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

+ **W.P.(C) 10870/2021**

MADHUR MITTAL Petitioner

Through: None.

versus

UNION OF INDIA Respondent

Through: Mr. Anurag Ahluwalia, CGSC for
UOI. (M:9811418995)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **17.01.2023**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner – Madhur Mittal seeking directions to the Respondent – Union of India (Ministry of Health and Family Welfare) to allow the Petitioner to take Covaxin - Covid-19 vaccine for the second dose in terms of the medical prescription/ advice, instead of Covishield, which was administered to the Petitioner as first dose of Covid-19 vaccine.
3. The case of the Petitioner in this writ petition, is that he is suffering from cancer. He was administered the first dose of Covishield vaccine in March, 2021. According to the Petitioner, after the first dose of Covishield vaccine was administered, he suffered from various adverse reactions which required further specialized treatment. Accordingly, he prays that instead of Covishield he should be administered the Covaxin vaccine as the second dose of Covid-19 vaccine.

4. Notice was issued in this matter on 27th September, 2021. Thereafter, the Respondent has filed their affidavit wherein it is stated that the mixing of first two doses has not been permitted by the National Technical Advisory Group on Immunization (NTAGI) or National Expert Group on Vaccine Administration for COVID-19 (NEGVAC) as the safety or efficacy of such mixed dose has not been determined. The relevant portions of the said affidavit is set out below:

“8. It is humbly submitted that the National Technical Advisory Group on Immunization (NTAGI) is India's apex technical advisory body on immunization. NTAGI provides guidance and advice to the MoHFW on provision of vaccination and immunization services for the effective control of vaccine preventable diseases in the country. NTAGI comprises of technical experts like, Immunologists, Vaccine and Vaccine Safety experts, Paediatricians, Gastroenterologists, Public Health Experts, Epidemiologists, Program Managers and Regulatory Authorities.

9. It is further humbly submitted that the National Technical Advisory Group on Immunization (NTAGI) and National Expert Group on Vaccine Administration for COVID-19 (NEGVAC) are two expert bodies working in tandem to guide the National Covid-19 vaccination program. While NTAGI examines the technical aspects like usage of different varieties of Covid Vaccines, interval between vaccine doses, contraindications etc. and recommend the same to NEGVAC, NEGVAC in turn provides overall guidance and recommendations on all aspects of COVID-19 vaccination to Ministry of Health and Family Welfare.

10. It is further humbly submitted that currently there is no recommendation from NTAGI or NEGVAC regarding safety and efficacy of mixed dose of 2 or more Covid-19 vaccines. Therefore, mixing the doses of

2 or more Covid-19 vaccines is presently not permitted in the National Covid-19 Vaccination Program.

11. That the marketing authorization for vaccines is granted by Central Drugs Standard Control Organization (CDSCO) after detailed assessment of quality, safety, efficacy and immunogenicity data including for mixing of Covid-19 vaccines. As on date, no evidence has been submitted to CDSCO on safety and efficacy for mixing of 2 doses of Covid- 19 vaccines manufactured by different manufacturers and technology platforms in Indian population.

12. It is further humbly submitted that the CDSCO has granted permission to conduct Phase-IV clinical trial to M/s Christian Medical College, Vellore by mixing of 02 doses of Covid-19 vaccines on 7th August, 2021. As per the approved protocol, the study duration is approximately 14 months and the study is ongoing.

13. It is submitted that at present vaccination of an individual cannot be considered complete by giving 2nd dose of different Covid -19 vaccine (Covaxin in particular case), therefore final vaccination certificate cannot be issued by Co-WIN as per the present guidelines.

14. It is humbly submitted that the safety and efficacy of any vaccine regimen is of paramount importance for public health program. In absence of study data, the mixing of 2 different vaccines is not permitted presently.”

5. As per the aforementioned affidavit, phase four trials were being conducted by M/s Christian Medical College, Vellore in respect of mixing of two doses of Covid-19 vaccines at the time of filing of the counter affidavit. Under such circumstances, the mixing of doses was not permitted by the Respondent *qua* the Petitioner.

6. Mr. Ahluwalia, Id. CGSC submits that even as on date, mixing of doses is not permissible for the first and second dose, however for the booster dose it is permitted.

7. None appears for the Petitioner. Even on 17th December, 2021 and 12th May, 2022 none had appeared for the Petitioner.

8. Under these circumstances, the writ petition is dismissed and all pending applications, are disposed of.

PRATHIBA M. SINGH, J.

JANUARY 17, 2023

dj/kt