**LEGAL EXPLANATION LETTER OF HUMAN RIGHTS**

**VIA EMAIL / REGISTERED POST with AD**

**FROM**

**TO**

**CC**

**TAMILNADU REFORM MOVEMENT**

**30/5, KUBERALAKSHMI NAGAR,**

**KANNANKURICHI, SALEM 636008**

EMAIL**:** **tamilnadureform@gmail.com**

FACEBOOK**: fb.me/tnreform**

**SUBJECT: Coercing or compelling me to wear face masks, get tested for corona, and get vaccinated is contrary to basic human rights, recently issued High Courts Orders and the guidelines of the Ministry of Health and Family Welfare.**

**REFER: 1*. Reply to RTI petition (MOHFW / R / E / 21/01536) dated 16.04.2021 by Mr.Tarun.***

 ***2. Reply to Mr. Dinesh's RTI Petition (File No.A.60011 / 06/2020-CVAC) dated 23.03.2021.***

 ***3. Reply to Mr. Manindra Kumar's RTI Petition (AIIMS / BPL / RTI / HOSP / 2021/206) dated 09.06.2021.***

***4.* Answers to FAQs provided by the Ministry of Health and Family Welfare. https://www.mohfw.gov.in**

***5. "Delta Corona type that attacks vaccinated people.. Shocking information in AIIMS study" 09.06.2021 News.*** [***https://tamil.oneindia.com/news/delhi/delta-variant-can-infect-despite-covishield-covaxin-doses-says-aiims-study-423509.html***](https://tamil.oneindia.com/news/delhi/delta-variant-can-infect-despite-covishield-covaxin-doses-says-aiims-study-423509.html)

***6. "Andhra Pradesh Government and the Ministry of AYUSH have given permission for the Corona Legion" 01.06.2021 Dinakaran Online Press Release.*** [***https://www.dinakaran.com/News\_Detail.asp?Nid=680772***](https://www.dinakaran.com/News_Detail.asp?Nid=680772)

***7. Meghalaya High Court Judgment, PIL No.6 / 2021, Dated 23.06.2021.***

***8. Gouhati High Court Order for Case No.: WP(C)/37/2020, Dated 02.07.2021.***

***9. Gouhati High Court Order for Case No.:*** ***PIL 13/2021, Dated 19.07.2021.***

***10.*** ***World Health Organization website*** [***https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health***](https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health)

***11.*** ***SUPREME COURT OF INDIA Circular No.*** ***F. No. 212/MISC/PF/2020/SCA(G) dated 14.03.2020*** [***https://main.sci.gov.in/pdf/cir/covid19\_14032020.pdf***](https://main.sci.gov.in/pdf/cir/covid19_14032020.pdf)

***Your activities that directly and indirectly* coercive *the face mask, corona test, and corona vaccine are,***

***Contrary to Articles 19(1)(g), 21 & 41 of the Constitution of India;***

***Reducing and violating human rights;***

***Contrary to the judgment of the Meghalaya High Court (PIL No.6 / 2021, dated 23.06.2021)***

***It is also contrary to the guidelines given by the Ministry of Health and Family Welfare.***

***(i). In the absence of complete, transparent and reliable data on the positive functioning of vaccines admitted under emergency, private, state and public servants cannot be forced or compelled, directly or indirectly to administer, to test covid-19, to vaccinate covid-19, to wear face masks, in a dictatorial manner, depriving them of fundamental rights.***

***(ii). I would like to inform you that, “I am following National Clinical Management Protocol based on Ayurveda and Yoga for management of Covid-19. https://www.ayush.gov.in/docs/faq-covid-protocol-Revised.pdf***

***(iii). I would like to inform you that, “while I am healthy without any covid-19 symptoms, the government or private or individual should not be deprived of my right to, deny me the privileges and freedom to be reasonably available to me, prohibit me from entering public / work places, prohibiting travel or working or treating me like an untouchable, on the ground of that there is no negative certificate of Covid-19 test or Vaccinated evidence of Covid-19”.***

**(iv). While there are alternative therapies for corona disease like Siddha, Ayurveda, Homeopathy and medicines approved by the Ministry of AYUSH,** the government, which claims that the vaccine is the only weapon to protect people from infection and that it is safe to vaccinate, is not in any way compelled or mandated to do so, as neither the vaccine manufacturers nor the doctors are responsible for the side effects caused by the vaccine and there is no way to provide compensation.

**1. No one can deny the fundamental rights guaranteed by Article 19 (1) of the Constitution of India.**

**2. According to Article 21 of the Constitution of India, no person shall lose his life or liberty except in accordance with the procedure established by law.**

**3. According to Article 41 of the Constitution of India, the government insists on protecting one's right to work.**

**4. Article 375 of the Constitution of India insists on continuing to carry out the functions of all officers only in accordance with the provisions of the Constitution.**

**5.** In reply to Mr. Tarun's RTI Petition (MOHFW / R / E / 21/01536) dated 16.04.2021, **"Vaccination for COVID-19 is voluntary". That said.**

**6**. In reply to Mr. Dinesh's RTI Petition (File No.A.60011 / 06/2020-CVAC) dated 23.03.2021, Ministry of Health and Family Welfare said that **“As far as compensations is concerned, the COVID-19 vaccine being voluntary, there is no provision for compensation as of now”.**

**7**. In reply to Mr. Manindra Kumar's RTI Petition (AIIMS / BPL / RTI / HOSP / 2021/206) dated 09.06.2021, AIIMS Administration said that, **“RT-PCR/Rapid antigen testing is not mandatory for everyone in India. It is voluntary.** Please refer to Covid-19 testing FAQs on <https://www.mohfw.gov.in> for further detail”.

**8**. In response to frequently asked questions (FAQ, https://www.mohfw.gov.in) provided by the Ministry of Health and Family Welfare said that, **“Only wear a mask if you are ill with COVID-19 symptoms (especially coughing) or looking after someone who may have COVID-19. Disposable face mask can only be used once. If you are not ill or looking after someone who is ill then you are wasting a mask.”** and, **“The following measures ARE NOT effective against COVID-2019 and can be harmful: WEARING MULTIPLE MASKS”.**

**9**. In the online news tamil.oneindia.com dated 09.06.2021 shows that, “**A study conducted by AIIMS and the National Centre for Disease Control has shown that delta-type corona, which was first detected in India, is also capable of infecting those who have taken CoviShield and Coavaxin vaccines. The test was conducted on 63 patients admitted to the emergency department of AIIMS. Of these, 53 have administered either CoviShield or Coavaxin any vaccine dose. In addition, 36 people have 2 doses of the vaccine. This means that 76.9% of people who took one dose of corona vaccine and 60% who took two doses were affected by delta-type corona.**” <https://tamil.oneindia.com/news/delhi/delta-variant-can-infect-despite-covishield-covaxin-doses-says-aiims-study-423509.html>

**10**. 01.06.2021 in the online Dhinakaran news shows that **“The Central Ayush Ayurveda Research Centre (CCARAS) has sanctioned B, L and F medicines for preparing medicines with Ayurvedic herbal medicines like kandanbrinjal, erukkampoo, valpepper, tipple and turmeric to prevent corona virus damage.** According to the report, the Andhra Pradesh government has said that it will sanction the other legumes in cases of corona patients using artificial respiration as the test results for eye-watering medicine are due in a week or two.”. <https://www.dinakaran.com/News_Detail.asp?Nid=680772>

**11**. In the judgment of the **case (PIL No.6 / 2021) taken Suo-motu by the Meghalaya High Court** on 23.06.2021, as stated in the first paragraph of page 5, “Therefore, right to and the welfare policy for vaccination can never affect a major fundamental right; i.e., right to life, personal liberty and livelihood, especially when there exists no reasonable nexus between vaccination and prohibition of continuance of occupation and/or profession. **A harmonious and purposive construction of the provisions of law and principles of equity, good conscience and justice reveals that mandatory or forceful vaccination does not find any force in law leading to such acts being liable to be declared ultra vires ab initio.**”

**12**. In the order of the Gouhati High Court **Case *No.: WP(C)/37/2020, Dated 02.07.2021,*** *para “17.*With regard to the contention of the learned Additional Advocate General that the State Government can make restrictions curtailing the Fundamental Rights of the citizens under the Disaster Management Act, 2005 (hereinafter referred to as the “Act”), by way of the SOP, the same in our considered view is clearly not sustainable, as the said clauses in the SOP which are in issue in the present case cannot be said to be reasonable restrictions made in terms of Article 19(6). A restriction cannot be arbitrary or of a nature that goes beyond the requirement of the interest of the general public. Though no general pattern or a fixed principle can be laid down so as to be universal in application, as conditions may vary from case to case, keeping in view the prevailing conditions and surroundings circumstances, the requirement of Article 19(6) of the Constitution is that the restriction has to be made in the form of a law and not by way of an executive instruction. The preamble of the Act clearly states that it is an Act to provide an effective management of the disasters and for matters connected therewith or incidental thereto. There is nothing discernible in the Act, to show that the said Act has been made for imposing any restriction on the exercise of the rights conferred by Article 19 of the Constitution. Further, the SOP dated 29.06.2021 is only an executive instructions allegedly made under Section 22(2)(h) & Section 24(1) of the Act and not a law. The provisions of Sections 22 & 24 only provides for the functions and powers of the State Executive Committee in the event of threatening disaster situation or disaster. **It does not give any power to the State Executive Committee to issue executive instructions discriminating persons with regard to their right to liberty, livelihood and life and violating the fundamental rights of the citizens, which is protected by the Constitution.**”

**13**. In the order of the Gouhati High Court **Case No.: PIL 13/2021, Dated 19.07.2021,** mentioned that, “While persons who are vaccinated for Covid-19 have been allowed to be issued with a permit to visit Arunachal Pradesh, persons who are not vaccinated with Covid-19 vaccine have not been allowed to be issued with a temporary permit to visit Arunachal Pradesh for developmental works in both public and private sector. The right granted under Article 19 (1) (d) of the Constitution of India to move freely throughout the territory of India, however, is not absolute and the State may impose a reasonable restrictions on the exercise of the rights under Article 19 (1) (d) of the Constitution of India either in the interest of the general public or for the protection of the interest of the Schedule Tribe. While putting any restrictions, as above, such restrictions, however, must be a reasonable one conforming to the requirement of Article 14 of the Constitution of India as well. Article 14 of the Constitution of India guarantees to every persons the right not to be denied equality before the law or the equal protection of laws. “Equality before the law” means that amongst equals the law should be equal and should be equally administered and that like should be treated alike. Classification of persons into groups for different treatment of such groups is permissible if there is a reasonable basis for such difference. Article 14 of the Constitution of India forbids class legislation, but does not forbid classification or differentiation which rests upon reasonable grounds of distinction. The power of making classification, however, is not without limit. A classification to be valid must be reasonable. It must always rest upon some real and substantial distinction bearing reasonable and just needs in respect of which the classification is made.

**Accordingly, till the returnable date, Clause 11 of the Order dated 30.06.2021, issued by the Chief Secretary cum Chairperson-State Executive Committee, Government of Arunachal Pradesh, vide Memo No.SEOC/DRR&DM/01/2011-12, in so far it discriminates between Covid-19 vaccinated persons and Covid-19 unvaccinated persons for issuance of temporary permits for developmental works in both public and private sector in the State of Arunachal Pradesh, shall remain stayed.”**

**14. In World Health Organization website,** [**https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health**](https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health)it says,“**Human rights are universal and inalienable. They apply equally, to all people, everywhere, without distinction.** Human Rights standards – to food, health, education, to be free from torture, inhuman or degrading treatment – are also interrelated. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others. Violations of human rights not only contribute to and exacerbate poor health, but for many, including people with disabilities, indigenous populations, women living with HIV, sex workers, people who use drugs, transgender and intersex people, **the health care setting presents a risk of heightened exposure to human rights abuses – including coercive or forced treatment and procedures.”**

**15. In SUPREME COURT OF INDIA Circular** No. F. No. 212/MISC/PF/2020/SCA(G) dated 14.03.2020 Page No.10 and Para No.4.1 Ministry of Health and Family Welfare Directorate General of Health Services, Novel Corona Virus Disease (COVID-19) Guidelineson use of masks by public says that, **“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.”** [**https://main.sci.gov.in/pdf/cir/covid19\_14032020.pdf**](https://main.sci.gov.in/pdf/cir/covid19_14032020.pdf)

***So, I would not hesitate to report it to the Human Rights Commission and to any other Legal Bodies for seek proper relief if you act illegally, as an abuse of power, a reduction / violation of fundamental human rights.***

**Yours,**

**Date:**

**Attached: Evidences for Reference No. 1 to 10.**

<https://drive.google.com/drive/folders/1vaSseDwrMdWBl8H5pG-PYYj-g1p4j7bh?usp=sharing>