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Case Commentaries on

Jacob Puliye V. Union of India

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Semester- 7th (4TH year)

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Introduction

The Hon'ble Supreme Court of India delivered its decision in the matter Jacob Puliye v. Union of India & Ors on May 2, 2022, after carefully examining the precise details of the vaccination policy, the dissemination of clinical trial data, the validity of vaccine emergency approvals, and the reporting of unflattering vaccination effects.

BACKGROUND:

The Supreme Court of India heard a public interest lawsuit case that contended on

- Adverse impacts of India's emergency authorization of vaccinations.
- The requirement for transparency when disaggregated clinical trial data for vaccinations are published.
- The requirement for clinical data dissemination.
- Lack of openness in the regulatory approval process.
- The expert bodies' minutes and bylaws.
- Adverse Events Following Immunization ("AEFIs") are imperfectly evaluated, vaccine mandates without informed consent are unlawful, and there are other issues as well.

It was claimed, among other things, that compulsory vaccination would interfere with the rights of people to make an informed choice which is guaranteed by Article 21 of the Indian Constitution. It was further postulated that the currently existing vaccines are less effective against the recently mutated Covid-19 types and that natural immunity is more robust than immunity produced after vaccine inoculation. Therefore, the petitioner claimed that vaccination requirements (including state-level requirements) are "irrelevant" because both

vaccinated and unvaccinated people can spread and contract the virus.

Facts

A member of the National Technical Advisory¹ Group on Immunization, the petitioner sought the court, among other things, for a ruling that vaccination requirements are unconstitutional in all ways, including as a requirement for receiving any benefits or services. The petitioner drew the court's attention to a variety of orders, circulars, and guidelines issued by various state governments in the context of COVID-19 in 2021 and claimed that requiring vaccination for access to "resources, public places, and means of earning livelihood" would violate the fundamental rights of those who aren't immunized.

The state governments of Tamil Nadu, Maharashtra, Delhi, and Madhya Pradesh contended that the limits imposed on unvaccinated people were in the public interest and therefore justified, despite the government of India's subservience that vaccination against COVID-19 has always been voluntary for all.

Issues

- i. Whether the petition is maintainable or not.
- ii. Whether vaccination mandates infringe Article 21 of the Indian Constitution.
- iii. Whether Maintaining private clinical trial data in public domain and omitting to notify AEFIs.
- iv. Whether a person's constitutional rights in connection to mandates for the COVID-19 vaccine contradict with their right to personal autonomy.
- v. Whether there exist any restrictions that such a state cannot impose on individuals who are not immunized in the sake of public health and safety.

¹ Covid-19| no individual can be forced to be vaccinated; holds supreme ... , <https://www.scconline.com/blog/post/2022/05/04/covid-19-forced-vaccination-immunisation-privacy-right-bodily-integrity-supreme-court-judgments-legal-news-research-updates-law/> (last visited Oct 4, 2022).

Legal Analysis

Union of India (UOI), the respondent, contended that judicial review ought not to be used to override the judgments made by domain experts regarding vaccinations and related methods. Furthermore, the UOI contended that the Petitioner's objections could exacerbate already present vaccine reluctance in the nation.

The petitioner's challenges created questions about public health and fundamental rights guaranteed by the Constitution, the court determined, requiring careful examination on the part of the court. The maintainability objection was thus rejected.

Vaccine Mandates: The petitioner contended that the government's (including some state governments') vaccination regulations, which include bans against individuals who have not acquired the required vaccinations, are coercive in nature and hence unconstitutional. The petitioner further emphasized how much stronger and more durable natural immunity developed through Covid-19 contamination is than immunity supplied by vaccinations. It was also underlined that both vaccinated and unvaccinated people can transmit the virus because the currently existing vaccinations are useless against variations. The views put forth were substantiated by other scientific research and articles.²

The UOI (as well as the various state governments) rejected this argument, stating that the vaccines have been shown to be equally safe and effective and that any further discussion will just increase the nation's already widespread vaccine hesitancy. Moreover, it was contended that the implementation of vaccination emergency approvals and any accompanying clinical trials all take place within the boundaries of the nation's legal system. The state governments of Tamil Nadu, Maharashtra, Madhya Pradesh, and the NCT of Delhi opined that any vaccine mandate implemented in the aforementioned states (which had strict provisions against unvaccinated persons) was done so with consideration for the larger public interest and for the health and safety of the community as a whole and was regularly revised in light of the changing situation during pandemic.

The Court also kept track of the virus's capacity to evolve and recognized the global regulations released in this regard by international organisations like the WHO. The Court concluded that the vaccination campaign being carried out by the Government of India in the name of public health cannot be condemned.

² The Leaflet, <https://theleaflet.in/right-to-self-determine-what-may-be-injected-into-our-bodies-is-fundamental-says-petitioner-in-the-vaccination-case-in-the-supreme-court/> (Last Visited On October 4,2022)

It is essential to remember that the Court determined the following while determining personal autonomy:

- A. Article 21 protects bodily integrity, and no citizen may be coerced into receiving a vaccination.
- B. Bodily dignity involves the right to life, which encompasses the option to forgo receiving medical care.
- C. People have the option to forego vaccination. However, the government may impose reasonable restrictions upon these people if there is indication that they could spread the virus and harm the public's health as a whole.

It is vital to remember that the Court determined that the UOI had no rationale for the restrictive provisions against those who had not received vaccinations. The Court noted that while the decision in the case was pending, certain governments (including Tamil Nadu and Maharashtra) changed their vaccination requirements in light of the changing Covid-19 situation in those states.³

The Court recommended that all authorities (both governmental, private, and educational institutions) examine their vaccination requirements and ensure that any restricted language is reasonable given the country's current Covid-19 situation. The Court also recommended that the UOI adopt a "health pass" similar to the one used in France.

Non-disclosure of separated clinical trial data in the public domain: The plaintiff contended that COVAXIN and COVISHIELD clinical trial data had not been disclosed to the general public. He claimed that it is essential to publish separate clinical trial data publicly in order to identify any deleterious impact across a range of age groups and communities and, as a result, to assist people in deciding whether to get vaccinated more wisely.

In response to the aforementioned claim, the UOI stated that emergency utilization approvals had been given after following the appropriate procedures and that all the requisite expert committees had been formed and consulted.

The Court pointed out that during the various phases of vaccine clinical trials, there are strict legal restrictions that vaccine manufacturers and other participants must comply with.

³ Id.at 3

Furthermore, the petitioner's contention that the vaccinations received emergency clearances in a panic without carefully evaluating the data from clinical studies was rejected by the court. The Court further mentioned that the WHO has approved both of the aforementioned vaccines.

The petitioner argued that there had been a number of deaths and severe occurrences following vaccination (with the vaccines) and that the government lacked a suitable system for reporting them. UOI claims to have strictly followed the post-vaccination Adverse Event Surveillance procedures and procedures set forth in the National Post-Vaccination Surveillance Guidelines. Additionally, UOI points out that the COWIN portal also has a mechanism to report all his AEFIs. All serious AEFI cases, including reported deaths, are subject to rapid causality investigation, analysis and assessment by a team of subject matter experts. trained subject. It became clear that mere reports of AEFI cases should not be attributed to vaccines unless supported by causal analysis of adverse events associated with Covid-19 vaccines. I'm here. Therefore, the court dismissed the plaintiff's application. However, the court emphasized the need to report undesirable and suspicious events. He directed his UOI to facilitate and set up mechanisms for reporting by individuals and physicians and to make relevant reports public.

The SC emphasized the importance of personal autonomy by referring to its views in *Common Cause v Union of India*, which upheld an individual's right to refuse unwanted medical treatment and not be compelled to take any undesired medical treatment. Recognising such rights, the SC stated that where there is a likelihood of unvaccinated individuals spreading covid to others, or contributing to mutation of the virus, burdening public health infrastructure and affecting public health at large, the government can impose limitations on individual rights that are reasonable and proportionate to the legitimate state aim of fighting the pandemic. It is pertinent to mention here that the respondent, Union of India, in its response to the petition has affirmed that covid vaccination in India is voluntary for individuals.

State rights to impose restrictions On state rights vis-a-vis imposing restrictions on unvaccinated individuals on grounds of public health and safety, the SC referred to its views in *K.S. Puttaswamy v Union of India*⁴, reiterating the three conditions for constitutional validity of state policies placing restraints on an individual's constitutional rights to privacy: the existence of a law to justify an encroachment on privacy; the need for such restriction in terms of a legitimate state aim, by virtue of which the imposed restriction may be deemed reasonable by standards of Article 14 of the Indian Constitution; and the adoption of means which are proportional to the object and needs sought to be fulfilled by the law imposing restrictions on an individual's privacy.

The SC stated that such parameters will also guide a state's right to curb an individual's personal autonomy through state policies and mandates in the context of inter alia covid-19-related restrictions. In the opinion of K.S. In Puttaswamy, SC believes that the vaccination policy of the Indian government is reasonable and not arbitrary. However, he argues that the restrictions that states impose on the unvaccinated to prevent access to public places, services and resources are disproportionate to the legitimate goal of the government. The state is against the pandemic. The SC further recommends that based on the current low infection rate and spread of covid, and until research is available to justify restricting the rights of the unvaccinated, all authorities have authorities, including private organizations, should review all restrictions currently in place for unvaccinated persons in terms of access to public places, services and resources.

Judgment

The Court stated from the outset that while courts do not and should not get involved in matters of public policy, such as those involving vaccinations, they do have the authority to invalidate a policy if it is erroneous, irrational, arbitrarily applied, or unfair. According to the Court, it is prudent for judges to refrain from interfering with government policy decisions regarding public health after gathering and analyzing data from surveys and studies.

This does not, however, implicate that courts must forego their authority to examine whether the policy under consideration was developed while taking into account all pertinent information and whether, in light of the evidence on file, the policy in question can be deemed to be free of discrimination and unreasonableness.

⁴ *K.S. Puttaswamy v Union of India*, (2017) 10 SCC 1

The Court did acknowledge that the evidence on file made it obvious that vaccination is a "critical public health intervention" against the backdrop of the catastrophe generated by the COVID-19 outbreak after addressing the aforementioned features.

Having acknowledged that, the Court considered domestic and international judicial perspectives and noted that every person has the right to refuse any medical treatment that he or she Or they do not desire on the question of vaccination as a requirement rather than a recommendation. It went on to say that if the government believes that a person's choice to forgo vaccination may increase the likelihood that they will "spread the infection to other people, contribute to the virus' mutation, or burden the public health infrastructure," they may place reasonable restrictions on them.

Considering that "both vaccinated and unvaccinated individuals presently appear to be susceptible to transmission of the virus at similar levels," the Court felt that vaccination mandates lack reasonableness in their imposition and in the resulting differential treatment of vaccinated and unvaccinated people in regards to access to or use of public places. The Court took note of the aforementioned and ordered that "all law enforcement agencies in this nation, such as private organisations and educational establishments, evaluate the appropriate directives and orders placing limits on non - vaccinated people in terms of access to public places" until the COVID-19 virus spread was low in the nation and subject to any new findings that may justify vaccination mandate.

Comment

Since the Government of India implemented its vaccination policy, the question of whether or not individuals should be required to receive vaccinations has been a source of controversy. As state governments started placing limits on people who had not received their vaccinations, especially those related to entry to the job, the debate became increasingly obvious. Although the orders containing such restrictions were recalled and rescinded as the COVID-19 positivity rate witnessed a significant decrease in the country, several state governments, including Tamil Nadu, Karnataka, and West Bengal, required private employers to make sure that their entire staff is vaccinated against COVID-19.

It is important to keep in mind that the Court's whole observations in Jacob Puliyel were largely focused on the issue of access to "public spaces, services, and resources." The Court did not address the conflict between a person's right to be unvaccinated and a private employer's duty of care and responsibility for a safe workplace, as well as the employer's right to restrict access to its workplace to only those employees who are immunized against COVID19, in its ruling. Notably, the petitioner and the court's discussion focused on the state governments' directives regarding limits on those who aren't immunized rather than private companies' requirements in this area.

Courts have previously understood the term "public spaces," which remained the focus of the judgment, to refer to locations that the general public habitually and generally has access to, whether by right, permission, usage, or another factor. However, courts have determined that an employer has a duty to exercise reasonable care to ensure the safety of its employees in the specific context of private employers .

Employers should think about adopting a calibrated approach to ensure that no significantly adverse administrative actions are taken in cases where employees refuse to get themselves vaccinated until specific rulings are made by the judiciary on the subject of vaccination mandates by private employers ³ in light of the COVID-19 pandemic.

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