

Court No. - 9

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**Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 118 of 2021

**Petitioner :-** Gajendra Singh Yadav

**Respondent :-** Union Of India And Another

**Counsel for Petitioner :-** Sarvesh Chaubey, Aishwarya Krishna

**Counsel for Respondent :-** A.S.G.I., C.S.C.

Hon'ble Sanjay Yadav, J.

Hon'ble Jayant Banerji, J.

Shri Sarvesh Chaubey, learned counsel appears for the petitioner.

Learned standing counsel appears for the State respondents.

Drawing inference from the United States of America having National Childhood Vaccine Injury Act 1986 and other countries having similar enactment to ensure compensation to person who suffer any loss/ injury due to side effect of any vaccine, petitioner a law student, vide present Public Interest litigation seeks direction to the respondent State of Uttar Pradesh to have similar provisions to compensate COVID-19 vaccinated individual.

It is urged that presently mass drive is carried out to vaccinate one and all and with large scale vaccination the life and personal liberty of individuals will be at peril and to protect the same the petitioner seeks command to the State of Uttar Pradesh to have statutory provisions in other word legislation to compensate the individuals in case of loss/ sufferings.

In our considered opinion direction cannot be given to legislate a law. In this context reference can be had of the decision in *Bal Ram Bali & Anr. v. Union of India, AIR 2007 SC 3074 :-*

“3. It is not within the domain of the Court to issue a direction for ban on slaughter of cows, buffaloes and horses as it is a matter of policy on which decision has to be taken by the Government. That apart, a complete ban on slaughter of cows, buffaloes and horses, as sought in the present petition, can only be imposed by legislation enacted by the appropriate legislature. Courts cannot issue any direction to the Parliament or to the State legislature to enact a particular kind of law. This question has been considered in *Union of India v. Prakash P. Hinduja & Anr.* (2003) 6 SCC 195, wherein in para 30 of the reports it was held as under :

“30. Under our constitutional scheme Parliament exercises sovereign power to enact laws and no outside power or authority can issue a direction to enact a particular piece of legislation. In *Supreme Court Employees' Welfare Assn. v. Union of India* (1989) 4 SCC 187 (para 51) it has been held that no court can direct a legislature to enact a particular law. Similarly, when an executive authority exercises a legislative power by way of a subordinate legislation pursuant to the delegated authority of a legislature, such executive authority cannot be asked to enact a law which it has been empowered to do under the delegated legislative authority. This view has been reiterated in *State of J&K v. A.R. Zakki* (1992) Supp. (1) SCC 548. In *A.K. Roy v. Union of India* (1982) 1 SCC 271 it has been held that no mandamus can be issued to enforce an Act which has been passed by the legislature.....”

In **V.K. Naswa v. Union of India**, (2012) 2 SCC 542, wherein it is held:-

“18. Thus, it is crystal clear that the Court has a very limited role and in exercise of that, it is not open to have judicial legislation. Neither the Court can legislate, nor it has any competence to issue directions to the legislature to enact the law in a particular manner.”

A similar view has been expressed by a larger Bench in **Manoj Narula Vs Union of India**, (2014) 9 SCC 1 :-

“127 The law having been laid down by a larger Bench than in *Gainda Ram* it is quite clear that the decision, whether or not Section 8 of the Representation of the People Act, 1951 is to be amended, rests solely with Parliament.”

A similar view has been expressed by Lucknow Bench of this court in **P.I.L. Civil No. 2084 of 2021 (Hindu Personal Law Board Thru Pres. Ashok Pandey (In person) vs. Union of Bharat Thru Secy. Home Affairs Ministry New Delhi)** decided on 25.01.2021 wherein a prayer for direction to legislate a law

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regulating the religious conversion on the pattern of law legislated on the subject by State of U.P. and other States has been declined.

In view whereof since no relief can be granted petition fails and is **dismissed**.

No costs.

**Order Date :- 3.2.2021**

Tamang

**(Jayant Banerji, J)**

**(Sanjay Yadav, J)**

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