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## SUPREME COURT ON MANDATORY COVID-19 VACCINATIONS

### A. Introduction

The Supreme Court (SC), in *Jacob Puliyeel v. UOI & Ors.*,<sup>1</sup> held on May 2, 2022, that no one can be forced to take the Covid-19 vaccine. However, given situations where rates of infection are rising, the state governments' vaccine mandates are not disproportionate, as they are permitted to impose reasonable restrictions on individual rights for the protection of public health and safety.

### B. Brief Facts

The Petitioner, Jacob Puliyeel, was a member of the National Technical Advisory Group on Immunization (NTGAI) and he moved the SC to declare unconstitutional, state governments' Covid-19 vaccination mandates as a precondition for accessing benefits or services. He also sought release of data relating to emergency use authorisations, relevant minutes of meetings and other relevant records.

### C. Contentions

#### Petitioner:

- Highlighted adverse consequences of emergency approval vaccines in India, the need for transparency in clinical trials as well as vaccine mandates in the absence of informed consent.
- Contended that mandating the vaccine for individuals to access '*resources, public places and means of earning livelihood would be in violation of their fundamental rights*', as scientific research suggested that unvaccinated individuals do not pose a higher degree of threat of transmission in comparison to vaccinated individuals.
- Drew the SC's attention towards the vaccine mandates of Tamil Nadu, Maharashtra, Delhi, and Madhya Pradesh.
- Claimed that even if the vaccines reduced the severity of the disease, it was the individual's choice to decide whether they wanted to be the beneficiary of vaccines.

#### Union of India:

- Contended that the serious threat posed by the pandemic had called for emergency measures to be taken.
- Argued that the Covid-19 vaccine was necessary to avoid spread of infection.
- Maintained that the Covid-19 vaccine has been voluntary, and individuals are encouraged to take vaccination in the interest of public health. It was also made clear by the UOI that Covid-19 vaccination had not been linked to access to benefits or services.

#### State Government:

Contended that any restrictions imposed on unvaccinated individuals was in the wider interest of public health and safety and hence reasonable.

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<sup>1</sup> *Jacob Puliyeel v. Union of India and Others* - MANU/SC/0566/2022.

## D. Judgment & Reasoning

The SC:

1. Observed that courts are often reluctant to interfere in policy decisions taken by governments. That said, the SC stated that courts do not have to abdicate their rights to scrutinise whether the policy measure is beyond unreasonableness or discrimination.
2. On consideration of UOI's vaccine policy, held: *“the UOI is justified in centering its vaccination policy around the health of the population at large, [...] as opposed to basing its decision keeping in mind the interests of a healthy few.”* The SC effectively held that UOI's vaccine policy was formulated in the interest of public health and safety and cannot be said to be unreasonable.
3. On assessment of the vaccine mandates imposed by state governments as well as private organisations, it observed as follows:<sup>2</sup>
  - a. Neither UOI nor the state governments produced any material to justify the discriminatory treatment of unvaccinated individuals in public places by imposition of vaccine mandates.
  - b. *“[R]estrictions on unvaccinated individuals imposed through vaccine mandates cannot be considered to be proportionate, especially since both vaccinated and unvaccinated individuals presently appear to be susceptible to transmission of the virus at similar levels.”*
4. Held that: *“[W]e are of the opinion that bodily integrity is protected Under Article 21 of the Constitution and no individual can be forced to be vaccinated. [...] However, in the interest of protection of communitarian health, the Government is entitled to regulate issues of public health concern by imposing certain limitations on individual rights.”*
5. Suggested review of vaccine mandates, by stating: *“Till the infection rate remains low and any new development or research finding emerges which provides due justification to impose reasonable and proportionate restrictions on the rights of unvaccinated individuals, we suggest that all authorities in this country, including private organisations and educational institutions, review the relevant orders and instructions imposing restrictions on unvaccinated individuals in terms of access to public places, services and resources, if not already recalled.”*
6. Clarified that its suggestion to review and recall the vaccine mandates imposed by state governments and/or union territories is *“limited to the present situation alone and is not to be construed as interfering with the lawful exercise of power by the executive to take suitable measures for prevention of infection and transmission of the virus.”*
7. Explained that this suggestion does not extend to other directions that require the maintenance of Covid-19-appropriate behaviour previously issued by state or union governments.

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<sup>2</sup> Para. 58 of the Order.