

To,

1. Mr. Amol Yedge, Collector, Yavatmal.
2. Chief Officer, Nagar Parishad, Pusad.
3. Mr. Dilip Patil Bhujbal, District Superintendent of Police, Yavatmal.

Subject:-

- (i) Avoidance of illegal enforcement of mask mandates through violation of sections 38 and 39 of the Disaster Management Act, 2005 by the Government of Maharashtra despite advisory by the Central Government that wearing of masks is not mandatory. Prevention of offences under Sections 166, 120 (B), 34 and Sections 51 (B), 55 of the said Disaster Management Act;

- (ii) Filing of offenses under Sections 341, 342, 220, 385, 120 (B), 34 and 109 on marshals / officers / employees for illegally detaining citizens and imposing penalty for not wearing masks.

OR

- (iii) If the orders and evidence of the Central Government are wrong and the Government of Maharashtra has the right to go against the Central Government and make rules, then to take appropriate legal action against me for not wearing a mask.

References:- (i) Central Government's letter dt. **19.05.2021** and dt. **27.05.2021**.

(ii) Hon. High Court and Hon. Supreme Court order

Re Dintar Incident Vs. State of Mizoram 2021 SCC OnLine Gau 1313, Madan Mili Vs. UOI 2021 SCC OnLine Gau 1503, Common Cause Vs. Union of India (2018) 5 SCC 1, Nandini Satpathy Vs. P.L. Dani (1978) 2 SCC 42.

Respected Sir,

1. The reply given by the Central Government's Ministry of Health on **19.05.2021** clarifies that there is no scientific evidence that wearing masks benefits healthy people. Also, people who do not have Covid-19 symptoms should not wear a mask.

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

4. Use of masks by general public

4.1. Persons having no symptoms are not to use mask

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

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

Link:-<https://drive.google.com/file/d/1wacZL6qyo-5McYEST00cH4i9pZONg5xg/view?usp=sharing>

A copy of that letter is attached.

2. In its reply dated **27.05.2021**, the Central Government has made it clear that wearing a mask is optional and not mandatory. Mask wearers should not wear the mask for more than **eight hours**.

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

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

Link:-https://drive.google.com/file/d/1qNZGh4DMCWQUVPQ4_Di-D7f3nhdBi9Nq/view?usp=sharing

A copy of that letter is attached.

3. Research by 47 different world renowned experts has shown that there is no evidence that wearing a mask stops the spread of corona virus but there is enough scientific evidence that wearing a mask causes respiratory diseases and lung diseases (lungs damage).

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

“The mask is unscientific, dangerous and useless. Forcing it is deteriorating health. The situation gets more serious.

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

4. The central government, in a letter dated **17.07.2021**, has clarified that the size of the pores of a high quality Surgical Mask is between 0.3 - 10 μm & 0.1 - 0.3 μm and the corona virus is many times smaller than that. This means that even after wearing a mask, thousands of corona virus particles can pass through it and spread the infection.

The central government's answer is as follows:

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

2. Pore size of standard surgical mask and N95 mask is 0.3 – 10 μm & 0.1 – 0.3 μm respectively."

5. One study also found that a 15-layer mask could allow a virus particle to pass through with ease.

6. But the corrupt, ignorant and incompetent members of the Maharashtra Task Force, such as Shri. Rahul Pandit and Shri. Sanjay Oak are advocating wearing a mask.

7. It is clear from this that the imposition of wearing of masks has been issued with a malafide and misguided motive and for this the members of the task force are co-accused under Section 409, 52, 120 (B), 34 and Section 10 of the Evidence Act and are required to be severely punished. .

8. In addition, the government is obligated to exempt those who suffer from respiratory problems and asthma from wearing a mask if they obtain a certificate from a doctor. Sections 52, 115, 304, 304-A, 302 provide that the officers concerned will be responsible for the death and other injuries caused to the person otherwise.

9. This shows that the government is not acting in the best interests of the people but is conspiring to make the people even sicker in order to benefit the vaccine manufacturers and pharmaceutical companies by tens of thousands of crores of rupees and enslave humanity.

10. Given clarifications by the Central Government, the order issued by the Chief Secretary of Maharashtra, Sitaram Kunte on November 27, 2021, and orders and restrictions issued by any official in the state to this effect are illegal and void ab initio. Under Sections 38 (a) and 39 (c) of the Disaster Prevention Act, 2005, the State Government or any District Level Collector or any officer has no power to issue decrees in violation of the clarifications of the Central Government.

“39. Responsibilities of State Government Departments,

It will be the responsibility of every department of the state government to ensure that

(A) The measures required for disaster prevention, mitigation, preparedness and capacity building should be planned in accordance with the guidelines laid down by the National Authority and the State Authority; ”

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

Section 38(1) reads thus;

“38. State Government to take measures.-

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

10.2. Section 39(a) reads thus;

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

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

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

It reads thus;

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

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

11. Under Article 19 (6) of the Indian Constitution, simply by coming out with a circular or a G.R., personal freedom and freedom to earn a living of the citizens cannot be trampled upon as per The Hon'ble High Court in Re: Dinthar 2021 SCC OnLine Gau 1313 and Madan Mili Vs. UOI 2021 SCC OnLine Gau 1503. In the case mentioned above, the orders of the Collector and the Chief Secretary, mandating immunization, have been revoked. Links to that command are available below.

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

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

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

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

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

<https://drive.google.com/file/d/1cLKR3LutxomKX3BbmaIBwQ9SfUhdvIJQ/view>

12. Twice the rules brought by the Government of Maharashtra against the instructions of the Central Government were declared illegal by the Central Government and the orders were later withdrawn by the Government of Maharashtra. For example, on 30.11.2021 the Government of Maharashtra had issued an order stating RT-PCR would be binding on the people entering

Maharashtra. This order was later withdrawn as it was against the guidelines given by the Central Government. The news regarding this has been published in 'Free Press Journal' and 'Dainik Sakal' today.

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

Links:

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

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

13. Rajesh Bhushan, Chief Secretary, Ministry of Health, Central Government sent a letter to Chief Secretary of Maharashtra Dr. Pradip Vyas . The text of the letter was as follows.

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

- i. Mandatory RTPCR testing of all international travellers at the Mumbai airport, irrespective of country of origin*
- ii. Mandatory 14-day home quarantine for all international passengers, despite being tested RTPCR Negative upon arrival*
- iii. Mandatory RTPCR test for passengers planning to undertake connecting flights after disembarking at Mumbai and further travel subject to a negative RTPCR result*

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

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

Link: <https://drive.google.com/file/d/1OTvnR04kQv7LwYGFru8IajJblBTII1wN/view?usp=sharing>

14. However, some officials and employees are illegally endangering the lives of healthy citizens by forcing them to wear masks and this is a crime under sections 327, 329, 323, 336, 109, 52, 120 (B), 34 of the Constitution.

Section 323 in the Indian Penal Code:-

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

Section 327 in the Indian Penal Code:-

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

Section 329 in the Indian Penal Code:-

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

Section 336 in the Indian Penal Code:-

“336. Act endangering life or personal safety of others.- *Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall*

be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.”

Section 109 in the Indian Penal Code:-

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

Section 52 in the Indian Penal Code:-

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

Section 120B in the Indian Penal Code:-

“120B. Punishment of criminal conspiracy.-

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 2[imprisonment for life] or rigorous imprisonment for a term of two years or

upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

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

Section 34 in the Indian Penal Code:-

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

15. It is a criminal offense under Sections 341, 342 for an officer to stop or obstruct a person’s movement in order to recover an unlawful penalty.

Section 341 in the Indian Penal Code:-

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

Section 342 in the Indian Penal Code:-

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

16. Illegally levying fines that go against Central Government directives, by threatening citizens of legal action fall into the category of extortion and are punishable under sections 384 and 385 of the IPC.

Section 384 in the Indian Penal Code:-

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

Section 385 in the Indian Penal Code:-

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

17. Details of legal action to be taken against the police for illegal activities related to masks: -

17.1. The following clauses are imposed by the police on persons who do not wear masks:

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

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

(b) Section of Disaster Management Act 51(b):-

“51. Punishment for obstruction, etc.-

Whoever without reasonable cause-

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

17.2. To begin with, the police have no authority to impose or take any action under section 188 of the IPC. This is because under Section 195 of the Code of Criminal Procedure (Cr.P.C.), only the officer who issued the order, the Chief Secretary for instance, can lodge a complaint. The court does not have the power to hear complaints from other people or the police. Also, even if any other clause has been added along with section 188, the police do not have the authority to take action as they are still bound by restrictions under Cr.P.C. 195.

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

17.3. Article 269 of the Act is aimed at those who deliberately spread the disease. It cannot be used in the case of masks and against healthy people. This is because there is no evidence that wearing a mask stops spread of the disease or that everyone who does not wear a mask spreads the disease. If the police impose that clause, they could face severe action. In case of unlawful arrest or forced bail or filing of chargesheet under false clause, the concerned police officer is guilty under Sections 211, 192, 193, 220, 120 (B), 34, 52, 109 and Sections 145 (2) of Maharashtra Police Act and are subject to internal punishment.

17.4. Section 51 (B) of the Disaster Management Act cannot apply to a person who does not wear a mask, as the Government of Maharashtra rules are against the rules of the Central Government. .

17.5. Section 211 of the Indian Penal Code:-

“211. False charge of offence made with intent to injure.- *Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, 1[imprisonment for life], or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”*

17.6. Section 192 of the Indian Penal Code:-

“192. Fabricating false evidence.- *Whoever causes any circumstance to exist or 1[makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement], intending that such circumstance, false entry or false statement may appear in evidence in a*

judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said “to fabricate false evidence”.

17.7. Section 193 of the Indian Penal Code:-

“193. Punishment for false evidence.- *Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.”*

17.8. Section 220 of the Indian Penal Code:-

“220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.- *Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial*

or to confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

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

“120(B). Punishment of criminal conspiracy.-

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

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

17.11. Section 34 of the Indian Penal Code:-

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

17.12. Section 52 of the Indian Penal Code:-

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

17.13. Section 109 of the Indian Penal Code:-

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

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

*“**145(2)** Any Police officer who (a) is guilty of cowardice, or (b) resigns his office or withdraws himself from duties thereof in contravention of section 29, or (c) is guilty of any wilful-breach or neglect of any provision of law or of any rule or order which as such Police officer, it is his duty to observe or obey, or (d) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force, shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.”*

18. The body needs enough oxygen to protect itself from Covid. But wearing a mask does not allow enough oxygen to enter the body. As a result, many doctors are advising people not to wear masks as this may endanger their lives and medical exemption certificates stating the same are available with many people.

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

Face mask side effects include lowered oxygen levels.

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

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

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

Decreasing oxygen and increasing carbon dioxide in the bloodstream stimulates a compensatory response in the respiratory centers of the brain. These changes in blood gases result in increases in both frequency

and depth of breaths. This exposes another risk – if your mask traps some virus you are breathing more hence increasing viral load and exposure.”

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

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

19. It is clear the Maharashtra government has imposed restrictions with intentions to create fear among the citizens without considering if they can be detrimental to life.

19.1 At Sanjay Raut's daughter's wedding on 29.11.2021 many people had turned up including Mumbai Mayor Kishori Pednekar, various District Collectors, Ministers etc. Most people were seen without a mask and did not observe any social distancing. It is clear from this that the ministers and officials are aware masks and social distancing have no scientific basis, but are merely fooling the people and treating them like slaves and breaking their own rules. The question is why no charges have been filed against them.

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

19.2. Today, there is no serious outbreak of corona anywhere in the entire state. People are happily going on with their business. More than 10,000 state transport (S.T.) employees were on a hunger strike at Azad Maidan in Mumbai. The farmers' agitation went on for a year and all the MLAs, MPs, ministers were holding their social, political programs, their employees holding their meetings. They did not find it dangerous to do so. Every official should be answerable to the citizens as to why and for what purpose these restrictions have been imposed on the common man and no one else.

19.3. Even after the new rules set by the government, a state minister, Shri. Nawab Malik and Shri. Mohit Kamboj while appearing for a court case, were found to be not observing any social distancing regulations. Same goes for their activists who were present in thousands.

19.4. Government officials and leaders are harassing citizens and forcing them to follow rules whereas they themselves break them. From all the above mentioned evidence and the provisions of law, it is clear that the government does not seem to be working in the best interest of people and has a motive of benefiting vaccine manufacturers.

20. Request: However, I humbly request you that,

(i) The Government of Maharashtra, in violation of Sections 38 and 39 of the Disaster Management Act and Sections 166, 120 (B), 34 has made it mandatory to wear a mask for every citizen. These crimes should be immediately stopped under the Sections 52(B) and 55 of the Disaster Management Act.

(ii) Crimes under Sections 341, 342, 220, 385, 120 (B), 34, 109 should be filed against the marshals / officers / employees for illegally stopping the citizens and collecting fines from them.

OR

(i) If the orders and evidence of the Central Government are not up to the mark and the Government of Maharashtra has the right to go against the Central Government and make rules, then appropriate legal action should be taken against me for not wearing a mask.

Yours sincerely,



Mursalin Sheikh

President)

Protection Council)

Mr.

(District

(Human Rights

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