



WEEKLY NEWS



The latest news and updates



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RERA Updates

Can Exercise Writ Jurisdiction Against Private Party Who Inadvertently Benefits From Public Authorities' Failure To Discharge Public Duty: Bombay High Court.

by Maestro Legal | Advocates and Legal Consultants

The Bombay high Court recently came to the rescue of homebuyers, allowing injunctive relief against private developers on writ petitions. A court of Justices S. Kathawalla and Milind N. Jadhav held that government agencies' inaction towards private developers harmed the rights of innocent people. individuals. Therefore, the court can exercise jurisdiction in writing to protect your interests. The bank found that although the developers asked

Can Exercise Writ Jurisdiction Against Private Party Who Inadvertently Benefits From Public Authorities' Failure To Discharge Public Duty: Bombay High Court. (Contd.)

innocent homebuyers an approximate amount of Rs. 178 crore, they had not even provided them with a single home. The tenants have received Restoration Certificates from the Maharashtra Real Estate Regulatory Authority, Mumbai ("RERA") for repayment of the sale price as the construction of their homes has been delayed by several years. Because the developer failed to comply with orders approved by RERA, the claimants were forced to file enforcement proceedings with RERA. Enforcement proceedings were admitted and RERA issued a recovery certificate under Section 40(1) of said Act read with Maharashtra Real Estate (Regulation and Development) Rule 3 (Refund of Interest, Fine, Compensation, Fine Payable, Complaint and Appeal Forms, etc. .), Rules, 2016 in favor of the petitioners and against the developer RERA then sent these certificates of confiscation to the Collector and Tahsildar with instructions to execute them and collect the amounts stipulated therein (to be paid to the petitioners) as arrears of the land income.

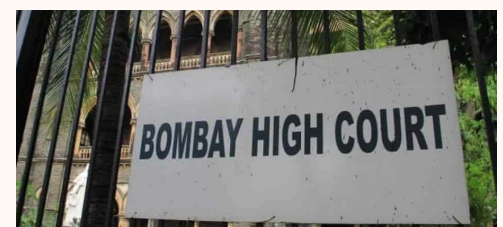
However, the petitioners state that to date, despite

repeated warnings, the Collector and Tahsildar have not taken or taken any effective steps to enforce such Certificates of Restoration. The Court said it was prima facie satisfied that, despite RERA's instructions, the Collector and Tahsildar exercised their powers under Sections 263 to 267 of the Maharashtra Land Revenue Code, 1966, read with Rule 17 of the Maharashtra Territorial Revenue Realization Rules, 1967 to , have not exercised guaranteeing the collection of the decree amounts indicated in the collection certificates to be paid to the applicants. In 2021 SCC OnLine Bom 1090 arising out of a similar matter, it was held that the High Court, in exercising its inherent and broad powers under Section 226 of the Constitution of India, has jurisdiction to issue orders and/or directions against a private defendant who is at disproportionately benefited from the inaction of the authorities in the performance of his public duty.

In the present case, the court found that the only person who has unduly benefited from such inaction by the collector and Tahsildar is the current promoter (which is a private party) who has hitherto failed to comply

with the RERA-approved orders has failed to pay the amount prescribed to Applicants, amounts owed and paid by Developer to Applicants. According to the documents provided by the developer himself, they have taken approximately Rs.1.78 crore from the buyers of the Hill View project flats," the court noted, having received money of Rs.56 lakhs from themselves and affiliates, among others Parties remitted regardless of court orders, it added. Taking into account the aforementioned behavior of the developers, the Court of Justice was that the developer was not voluntarily reimbursed to the approved quotas of the petitioners and that the petitioners are justified in their concern if the preliminary reliefs protect the crime of the petitioners.

Relcon had appealed this order and that appeal was decided on October 1, 2021. The LIC also took this into account and found that the blacklisting period had been reduced to two years. June 15, 2021. This would mean that a blacklist order was in effect at the time of the NIT," read the order, approved by Judge Madhav Jamdar and G. Patel.

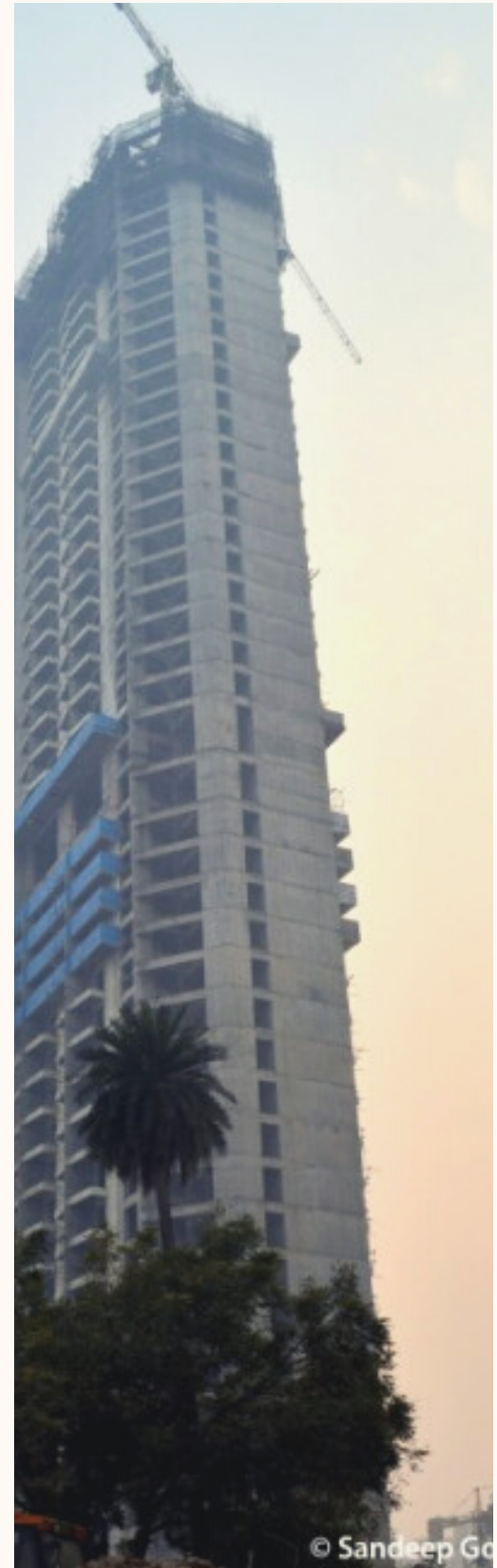


On April 12, the RERA council will meet to address the structural safety of high-rise structures.

considered to ensure greater security of high-rise buildings and prevent loss of life and property physical inspection of projects during construction, statics audit by reputable institutes at regular intervals, statics declaration from the developer before applying for the certificate of completion or occupancy, etc.

The committee may be composed of representatives from the Ministry of Finance, the Ministry of Housing and Urban Development, industry experts (who deal with stalled projects and bankruptcy proceedings) and may make its recommendations to the central government within two months of its establishment, the agenda said. "The Central Government has established the Alternative Investment Fund (AIF) Special Window for Middle Income and Affordable Housing Fund (SWAMIH) Investment Fund of Rs 25,000 crore to provide last mile financing for projects that are net worth positive and under RERA registered, including those projects that have been declared as non-performing assets (NPAs) or are pending proceedings before the National Company Law Tribunal (NCLT) under the

Insolvency and Bankruptcy Code (IBC)," he said. that will benefit over 1,46,946 homebuyers and unlock projects worth ₹66,163 crore," he said. Life savings on those stalled legacy projects that started before RERA went into effect, he said. At the third CAC meeting, the issue of adjusting RERA regulations in some states will also be discussed. The CAC agenda noted that all states/UTs have notified rules under RERA with the exception of Nagaland which is in the process of notifying rules. No fewer than 31 states/UTs have established the Real Estate Regulatory Authority (Regular25, Interim06). States like Meghalaya, Sikkim, West Bengal and UT of Ladakh have yet to establish authority.



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CONSUMER PROTECTION NEWS

by Maestro Legal | Advocates and Legal Consultants



The CCPA fines three corporations for deceptive advertising

In a written response to a question in the Lok Sabha on Wednesday, Ashwini Kumar Choubey stated that, based on notices issued by the Central Consumer Protection Authority (CCPA) against misleading advertisements by companies, 13 companies withdrew misleading advertisements and three companies agreed to corrective advertisements...

Based on communications from the Central Food Protection Agency, there is a Consumer Protection Act (CCPA) against misleading business advertisements, 13 companies removed misleading ads, and 3 companies accepted corrective ads. The CCPA also fined 3 companies for their misleading advertising.

The CCPA had previously issued two safety notices to warn and warn consumers against purchasing non-BIS compliant household items. A notice was also issued to industry associations highlighting consumer protection provisions and persuading their members not to make false claims of effectiveness against the CCPA against coronavirus that are not supported by competent and properly authorized scientific advice, the department reported.

Pursuant to the provisions of the Consumer Protection Act 2019, the CCPA was established effective 7/24/2020 to regulate, among other things, matters relating to false or misleading advertising which is detrimental to the interests of

the public and consumers as a class. The ministry's regulations aim to establish fairness in claims and advertising of food products. In order to safeguard the interests of consumers and to hold food businesses liable for such claims/advertising, this notice has been made. The department also pointed out that all television advertising broadcast on private satellite television channels must comply with the advertising code mandated by the Cable Television Networks (Regulation) Act 1995 and the Cable Television Networks Regulations 1994 therein. Appropriate action will be taken in cases where it is determined that the Advertising Code has been violated.

Paytm Mall and Snapdeal were each fined Rs 1 lakh for selling defective pressure cookers.

The Central Consumer Protection Authority (CCPA) fined e-commerce firms Paytm Mall and Snapdeal Rs 1 lakh each for selling non-standard pressure cookers and ordered them to withdraw the items sold and the amount paid by consumers to refund. In two separate orders, the CCPA found Paytm Ecommerce Pvt Ltd (Paytm Mall) and Snapdeal Pvt Ltd guilty of selling pressure cookers that failed to meet BIS standards and the Household Pressure Cookers (Quality Control) Order, 2020 (QCO). Pots from Pristine and Quba are on the shelf, although the product description clearly states that they do not bear the ISI mark. Under the March 25 order, the CCPA ordered Paytm Mall to notify all consumers of the 39 pressure cookers sold on its platform, recall the pressure cookers and refund consumers their price.

They had to submit a compliance report within 45 days. Snapdeal listed pressure cookers from Saransh Enterprises and AZ Sellers on their platform that were not up to date. The CCPA issued a similar order in the Snapdeal case, ordering the retailer to recall 73 pressure cookers sold on its platform and refund consumers. In

separate orders, the CCPA ordered the two e-commerce companies to "pay a fine of Rs 1 lakh for allowing pressure cookers to be sold on their platform in violation of QCO and in violation of consumer rights". Both companies argued in their case that they are intermediaries within the meaning of the Computer Act and that the responsibility for the content lies with the seller and not with him.

The CCPA cited the Consumer Protection (Electronic Commerce) Rules, 2020, which states that no e-commerce business may engage in unfair commercial practices, whether as part of its store or platform or otherwise. When asked, Snapdeal said in a statement, "This arrangement violates the safe harbor principle and the exemption from liability in certain cases under Section 79 Information Technology." COPRA and the Consumer Protection Rules (Electronic Commerce) 2020, which clearly separate a marketplace's responsibilities and the seller of a product on the market. The company will appeal due to the importance of creating the right precedent under applicable law, which has been upheld by multiple



Supreme Courts and the National Consumer Commission. "But the interests of consumers come first. While defying CCPA regulation, we will offer a BIS-certified pressure cooker as an immediate replacement to all customers of the identified vendors, which includes the 73 customers identified on all three vendors' lists that we confirmed to the CCPA as having been removed and the providers were permanently banned from the platform. "As a platform, we continue to implement the technology, supported by manual verification to ensure no products are listed on our platform without the mandatory BIS certification," he said. In Snapdeal's case, the CCPA said it charges sellers platform fees for every sale made on its platform. "The Company earns and profits commercially from the purchases, consumers make on its platform and responsibility for issues arising from the sale of goods on its platform," says and the order.

Paytm Mall and Snapdeal were each fined Rs 1 lakh for selling defective pressure cookers. (Contd.)

On March 14, the Ministry of Consumer Affairs reported that the Bureau of India Standards (BIS) had seized 1,032 pressure cookers and 936 headsets that were not ISI marked and violated Quality Control Orders (QCOs).

The BRI conducted a search and seizure operation for QCO violations on hulls and pressure cookers. The ministry also said the CCPA has issued 15 notices against e-commerce businesses and vendors selling non-standard pressure cookers online. The agency also issued a safety alert warning consumers against buying household items such as electric immersion heaters, sewing machines, cooking gas cylinders, hard hats and pressure cookers without a valid ISI stamp. posted the security advisory. Also in December, he placed an ad.

Under the law, products that fail to meet mandatory standards are likely to be considered "defective." Safety advisories have been distributed to all states and UTs, industry associations, legal agencies, consumer groups and pulpits. The CCPA has decided to handle cases involving the sale or offering for sale of goods in violation of mandatory darts standards in order to prevent unfair commercial practices and to protect, promote and enforce the rights of consumers as a class. Therefore, anyone who sells household items without meeting the required standards and not holding a valid BRI license will be held liable for violations



COMPANY LAW

by Maestro Legal | Advocates and Legal Consultants



LOK SABHA APPROVES A BILL TO AMEND LAW GOVERNING CHARTERED, COST ACCOUNTANTS, COMPANY SECRETARIES

After the amendments come into force, the presiding officer of the Institute of Chartered Accountants of India (ICAI) will be a non-Chartered Accountant (CA) and also disciplinary committees of the institutes of cost accountants and company secretaries would also be presided over by individuals who are not cost accountants and company secretaries, respectively.

Finance and Corporate Affairs Minister Nirmala Sitharaman said:

“The amendments will not infringe upon the autonomy of the three institutes. The changes will make the institutes more responsible and accountable and align them with global best

practices, she said while replying to a discussion on the bill.”

The bill was passed by a voice vote after various amendments moved by opposition members were rejected.

The Institute of Cost Accountants of India (ICAI) is the apex body for cost accountants, whereas the Institute of Company Secretaries of India (ICSI) is the key body for company secretaries.

Among other amendments, the government has proposed that the disciplinary committee of each of the three apex institutes should have three nominated members who are not a part of the

particular institute concerned. The bill also provide for setting up of a coordination committee of the three bodies headed the Union Corporate Affairs Secretary.

“

Lok Sabha cleared a bill to amend the laws governing chartered accountants, cost accountants and company secretaries providing for revamping the disciplinary committees of the respective professional institutes.

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INSOLVENCY AND BANKRUPTCY

by Maestro Legal | Advocates and Legal Consultants



Supertech declared Insolvent: Impact on 25000 home buyers

The National Company Law Tribunal (NCLT) has declared Noida-headquartered realty major Supertech Ltd as insolvent while admitting a plea filed by the Union Bank of India over non-payment of its dues. The NCLT order is likely to hit over 25,000 homebuyers who have booked their homes with the company for over several years.

According to the petition, Supertech had in 2013 availed of a credit facility of Rs 350 crore from the consortium of banks to part fund its Eco Village II project in Greater Noida. Union Bank's exposure to the credit facility was Rs 150 crore.

The company was in the process of demolishing two illegal towers at its Noida project following the order of the Supreme Court, has multiple under construction projects in NCR.

“

We are satisfied that the present application is complete in all respects and the applicant financial creditor is entitled to claim its outstanding financial debt from the corporate debtor and that there has been default in payment of the financial debt,

the NCLT said in the order

”



Rabobank's insolvency petition against Coffee Day Global dismissed



Bengaluru bench of NCLT comprising Justice Ajay Kumar Vatsavayi and member technical Manoj Kumar Dubey questioned the intent of Rabobank's petition. It noted that a debt resolution process for Coffee Day Global was ongoing and the company was trying to sell its coffee vending business, which operates kiosks in offices to repay creditors.

“In the present case, the respondent (Coffee Day Global) is willing and trying to repay the debts of all the creditors and to show its bona fides when it was ready to sell its vending business, and when other lenders accepted the said move, but the petitioner refused to cooperate in that process,” the ruling noted. “This action of the petitioner clearly establishes that its intention was recovery of its debt but not the resolution of the corporate debtor.”

COMPETITION LAW

by Maestro Legal | Advocates and Legal Consultants



CCI Raids Offices of Tyre Firms Apollo, Ceat, Continental

The Competition Commission of India (CCI) on Wednesday, March 30 raided offices of tyre companies including Germany's Continental AG and India's Apollo Tyres and CEAT in a case of suspected competition law violations. Shares of Apollo, one of India's biggest tyre makers, fell as much as 3% after the raids were reported, while CEAT dropped 2.2% in the Mumbai market, which was trading higher. Shares in Continental, which is a relatively small player in India, fell about 3.5% in morning trade in Frankfurt.

In 2020 the CCI was conducting a broad investigation covering many tyre companies after it received a complaint from the Haryana state government. The CCI said at the time: "There appears to be some arrangement or understanding amongst the tyre manufacturers". A finding of bid-rigging could lead to a fine of up to three times the profit in each year the prices were fixed by the companies, or 10% of annual revenue, whichever is more.

CCI orders investigation against Google for abusing position



The Competition Commission of India (CCI) has ordered an investigation into complaints that Google has allegedly abused its dominant position in the online news market.

The Indian Newspaper Society (INS) said in a statement last week that Google's parent Alphabet Inc, Google LLC, Google India Private Limited, Google Ireland Limited, and Google Asia Pacific Pte Ltd were allegedly abusing their dominant position in their news referral and related advertisement service in violation of Section 4 of the Competition Act, 2002. It alleged that the news media houses were being kept in the dark on the total advertising revenue collected by Google and the actual percentage of the amount being transferred to media organisations. "The European Publishers Council had also filed a competition complaint against Google alleging that Google has achieved end to end control of the ad tech value chain, thus abusing its dominant position," the INS statement added.

The CCI has "found that prima facie these allegations of abuse of dominant position are under the purview of the Competition Act, 2002, and that it requires a detailed investigation by the director-general. The CCI accordingly passed an order to club the information submitted by the INS with the submissions made by the Digital News Publishers Association (DNPA) who have also filed information before the CCI on similar contentions".

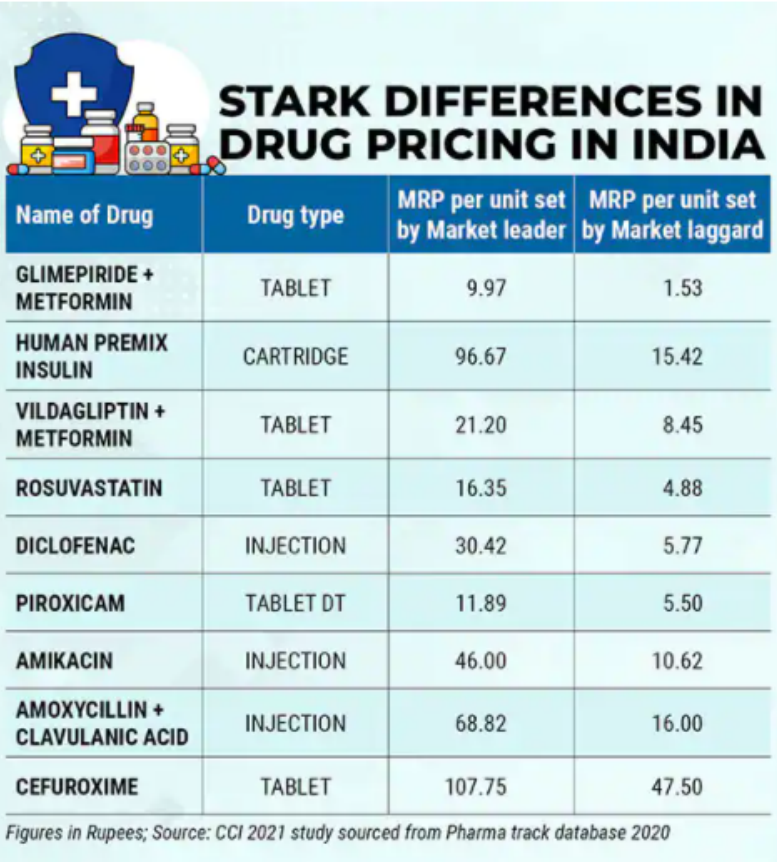
Big hospital chains face CCI scrutiny over inflated prices of medicines and medical devices

The Competition Commission of India (CCI) demanded the answers after concluding an elaborate investigation on inflated drug pricing, triggered by a complaint from a consumer aggrieved at the cost of a syringe. Max Healthcare, Fortis Healthcare and Apollo Hospitals, which run hospitals in the National Capital Region, received notices from CCI asking them to furnish details on the pharmacies, vendors and companies from which they procure their bestselling drugs and medical devices.

The CCI investigation of hospitals was provoked by a complaint in 2015 by Vivek Sharma, who accused Max Healthcare of abusing its dominance and colluding with multinational syringe maker Becton Dickinson India to cheat patients into paying higher prices.

Vivek Sharma, described as a social worker by CCI, purchased a disposable syringe for Rs 19.50 from Max Super Speciality Hospital at Patparganj in New Delhi. That was almost double of what he paid for the same product he purchased from a medical store in Ashok Vihar in Delhi for which he was charged only Rs 10 against a maximum retail price of Rs 11.50.

The CCI investigated and found Max was indeed forcing its in-patients to purchase medicines and medical products from its in-house pharmacy and it earned profit margins up to 527 percent. However, the regulator DG did not



Name of Drug	Drug type	MRP per unit set by Market leader	MRP per unit set by Market laggard
GLIMEPIRIDE + METFORMIN	TABLET	9.97	1.53
HUMAN PREMIX INSULIN	CARTRIDGE	96.67	15.42
VILDAGLIPTIN + METFORMIN	TABLET	21.20	8.45
ROSUVASTATIN	TABLET	16.35	4.88
DICLOFENAC	INJECTION	30.42	5.77
PIROXICAM	TABLET DT	11.89	5.50
AMIKACIN	INJECTION	46.00	10.62
AMOXYCILLIN + CLAVULANIC ACID	INJECTION	68.82	16.00
CEFUROXIME	TABLET	107.75	47.50

Figures in Rupees; Source: CCI 2021 study sourced from Pharma track database 2020

find evidence of collusion between Max and Becton.

In the 2021 study, the CCI blamed hospital pharmacies and doctor-run pharmacies for excessively priced drugs. It found that drug manufacturers extended discriminatory pricing and margins through chemists.

INTELLECTUAL PROPERTY RIGHT NEWS

by Maestro Legal | Advocates and Legal Consultants



For a period of five years, patent rights for COVID-19 vaccines may be relinquished.

International pharmaceutical companies' intellectual property rights to COVID-19 vaccines may be relaxed for up to five years, according to a European Union (EU) proposal amid a two-year bitter dispute at the World Trade Organization involving India, the USA, South Africa and the EU. However, this grace period does not apply to COVID-19 medicines and diagnostic equipment, although the EU proposes a "discussion" over the next six months and also rejects India's original call for a full exemption from ownership restrictions. about Covid therapy.

This exemption will allow pharmaceutical companies in developing countries not

only to manufacture vaccines but also later to export them without the patent holders' express permission, according to a version of the negotiation text seen by The Hindu. A discussion of the text is expected in the next two weeks, a person familiar with the proceedings but wishing not to be identified. Although India along with South Africa, a, who was one of the proponents of the original waiver in 2020, it is unclear to what extent this proposal will benefit Indian manufacturers, which have not only entered into licensing agreements with global pharmaceutical companies but also developed domestic vaccines over the past year.

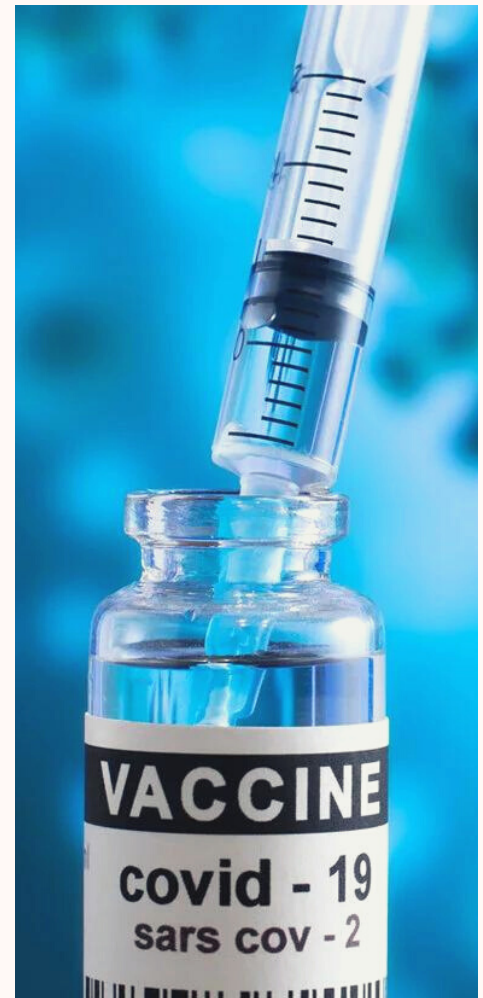
Almost 100 countries, including the United States, support India's position, but the EU has many developing countries, including India, that already have a compulsory licensing system in place, under which the government can authorize the production of a drug or vaccine regardless of whether it is protected by patents. India has also administered more than 1.7 billion vaccines locally and exported at least 30 million worth of vaccines to neighboring countries and delivered them to the international COVAX facility. A clause in the current text states that these "exemptions" would apply to developing countries that exported no more than 10%

For a period of five years, patent rights for COVID-19 vaccines may be relinquished. (Contd.)

of COVID19 vaccine doses in 2021, and it is unclear whether India is included in this definition.

A person privy to these developments said that since the regulations only apply to "patented" products, and companies like Moderna and Pfizer have not patented their vaccines in India, it would not necessarily facilitate their manufacture in India. "More than the patent counts the manufacturing knowledge." This aspect, which falls under the trade secret, can still be withheld," the person added. Biswajit Dhar, an international trade expert and professor at Jawaharlal Nehru University who saw the draft document, said the current format is not

progressive. "This is essentially the same as the compulsory license provisions. India has historically been at the forefront of developing country positions in the WTO. for India. This lethargy could have serious consequences for future negotiations. Another person close to the TRIPS negotiation process told The Hindu on condition of anonymity that India "plays it safe" at global tables. "The pandemic is not over yet. More than patent exemptions, Indian industry is concerned about supply lines (of components needed to make medicines and diagnostics) being cut off from the West if we firmly hold on to full exemption. Now we have many vaccines, but drugs are another matter.



GAMING LAWS

by Maestro Legal | Advocates and Legal Consultants



KARNATAKA MOVES SUPREME COURT CHALLENGING HIGH COURT JUDGMENT, SEEKS RESTORATION OF BAN ON ONLINE GAMES

Karnataka Home Minister Araga Jnanendra said:

"We had amended the law with great ambition as reports showed the use of money for betting in online games had ruined large numbers of youth and their families. We decided to place some restrictions to eliminate the use of money and responded with a law. But the court struck down the amendments. We still think our response was right as many families have said the online betting menace has destroyed them financially. That is why we decided to move the Supreme Court."

On 14th February 2022 a division bench consisting of Chief Justice Ritu Raj Awasthi and Justice Krishna S Dixit

were ultra-virus of the constitution. The court, however, stated that it was simply striking down a few contentious provisions, not the entire law. The judgment followed writ petitions from several gaming companies and the All India Gaming Federation (AIGF) challenging the law, which they said allowed games of skill, but banned the use of money in any form.

of games. The high court also stopped the state from interfering with the online gaming business and related activities of the gaming firms. The Karnataka government in its Special Leave Petition (SLP) before the Supreme Court, has said that the state requires the law to protect people from falling for online

games and losing money. Explaining the sequence of events, the state said that it was during the hearing of a PIL seeking ban on online games last year that the high court had asked the government to clarify its stand on online games. The government, in July, informed the court that it had decided to amend the police act to provide for a ban on online games of chance involving money. The high court also stopped the state from interfering with the online gaming business and related activities of the gaming firms. The petitioners had contended that Karnataka's law effectively curbed online games of skill too, which had been allowed by the Supreme Court.