

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**EXTRA ORDINARY JURISDICTION**

**WRIT PETITION NO. OF 2021**

**IN THE MATTER OF PUBLIC INTEREST LITIGATION**

**IN THE MATTER OF**

GAURAV KUMAR BANSAL

.....**PETITIONER**

**VERSUS**

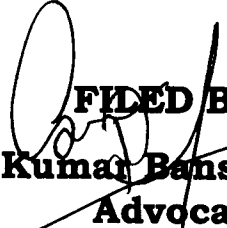
UNION OF INDIA & OTHERS

.....**RESPONDENTS**

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**FILED BY:**  
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New Delhi  
08/03/2021

**WWW.LIVELAW.IN**

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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**EXTRA ORDINARY JURISDICTION**

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**CONSOLIDATED COURT FEES**

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**VERSUS**

UNION OF INDIA & OTHERS

.....RESPONDENTS

**NOTICE OF MOTION**

Sir,

The enclosed application in the aforesaid matter as being filed on behalf of the petitioner is likely to be listed on 09/03/2020. Please take notice accordingly.



**FILED BY:**

**Gaurav Kumar Bansal  
Advocate**

**Petitioner - In - Person**

A-26, Basement

Jangpura Extension

New Delhi - 14

New Delhi

08/03/2021

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EXTRA ORDINARY JURISDICTION

WRIT PETITION NO. OF 2021

IN THE MATTER OF PUBLIC INTEREST LITIGATION

IN THE MATTER OF

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.....PETITIONER

**VERSUS**

UNION OF INDIA & OTHERS

.....RESPONDENTS

URGENT APPLICATION

To,  
The Registrar  
High Court of Delhi  
New Delhi

Sir,

Kindly treat the accompanying petition as an urgent one in accordance with Delhi High Court Rules and Regulations.

The ground for urgency is "Writ Petition (Public Interest Litigation) filed in the interest of justice.

**FILED BY:**

**Gaurav Kumar Bansal**  
**Advocate**

**Petitioner - In - Person**

A-26, Basement  
Jangpura Extension  
New Delhi - 14

New Delhi  
08/03/2021

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**EXTRA ORDINARY JURISDICTION**

**WRIT PETITION NO. OF 2021**

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**IN THE MATTER OF**

**GAURAV KUMAR BANSAL .....PETITIONER**

**VERSUS**

**UNION OF INDIA & OTHERS .....RESPONDENTS**

**MEMO OF PARTIES**

**GAURAV KUMAR BANSAL**

Son of Sh. Vishnu Bansal  
A26, Basement, Jangpura Extension  
New Delhi – 14

**.....Petitioner**

**Versus**

**UNION OF INDIA**

Through Its  
Secretary  
Ministry of Health and Family Welfare  
Nirman Bhawan  
Near Udyog Bhawan Metro Station  
Maulana Azad Road,  
New Delhi – 110011

**.....Respondent No. 01**

**CENTRAL MENTAL HEALTH AUTHORITY**

Through  
Chief Executive Officer  
Nirman Bhawan  
Near Udyog Bhawan Metro Station  
Maulana Azad Road,  
New Delhi – 110011

**.....Respondent No. 02**

**NATIONAL EXPERT GROUP ON VACCINE  
ADMINISTRATION FOR COVID-19**

Through  
Secretary Member  
Nirman Bhawan  
Near Udyog Bhawan Metro Station  
Maulana Azad Road,  
New Delhi – 110011

**.....Respondent No. 03**

**FILED BY:**

**Gaurav Kumar Bansal  
Advocate**

EXTRA ORDINARY JURISDICTION

WRIT PETITION NO. OF 2021

IN THE MATTER OF PUBLIC INTEREST LITIGATION

IN THE MATTER OF

GAURAV KUMAR BANSAL

.....PETITIONER

**VERSUS**

UNION OF INDIA & OTHERS

.....RESPONDENTS

SYNOPSIS CUM LIST OF DATES

By way of the present petition, filed in the nature of PUBLIC INTEREST LITIGATION, petitioner wish to highlight the issue of EXCLUSION of MENTAL ILLNESS from the list of SPECIFIED COMORBIDITIES FOR DETERMINATION OF ELIGIBILITY OF CITIZENS IN AGE GROUP OF 45 TO 59 years of age.

It is respectfully submitted that in order to OFFER GUIDANCE globally on the allocation of COVID -19 Vaccines between the countries, and to offer guidance nationally on the prioritization of groups for VACCINATION within countries, WHO issued a FRAMEWORK with an intent to help the policy makers and expert advisors at the GLOBAL as well as NATIONAL Level.

That the said framework provides SIX CORE PRINCIPLES that should guide distribution and TWELVE OBJECTIVES that further specify the said Six Principles. That one of the CORE PRINCIPLE which WHO FRAMEWORK prescribe is "EQUAL RESPECT".

That "TWO OBJECTIVES" which specify the "EQUAL RESPECT PRINCIPLE" are (a) Treat the INTEREST of all individuals and "GROUPS" with "EQUAL CONSIDERATION" as ALLOCATION and PRIORITY SETTING DECISIONS are being taken and implemented; (b) Offer a MEANINGFUL OPPORTUNITY to be vaccinated to all INDIVIDUALS and GROUPS who qualify under "PRIORITIZATION CRITERIA".

That WHO FRAMEWORK has also further elaborated the EQUAL RESPECT PRINCIPLE and its TWO OBJECTIVES in the following manner:

“The EQUAL RESPECT PRINCIPLE requires that careful attention be given to the question of who should be ELIGIBLE for INCLUSION in NATIONAL IMMUNIZATION PROGRAMS, so that no one is left out of consideration for UNJUSTIFIABLE REASONS. The EQUAL RESPECT PRINCIPLE also requires that everyone who satisfies the criteria and reasoning supporting the prioritization of a certain group be included within that group. (Annexure P-1 at page no )

That Respondent No. 01 issued a GUIDANCE NOTE FOR COWIN 2.0(herein after referred as COWIN 2 GUIDANCE NOTE) wherein following persons / group have been made eligible for VACCINATION –

1. All HEALTH CARE WORKERS and FRONTLINE WORKERS as specified by Respondent No. 01.
2. All citizens that are aged, or will attain the age of 60 years or more as on 1<sup>st</sup> January, 2022.
3. All such citizens that are aged, or will attain the age of 45 years to 59 years as on 1<sup>st</sup> January 2022, AND have any specified COMORBIDITIES, which have been recommended by NATIONAL EXPERT GROUP ON VACCINE ADMINISTRATION FOR COVID – 19 and APPROVED by GOVERNMENT OF INDIA from time to time, SUBJECT to CERTIFICATION to that effect by a Registered Medical Practitioner. The list of specified CO-MORBIDITIES (20) and the form for COMORBIDITY CERTIFICATE are annexed at ANNEXURE 1(A) and 1(B) respectively. (Annexure P-3 at page no )

It is respectfully submitted that apart from the fact that PERSONS WITH SEVERE MENTAL ILLNESS are not covered under the said list, Respondent no. 01 have also capped the benefit of COVID – 19 VACCINATION only to those persons with Disabilities having HIGH SUPPORT NEEDS.



That as per Rights of Persons with Disabilities Act - 2016, 7  
Person with disabilities having HIGH SUPPORT NEEDS are only those persons who carry DISABILITY CERTIFICATE with them.

Case of the petitioner is that by way of excluding the MENTAL ILLNESS from the list of Specified Comorbidities and further by way of providing benefit of COVID-19 VACCINATION to Persons with Disabilities having high support needs, Respondents have not only prohibited HOMELESS MENTALLY ILL PERSONS from availing the benefits of COVID - 19 VACCINATION but have also created BARRIERS for thousands of Persons having Severe Mental illness having no disability certificate to get the COVID - 19 VACCINATION.

At a time when due to TREATMENT GAP of around 80% in the Mental Health Sector, Persons with Mental Illness are not able to get BASIC TREATMENT for themselves, expectation of Respondents that all the MENTALLY ILL PERSONS have the DISABILITY CERTIFICATE as provided under section 58 of the Rights of Persons with Disabilities Act, 2016 is nothing but mockery of our HEALTH CARE INFRASTRUCTURE.

Further, it is also important to keep in mind that Homeless Persons with Severe Mental illness have a higher risk of CONTRACTING COVID - 19 INFECTION due to the fact that because of their disability they are unable to understand what is happening with them.

It is because of the said reason that INDIAN PSYCHIATRIC SOCIETY (the oldest and largest Organization of Psychiatrists and Allied MENTAL HEALTH PROFESSIONALS of INDIA) has written two times to Respondents for inclusion of MENTAL ILLNESS in the LIST OF SPECIFIED COMORBIDITIES, but to no avail. Hence the present petition in the nature of PUBLIC INTEREST LITIGATION.

#### **LIST OF DATES**

14/09/2020

WORLD HEALTH ORGANIZATION  
issued WHO SAGE VALUES

FRAMEWORK for ALLOCATION and  
PRIORITIZATION of COVID 19  
VACCINATION.

11/01/2021

Oldest and Largest Organization of  
Psychiatrists and Allied MENTAL  
HEALTH PROFESSIONALS of INDIA i.e.  
INDIAN PSYCHIATRIC SOCIETY wrote  
to Respondent No. 02 to include  
SEVERE MENTALLY ILL PERSONS as a  
PRIORITY GROUP for VACCINATION  
besides the OTHER HIGH RISK  
GROUPS.

28/02/2021

Respondent No. 01 issued its LIST OF  
SPECIFIED COMORBIDITIES for  
determination of eligibility of citizens in  
age group 45 to 59 years.

02/03/2021

Observing the fact that Respondent  
No.01 has excluded the SEVERE  
MENTALLY ILL PERSONS from the  
ELIGIBILITY CRITERIA as requested  
vide its letter dated 11/01/2021, IPS  
again dashed a letter dated 02/03/2021  
and as such ONCE AGAIN requested  
Respondent No. 01 to add people with  
mental illness to the list of COVID 19  
vaccination.

07/03/2021

Present Writ Petition Prepared and filed.

Gaurav Kumar Bansal  
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Petitioner - in - Person  
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Jangpura Extension  
New Delhi - 14  
9811164777  
[emailtogkb@gmail.com](mailto:emailtogkb@gmail.com)

New Delhi  
08/03/2021

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GAURAV KUMAR BANSAL .....PETITIONER

**VERSUS**

UNION OF INDIA & OTHERS .....RESPONDENTS

WRIT PETITION UNDER ARTICLE 226

OF THE CONSTITUTION OF INDIA,

INTER ALIA, TO ISSUE WRIT / ORDER

/ DIRECTION IN THE NATURE OF

MANDAMUS, INTER ALIA, AGAINST

RESPONDENTS AND IN PARTICULAR

RESPONDENT NO. 01 TO INCLUDE

SEVERE MENTAL ILLNESS IN THE LIST

OF SPECIFIED COMORBIDITIES FOR

COVID 19 VACCINATION

TO

THE HON'BLE CHIEF JUSTICE OF THE DELHI HIGH

COURT AND HIS HON'BLE COMPANION JUSTICES

THE HUMBLE PETITION OF THE PETITIONER

ABOVENAMED

MOST RESPECTFULLY SHOWETH:

1. That the petitioner has no personal interest in the litigation and that the petition is not guided by the self gain

or for gain of any other person/institution/body and that there is no motive other than of public interest in filing the Writ Petition.

2. That Section 21 of Mental Healthcare Act, 2017 provides that every person with mental illness shall be treated as equal to persons with physical illness in the provision of ALL HEALTHCARE and ANY OTHER HEALTH SERVICES provided to persons with physical illness shall be provided in same manner, extent and quality to persons with Mental Illness. That on dated 28/02/2021 in order to start the next phase of VACCINATION of COVID-19, Respondent No. 01 issued GUIDANCE NOTE for COWIN 2.0 and as such issued the LIST OF SPECIFIED COMORBIDITIES FOR DETERMINATION OF ELIGIBILITY OF CITIZENS IN AGE GROUP 45 TO 59 YEARS. It is respectfully submitted that Respondent No. 01 has included 20 GROUPS of Persons who were eligible for vaccination. However, one major group of person which Respondent No. 01 has not included in their list is GROUP OF SEVERE MENTALLY ILL PERSONS. It is also respectfully submitted that INDIAN PSYCHIATRIC SOCIETY, till date, has dashed two letters to Respondent No. 01 and Respondent No. 03 but to no avail, hence the present petition in the nature of Public Interest Litigation.

3. That petitioner has filed the present Writ Petition in nature of Public Interest Litigation for the benefit of Persons having Severe Mental illness. That because of the fact that one major group overlooked in the list of comorbidities is PERSONS WITH SEVERE MENTAL ILLNESS, petitioner by way of the present petition requests this Honble Court to direct the Respondent No. 01 to include the said category into "LIST OF SPECIFIED COMORBIDITIES" so that the this vulnerable and neglected group shall become eligible for the ongoing phase of vaccination.
4. That Respondent No.1 is the Ministry of Health and Family Welfare, Government of India and Respondent No. 02 is Central Mental Health Authority, Respondent No. 03 is the National Expert Group on Vaccine Administration for COVID – 19 are main contesting Respondents in the case. It is respectfully submitted that case of the petitioner is that as per Section 21 (1) (e) of the Mental Healthcare Act-2017, Respondents are duty bound to provide COVID – 19 VACCINATION to Persons with Mental illness in the same manner, extent and quality as provided to Persons with Physical illness and that no other persons/bodies/institutions are likely to be affected by the orders sought in the Writ Petition.
5. That the petitioner is practicing law before this Hon'ble Court and is also fighting for the upliftment of

fundamental and civil rights of the underprivileged. That the petitioner has the means to pay the costs, if any, imposed by the Court and on an undertaking to the Court in that respect.

6. That in past also petitioner has filed some important Writ Petitions in the nature of Public Interest Litigations before this Hon'ble Court, Hon'ble Supreme Court and Hon'ble National Green Tribunal. It is respectfully submitted that it was the Petitioner who filed a PIL before this Court for Rehabilitation of the family members of the persons dead and persons seriously injured in the Terrorist attack dated 07/09/2011 at Gate No. 05 of the Delhi High Court. It is pertinent to mention here that this Court ordered payments of Rs 10 lacs to the families of the persons deceased and persons who came in the category of Permanent Incapacitation on the intervention of the Petitioner. Apart from that the Petitioner has preferred the following Writ Petitions (Public Interest Litigation) before this Hon'ble Court:

Sl. No	WRIT PETITION	STATUS	OUTCOME
01.	6686/11	Disposed off	Hon'ble Court, inter alia, granted Rs. 10 to the victims of the Terrorist

			attack dated 07/09/2012.
02.	7568/11	Disposed off	Hon'ble Court treated the PIL as recommendations and directed the Union of India to consider the same.
03.	8881/11	Dismissed	Hon'ble Court dismissed the same on the ground that one writ on identical issues is before the same court. However, the petitioner filed an impleadment application in the said Writ and on the intervention of the Petitioner the Hon'ble Division Bench No. 02 of the Delhi High Court has directed the MCD and other civic agencies of Delhi to file the status report on the issue of Water Logging.
04.	2283/13	Disposed Off	Hon'ble High Court directed the Union of India and Govt. of NCT of Delhi to implement the provisions of the Disaster Management Act, 2005.

05.	1091/13	Pending	Hon'ble High Court has directed the Union of India and Govt. of NCT of Delhi to appoint the Special Court and Special Public Prosecutors in the National Capital for the trial of offences held under Protection of Children from Sexual Offences Act.
06.	5494 of 2017	DISPOSED OF	This Hon'ble Court has directed the Union of India to file Status Report with regard to filing of vacant positions in National Disaster Management Authority and National Institute of Disaster Management.
07.	7450 of 2017	DISPOSED OF	This Hon'ble Court has directed the Union of India to file Status Report with regard to filing of vacant positions of Judicial Members and Expert Members in National Green Tribunal.
08.	3413 of 2020	DISPOSED OF	This Honble Court has directed Respondent No. 02 to address the grievance related to



			COVID 19 testing FACILITY to Homeless Mentally ill persons.
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Apart from that the Petitioner has preferred the following Writ Petitions (Public Interest Litigation) before the Hon'ble Supreme Court of India:

Sl. No	WRIT PETITION	STATUS	OUTCOME
01.	536/2012	Disposed Off	Hon'ble Apex Court has directed the Union of India and other authorities to disclose the protocol that is followed when an Indian national is reported to be missing on the high seas or elsewhere.
02.	444/13	Disposed Off	Hon'ble Apex Court has directed the Union of India and Seven other States to implement the provisions of the Disaster Management Act, 2005.
03	412/2016	Disposed	Hon'ble Apex Court has directed Union of India and all the States and Union Territories to act as per the Guidelines made for the

			rehabilitation of persons who are fit for discharge but are bound to live in Mental Hospitals across India within one year from the passing of the Judgment.
04.	Contempt Petition (Civil) No. 1653 of 2018	Pending	Honble Apex Court has issued Contempt Notice against Chief Secretary, Delhi Govt. as well other Chief Secretaries for not implementing the Judgment / Order issued in Writ Petition (Civil) No. 412 of 2016.
05	Writ Petition No. 1496 of 2018	Pending	Honble Apex Court directed that persons with mental illness is still a human being and his dignity cannot be violated.
06.	Writ Petition No. 924 of 2019	Pending	Honble Apex Court has directed the Union of India, Govt of NCT of Delhi as well as other states and UTs to file response on SUICIDE PREVENTION POLICY.

The abovementioned important issues raised by the Petitioner in the past are only indicative of the social work

which has been undertaken by the Petitioner in order to show his antecedents.

**07.** It is respectfully submitted that following are the facts and circumstances which led the petitioner to file the present Writ Petition in the nature of Public Interest Litigation:

**a.** On dated 14/09/2020, in order to OFFER GUIDANCE globally on the allocation of COVID -19 Vaccines between the countries, and to offer guidance nationally on the prioritization of groups for VACCINATION within countries, WHO issued a FRAMEWORK with an intent to help the policy makers and expert advisors at the GLOBAL as well as NATIONAL Level.

**b.** That the said framework provides SIX CORE PRINCIPLES that should guide distribution and TWELVE OBJECTIVES that further specify the said Six Principles. That one of the CORE PRINCIPLE which WHO FRAMEWORK prescribe is "EQUAL RESPECT".

**c.** That "TWO OBJECTIVES" which specify the "EQUAL RESPECT PRINCIPLE" are (a) Treat the INTEREST of all individuals and "GROUPS" with "EQUAL CONSIDERATION" as ALLOCATION and PRIORITY SETTING DECISIONS are being taken and implemented; (b) Offer a MEANINGFUL OPPORTUNITY

to be vaccinated to all INDIVIDUALS and GROUPS who qualify under "PRIORITIZATION CRITERIA".

- d. That WHO FRAMEWORK has also further elaborated the EQUAL RESPECT PRINCIPLE and its TWO OBJECTIVES in the following manner:

"The EQUAL RESPECT PRINCIPLE requires that careful attention be given to the question of who should be ELIGIBLE for INCLUSION in NATIONAL IMMUNIZATION PROGRAMS, so that no one is left out of consideration for UNJUSTIFIABLE REASONS. The EQUAL RESPECT PRINCIPLE also requires that everyone who satisfies the criteria and reasoning supporting the prioritization of a certain group be included within that group.

True copy of WHO SAGE values framework for the allocation and prioritization of COVID – 19 Vaccination is annexed hereto and marked as Annexure P-1 at page no .

- e. Observing the fact that Respondent No.01 is going to start the COVID – 19 vaccination drive in INDIA and further observing the fact that VACCINATION DRIVE will start in a PHASE MANNER and on PRIORITIZATION BASIS, on dated 11/01/2021, INDIAN PSYCHIATRIC SOCIETY which is an Oldest and Largest Organization

of Psychiatrists and Allied MENTAL HEALTH PROFESSIONALS of INDIA, vide its letter dated 11/01/2021 addressed to Chairman, NATIONAL EXPERT GROUP ON VACCINE ADMINISTRATION FOR COVID-19 (hereinafter referred as NEGVAC) requested INCLUSION of PERSONS WITH SEVERE MENTAL ILLNESSES (herein after referred as SMIs) as a PRIORITY GROUP for VACCINATION besides the OTHER HIGH RISK GROUPS.

19

True copy of letter dated 11/01/2021 issued by Indian Psychiatric Society to Respondent No. 03 is annexed hereto and marked as Annexure P-2 at page no .

- f. That in accordance with the prioritization as guided by Respondent No. 03 and in order to vaccinate citizens above 60 years of age and those aged from 45 years to 59 years and having comorbidities, Respondent No. 01 on dated 28/02/2021 issued a GUIDANCE NOTE FOR COWIN 2.0(herein after referred as COWIN 2 GUIDANCE NOTE).
- g. It is respectfully submitted that as per the COWIN 2 GUIDANCE NOTE following persons / group have been made eligible for VACCINATION –

1. All HEALTH CARE WORKERS and FRONTLINE WORKERS as specified by Respondent No. 01.
2. All citizens that are aged, or will attain the age of 60 years or more as on 1<sup>st</sup> January, 2022.
3. All such citizens that are aged, or will attain the age of 45 years to 59 years as on 1<sup>st</sup> January 2022, AND have any specified COMORBIDITIES, which have been recommended by NATIONAL EXPERT GROUP ON VACCINE ADMINISTRATION FOR COVID - 19 and APPROVED by GOVERNMENT OF INDIA from time to time, SUBJECT to CERTIFICATION to that effect by a Registered Medical Practitioner. The list of specified CO-MORBIDITIES (20) and the form for COMORBIDITY CERTIFICATE are annexed at ANNEXURE 1(A) and 1(B) respectively.

True copy of the Guidance Note for COWIN 2 including LIST OF SPECIFIED COMORBIDITIES is annexed hereto and marked as Annexure P-3 at page no .

- h.** Observing the fact that Respondent No. 01 has failed to keep in mind the PRINCIPLE OF EQUAL PROTECTION

as well as its TWO OBJECTIVES (i.e. (a) Treating the interests of GROUPS with EQUAL CONSIDERATION and (b) Offer meaningful opportunity to be VACCINATED to all GROUPS), Indian Psychiatric Society again dashed a letter dated 02/03/2021 to Chairman, NEGVAC and as such requested Respondent No. 01 to add People with Mental Illness to the list of COVID 19 Vaccination Comorbidities for determination of eligibility of citizens list in the ongoing phased vaccination drive .

True copy of letter dated 02/03/2021 issued by Indian Psychiatric Society for inclusion of Mental illness in the list of Comorbidities is annexed hereto and marked as Annexure P-4 at page no .

- i. It is respectfully submitted that one major group which is most vulnerable and neglected one also, overlooked in the list of SPECIFIED COMORBIDITIES by Respondent No. 01 is Persons having Severe Mental Illness.
- j. It is also important to mention here that Point 20 of List of Specified Comorbidities include Persons with Intellectual Disabilities as well as Persons with Disabilities having High Support Needs.

**k.** That as per THE SCHEDULE of Rights of Persons with Disabilities Act, 2016, Intellectual Disability and MENTAL ILLNESS are two different things.

**l.** It is respectfully submitted that as per THE SCHEDULE of Rights of Persons with Disabilities Act, 2016 term “INTELLECTUAL DISABILITY” is a condition characterized by significant limitation both in INTELLECTUAL FUNCTIONING ( reasoning, learning, problem solving) and in adaptive behavior which covers a range of every day, social and practical skills, including “specified Learning Disabilities” and “Autism Spectrum Disorder”.

**m.** Similarly, as per Section 2 (t) of Rights of Persons with Disabilities Act, 2016 term “Person with Disability having high support needs” is defined in the following terms:

“persons with disability having high support needs means a person with benchmark disability CERTIFIED under clause (a) of Sub Section (2) of Section 58 who needs High Support.

**n.** That it is respectfully submitted that section 58 of Rights of Persons with Disabilities act provides for “PROCEDURE FOR CERTIFICATION” only.



- o. That for the reason that MENTAL ILLNESS is one of the DISABILITY specified in THE SCHEDULE of Rights of Persons with Disabilities Act, 2016, only a Mentally Ill Person who have a VALID CERTIFICATE under Section 58 of Rights of Persons with Disabilities Act, 2016 is eligible for COVID 19 VACCINATION. However, a Mentally ill person who don't have any kind of CERTIFICATE as provided under Section 58 of Rights of Persons with Disabilities Act, 2016 is not eligible for the same.
- p. Similarly, the said bar which Respondents have put vide its Entry No. 20 in the list of specified comorbidities prohibits HOMELESS MENTALLY ILL PERSONS who neither have any kind of VALID IDENTITY PROOF nor have any kind of CERTIFICATION as provided under section 58 of the Rights of Persons with Disabilities Act, 2016.
- q. That due to the above lacuna, thousands of mentally ill persons who either don't have a VALID CERTIFICATE as provided under Section 58 of Rights of Persons with Disabilities Act, 2016 or are HOMELESS (not having any kind of VALID ID PROOF with them) have been prohibited by Respondents to get participated in the VACCINATION DRIVE on PRIORITY BASIS.

- r. That at a time when due to TREATMENT GAP of around <sup>(24)</sup> 80% in the Mental Health Sector, Persons with Mental Illness are not able to get BASIC TREATMENT for themselves, expectation of Respondents that all the MENTALLY ILL PERSONS have the DISABILITY CERTIFICATE as provided under section 58 of the Rights of Persons with Disabilities Act, 2016 is nothing but mockery of our HEALTH CARE INFRASTRUCTURE.
- s. It is also important to mention here that Homeless Persons with Severe Mental illness have a higher risk of CONTRACTING COVID – 19 INFECTION due to the fact that because of their disability they are unable to understand what is happening with them.
- t. Similarly, for a Persons with Severe Mental illness having caretaker as well as VALID ID Proof, it is a Hercules task for the caregiver to get them certified first for the vaccination purpose. Needless to mention here that CERTIFIATION PROCEDURE as defined under Section 58 of the Rights of Persons with Disabilities Act, 2016 is in itself a very lengthy process as the same includes interference of many Government Authorities.
- u. That it is because of this reason that INDIAN PSYCHIATRIC SOCIETY have approached again and again to Respondents for the inclusion of the Mental illness in the LIST OF SPECIFIED COMORBIDITIES in

the same manner, extent and quality which has been provided to persons with physical illness.

v. It is also important to mention here that at INTERNATIONAL PLATFORM also at present FOUR COUNTRIES have updated their VACCINATION STRATEGIES to PRIORITIES PATIENTS WITH SEVERE MENTAL ILLNESS.

For example in December, 2020 both Denmark and United Kingdom updated their VACCINATION GUIDANCE.

Similarly, NETHERLAND update their VACCINATION GUIDANCE in January, 2021 and GERMANY updated the same in the beginning of February, 2021 and as such included the PERSONS WITH SEVERE MENTAL ILLNESS in their PRIORITY GROUP.

8. That by way of the present petition, petitioner requests urgent intervention of this Honble Court and as such requests this Honble Court to direct the Respondents, inter alia, to include the MENTAL ILLNESS in the LIST OF COMORBIDITIES which is the one of the most neglected sector of our HEALTH INFRASTRUCTURE.
9. That the balance of convenience is in favour of the petitioner and the ends of justice shall suffer if the relief as prayed is not granted.

10. That petitioner has not filed any other petition seeking similar relief before this Honble Court or any other court in country.

**GROUND**

- a. Because Mental Healthcare Act 2017 provides that Right to Health is a statutory right of a person with mental illness.
- b. Because as per Section 21 (1) (e) of the Mental Healthcare Act, 2017 any other services provided to persons with physical illness shall be provided in same manner, extent and quality to persons with mental illness.
- c. Because as per Section 04 of the Rights of Persons with Disabilities Act, 2016 it is the statutory duty of the Respondents to ensure that Women and Children facing Severe Mental illness shall enjoy their rights equally with others.
- d. Because as per Section 25 of the Rights of Persons with Disabilities Act, 2016 it is the statutory duty of Respondents to provide BARRIER FREE ACCESS to Person with Mental illness for COVID-19 Vaccination.
- e. Because by way of capping the benefit of VACCINATION to PERSONS WITH MENTAL ILLNESS having DISABILITY CERTIFICATE only, Respondents have not only excluded

a very vulnerable and most neglected group of the Country

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but have also created BARRIER in providing benefit of COVID – 19 VACCINATION to the Persons with Mental illness not having disability certificate.

- f. Because Section 2 (c) of Rights of Persons with Disabilities Act, 2016 defines BARRIER in the following manner:

“Barrier means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society.”

- g. Because due to capping of Respondents in getting benefit of COVID – 19 VACCINATION, it is next to impossible for Homeless Mentally ill person wandering on street to get VACCINATED for COVID 19 and simple reason for the same is that that such group because of their disability neither have any kind of ID PROOF nor carry DISABILITY CERTIFICATE with them.

- h. Because at present Country is facing TREATMENT GAP upto 80% in MENTAL HEALTH SECTOR and that too for BASIC TREATMENT, hence the expectation of Respondents that all the Mentally ill Persons who are in HIGH SUPPORT NEEDS have DISABILITY CERTIFICATE as provided under section 58 of the Rights of Persons with

Disabilities Act, 2016 is nothing but a mockery of our  
EXISTING HEALTH INFRASTRUCTURE.

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- i. Because by way of excluding the HOMELESS PERSONS WITH SEVERE MENTALL ILLNESS as well as PERSONS WITH SEVERE MENTAL ILLNESS HAVING NO DISABILITY CERTIFICATE, Respondents have not only done the discrimination with Persons with Mental illness but have also failed to keep in mind the PRINCIPLE OF EQUAL RESPECT as mentioned in the WHO SAGE FRAMEWORK.
- j. Because the balance of convenience is in favor of the petitioner and the ends of justice shall suffer if the relief as prayed is not granted.
- k. Because petitioner has not filed any other petition seeking similar relief before this Honble Court or any other court in country.

**PRAYER**

In view of the facts and circumstances mentioned above, this Hon'ble Court may graciously be pleased to:

- A.** Issue Writ / Order / Direction in the nature of Mandamus against Respondents and in particular Respondent No. 01 and direct them to include the SEVERE MENTAL ILLNESS

in the list of Specified Comorbidities for COVID-19 <sup>29</sup>  
Vaccination.

- B.** Issue Writ / Order / Direction in the nature of Mandamus against Respondents and in particular Respondent No. 01 to remove the condition of submitting DISABILITY CERTIFICATE by Beneficiaries for getting COVID-19 VACCINATION.
- C.** Issue Writ / Order / Direction in the nature of Mandamus against Respondents for framing of policy to provide COVID - 19 VACCINATION to HOMELESS MENTALLY ILL PERSONS wandering on the streets.
- D.** Pass any other Order or Direction which this Hon'ble Court may deems fit and proper under the facts and circumstances as mentioned above.

**AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.**

Drawn and Filed By

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08/03/2021