its appropriate department to explore ways and means to prevent contamination as well as exposure beyond the recommended temperature so that the vaccination programme can be taken to the door steps of elderly and disabled citizens.

7. The reason at paragraph 6.4 (supra) is an off-shoot of the reason at paragraph 6.3 (supra). If indeed proper temperature control measures are taken and personnel well trained to vaccinate together with the vaccine are made to travel in appropriate vehicles for reaching duly identified elderly and disabled citizens, who could benefit by reason of such vaccination, we see no reason as to why this particular reason could hinder adoption of a door-to-door vaccination policy.

8. The final reason at paragraph 6.5 (supra) appears to us to be one assigned oblivious of the realities at the ground level. We can take judicial notice of assembly of huge crowd at the vaccination centers at any given point of time where COVID protocols, at times, are unintentionally compromised. The respondent no.1 has not explained as to how it would not be possible to maintain physical distancing and infection prevention control measures if a door-to-door vaccination campaign is introduced.

9. Mr. Singh has assured us that the decision of the respondent no.1 not to initiate door-to-door vaccination programme shall be given a relook within two weeks.

10. In view of such submission, we adjourn the hearing of this PIL petition till May 6, 2021.

11. Bearing in mind the reported shortage of vaccines at the vaccination centers, we propose to consider the other aspect of the petitioners' grievance regarding simplification of the procedure for enlistment for such vaccination after looking into the fresh decision that the respondent no.1 might take in terms of this order.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)