

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

W.P. No. \_\_\_\_\_/2020 (GM-PIL)

**Between:**

A. Varghese & Anr.

...Petitioner

**And:**

Union of India & Ors.

... Respondent

**LIST OF DATES AND SYNOPSIS**

<b>DATE</b>	<b>PARTICULARS</b>
January- March 2020	Spread of COVID-19, "Coronavirus", in over 100 countries all over the world.
NIL	"Guidelines for Ayurveda Practitioners for Covid-19" dated NIL issued by the Ministry of AYUSH, Government of India, which limits the use of Ayurvedic treatment as only an "add on" to the line of management and denies patients the right to adopt Ayurvedic treatment as a 'stand-alone' form of treatment.
17.3.2020	Guidelines on Clinical Management of Covid-19' dated 17.3.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India, which acknowledged that there is no known treatment for Covid-19 in Allopathy, and yet recommended only allopathic medicines for management of the infection, not allowing patients or health practitioners to use alternative systems of medicine such as Ayurveda.
22.3.2020	Advisory dated 22.3.2020 issued by the Indian Council of Medical Research, which does not mention the prophylactic medicines and measures available in Ayurveda and other systems of medicine and does not offer any choice to the intended persons to choose the system of medicine they prefer or to reject any form of medicine/treatment.
7.5.2020	RTI response dated 7.5.2020 of the Council of Scientific and Industrial Research (CSIR), Ministry of Science &

	Technology, Government of India to an RTI query dated 26.4.2020 wherein the CSIR has denied a person's right to choose treatment.
22.5.2020	Advisory dated 22.5.2020 issued by the Indian Council of Medical Research, which extended the scope of its Advisory dated 22.3.2020, advising health care workers in all hospitals and blocks that have a Covid-19 ward to consume HCQ as a prophylactic subject to contraindications such as retinopathy and pre-existing cardiomyopathy.
3.7.2020	"Clinical Management Protocol: Covid-19" dated 3.7.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India.
20.7.2020	'Revised Standard Operating Procedure for CCC' dated 20.7.2020 issued by the Commissionerate of Health & Family Welfare Services, Government of Karnataka, which mandates that every person who has tested positive for Covid-19, whether they are symptomatic or asymptomatic, be admitted to a Covid Care Centre and that they compulsorily be administered allopathic medicines exclusively.
	Hence this Petition.

This Writ Petition filed by qualified doctors of Ayurveda who have been practicing for long periods of time in the State of Karnataka, challenges (i) the 'Revised Standard Operating Procedure for CCC' dated 20.7.2020 issued by the Commissionerate of Health & Family Welfare Services, Government of Karnataka, (ii) Guidelines issued by the Ministry of AYUSH dated NIL, (iii) the CSIR as set out in the RTI response dated 7.5.2020, (iv) the Clinical Management Protocol: Covid-19" dated 17.3.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India, (v) the Clinical Management Protocol: Covid-19" dated 3.7.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India, (vi) the Advisory dated 22.3.2020 issued by the Indian Council of Medical Research, and (vii) Advisory dated 22.5.2020 issued by the Indian Council of Medical Research.

The common feature of the above impugned orders is that a patient testing positive for Covid-19 and who is a firm believer in the Ayurvedic system is not permitted to take Ayurvedic drugs for management of symptoms of Covid-19 such as cough, fever, headache, malaise, shortness of breath and the like if that person is admitted in a government establishment and is forced against their will to take allopathic drugs only.

Petitioners state at the outset that they are not saying that Ayurveda is a cure for Covid-19. Nor do they propagate such a belief. What they are saying is that many of the symptoms of Covid-19 can be treated with positive results by relying upon the age-old and well-tested systems of Ayurveda. Ayurvedic drugs can generally boost the immune systems and may possibly reduce the severity of the ultimate illness.

What the Petitioners are also emphatically saying is that they do not want to be forced to take allopathic treatment in government institutions and that they take full responsibility for this decision and any consequence thereof and that they will blame no one for an informed decision taken by them as to the course of their treatment.

What they are also saying is that they would not, if they were tested positive, resist any lawful government order as to their quarantine so that the consequences of their decision to take ayurvedic drugs only would not be visited on any other person.

Place: Bangalore

Date:

ADVOCATE FOR PETITIONERS

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**  
(ORIGINAL JURISDICTION)

W.P. No. \_\_\_\_\_/2020 (GM-PIL)

**In the Matter of :**

1. A. Varghese,

...Petitioner No. 1

2. Dr. Priyanka Arora,

...Petitioner No. 2

Versus

1. Union of India,  
Through the Secretary,  
Ministry of Health and Family Welfare,  
New Delhi-110001.

....Respondent No. 1

2. Union of India,  
Through the Secretary,  
Ministry of AYUSH,  
New Delhi-110001.

....Respondent No. 2

3. Commissionerate of Health & Family Welfare Services,  
Government of Karnataka,  
3<sup>rd</sup> Floor, IPP Building, Anand Rao Circle,  
Bangalore, Karnataka- 560009.

....Respondent No. 3

4. Indian Council of Medical Research,  
Through the Director General, ICMR,  
V. Ramalingaswami Bhawan, Ansari Nagar,  
New Delhi-110029.

...Respondent No. 4

5. Council of Scientific and Industrial Research,  
Ministry of Science & Technology, Government of India,  
Through the Director General, CSIR,

Anusandhan Bhawan, 2 Rafi Ahmed Kidwai Marg,  
New Delhi- 110001.

...Respondent No. 5

**Memorandum of Writ Petition under Article 226 of the Constitution  
of India**

1. This Writ Petition filed by qualified practitioners of Ayurveda who have been practicing for long periods of time, challenges (i) the 'Revised Standard Operating Procedure for CCC' dated 20.7.2020 issued by the Commissionerate of Health & Family Welfare Services, Government of Karnataka (**Annexure A at page no. 44 to 62**), (ii) the CSIR decision as set out in the RTI response dated 7.5.2020 (**Annexure B at page no. 63-64**), (iii) "Guidelines for Ayurveda Practitioners for Covid 19" issued by the Ministry of AYUSH, Government of India, dated NIL (**Annexure C at page no. 65-107**), (iv) the "Clinical Management Protocol: Covid-19" dated 17.3.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India (**Annexure D at page no. 108-122**), (v) the "Clinical Management Protocol: Covid-19" dated 3.7.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India (**Annexure E at page no. 123-145**), (vi) the Advisory dated 22.3.2020 issued by the Indian Council of Medical Research (**at Annexure F at page no. 146-148**), and (vii) Advisory dated 22.5.2020 issued by the Indian Council of Medical Research (**Annexure G at page no. 149-152**).
- 1A. The Petitioners have not approached any other authority for the same reliefs.
2. The common feature of the above impugned orders is that a patient testing positive for Covid-19 and who is a firm believer in the Ayurvedic system is not permitted to take Ayurvedic drugs for management of symptoms of Covid-19 such as cough, fever, headache, malaise, shortness of breath and the like if that person is admitted in a government establishment and is forced against their will to take allopathic drugs only.
3. Petitioners state at the outset that they are not saying that Ayurveda is a cure for Covid-19. Nor do they propagate such a belief. What they are saying is that many of the symptoms of Covid-19 can be treated with positive results by

relying upon the age-old and well-tested systems of Ayurveda. Ayurvedic drugs can generally boost the immune systems and may possibly reduce the severity of the ultimate illness.

4. What the Petitioners are also emphatically saying is that they do not want to be forced to take allopathic treatment in government institutions and that they take full responsibility for this decision and any consequence thereof and that they will blame no one for an informed decision taken by them as to the course of their treatment.
5. What they are also saying is that they would not, if they were tested positive, resist any lawful government order as to their quarantine so that the consequences of their decision to take ayurvedic drugs only would not be visited on any other person.

#### **Description of the Petitioners**

6. Petitioner No. 1 is a resident of Bangalore and has been practicing 'Murma' therapy since many decades, which is a part of ancient Ayurveda and is a traditional treatment prevalent in many parts of the country. He is a graduate in Commerce from University of Kerala.
7. Petitioner No. 2 is a qualified Ayurveda Practitioner. She completed her BAMS (Bachelor of Ayurvedic Medicine and Surgery) degree from State Gurukul Ayurvedic Hospital and College, Haridwar, Uttarakhand. She has been working as an Ayurvedic Medical Officer in the State of Uttarakhand AYUSH Department on contractual basis since 2010.

#### **Guidelines of the Karnataka Government recommending the potentially dangerous HCQS and excluding all Ayurvedic drugs**

8. The Petitioners impugn the 'Revised Standard Operating Procedure for CCC' dated 20.7.2020 issued by the Commissionerate of Health & Family Welfare Services, Government of Karnataka, (**Annexure A at page no. 44 to 62**) which mandates that every person who has tested positive for Covid-19,

whether they are symptomatic or asymptomatic, be admitted to a Covid Care Centre. The said Notification reads as under:

“The following persons shall be admitted directly to COVID Care Centre (CCC) after triage:

- All asymptomatic/mild symptomatic persons who meet one or more of the following criteria:
  - Persons of any age:
    - Who are not eligible for home isolation.
    - Who opt for isolation at CCC.
  - Body temperature > 38 C (>100.4 F) for more than 24 hours.

9. Further, Annexure-1 to the above impugned Guidelines prescribe the treatment protocol, which consists of the potentially dangerous drug namely Hydroxychloroquine Sulphate (HCQS), and Zinc and Vitamin tablets, along with additional medications including Pantoprazole, Antitussive cough syrups, Cetrizine, and Paracetamol.

### **Instruction of CSIR**

10. The Council of Scientific and Industrial Research (CSIR), Ministry of Science & Technology, Government of India has issued certain instructions which are to be found in the RTI response dated 7.5.2020 to the query dated 26.4.2020 **(Annexure B at page no. 63 to 64)** wherein the CSIR has denied a person’s right to choose treatment as follows:

“Individuals have limited options as corona virus has been declared pandemic. A patient may infect other in community so he is not allowed any other option than modern medicine.”

### **Guidelines of AYUSH Ministry**

11. This Petition further impugns the “Guidelines for Ayurveda Practitioners for Covid-19” **(Annexure C at page no. 65 to 107)** dated NIL issued by the Ministry of AYUSH, Government of India, which limits the use of Ayurvedic

treatment as only an “add on” to the line of management and denies patients the right to adopt Ayurvedic treatment as a ‘stand-alone’ form of treatment. The said Guidelines read as under:

“All the standing instructions issued by Health authorities (Ministry of Health & Family Welfare, World Health Organization and state and local health authorities) are to be adhered completely and Ayurveda Management may stand as 'ADD ON' to the present contemporary line of management.”

**Clinical Management Protocol of the Ministry of Health prescribes questionable and the possibly dangerous allopathic drugs Hydroxy Chloroquine (HCQ) and Remdesivir while excluding all Ayurvedic drugs**

12. The Petition impugns the ‘Guidelines on Clinical Management of Covid-19’ dated 17.3.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India, **(Annexure D at page no. 108 to 122)** which acknowledged that there is no known treatment for Covid-19 in Allopathy, and yet recommended only allopathic medicines for management of the infection, not allowing patients or health practitioners to use alternative systems of medicine such as Ayurveda. The Guidelines noted as under:

“There is no current evidence from RCTs to recommend any specific treatment for suspected or confirmed patients with Covid-19. No specific anti-virals are recommended for treatment of COVID – 19 due to lack of adequate evidence from literature. The use of Lopinavir/ Ritonavir in PEP regimens for HIV (4 weeks) is also associated with significant adverse events which many a times leads to discontinuation of therapy. In light of the above, Lopinavir/ Ritonavir should ONLY be used with proper informed expressed consent on a case to case basis for severe cases, within the under-mentioned framework along with supportive treatment as per need.”



13. The Petition further impugns the "Clinical Management Protocol: Covid-19" dated 3.7.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India, **(Annexure E at page no. 123 to 145)** which prescribes the protocol for symptomatic treatment/management of Covid-19. A perusal of this document will show that only allopathic drugs are prescribed for Covid-19 and Covid-19 accompanying illnesses. Secondly the potentially dangerous drug Hydroxy Chloroquine (HCQ) is prescribed repeatedly as under:

"Mild COVID-19 cases may be given:

...

1...x

2...x

3. Tab Hydroxychloroquine (HCQ) may be considered for any of those having high risk features for severe disease (such as age > 60 years; Hypertension, diabetes, chronic lung/kidney/ liver disease, Cerebrovascular disease and obesity) under strict medical supervision, preferably after shifting to DCHC/DCH.
4. Avoid HCQ in patients with underlying cardiac disease, history of unexplained syncope or QT prolongation (> 480 ms).

...

Clinical Management of Moderate cases

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#### 6. Anti-virals

- Tab. Hydroxychloroquine (400mg) BD on 1st day followed by 200mg 1 BD for 4 days. (after ECG Assessment)
- May consider investigational therapies such as Remdesivir (under EUA); Convalescent Plasma (Off label use) as detailed under Section 11."

**ICMR Guidelines recommending the potentially dangerous HCQ**

14. The Petitioner further impugns the Advisory dated 22.3.2020 (**Annexure F at page no. 146 to 148**) issued by the Indian Council of Medical Research, which reads as under:

“The Advisory provides for placing the following high risk population under chemoprophylaxis with hydroxy chloroquine.

- A) Asymptomatic Healthcare Workers involved in the care of suspected or confirmed cases of COVID-19.
- B) Asymptomatic household contacts of laboratory confirmed cases.”

15. As can be seen from above, the Advisory dated 22.3.2020 does not mention the prophylactic medicines and measures available in Ayurveda and other systems of medicine and does not offer any choice to the intended persons to choose the system of medicine they prefer or to reject any form of medicine/treatment.

16. The Petitioner further impugns the Advisory dated 22.5.2020 issued by the Indian Council of Medical Research (**Annexure G at page no. 149 to 152**), which extended the scope of its Advisory dated 22.3.2020, advising health care workers in all hospitals and blocks that have a Covid-19 ward to consume HCQ as a prophylactic subject to contraindications such as retinopathy and pre-existing cardiomyopathy. The Advisory reads as under:

“In light of all of the above, the Joint Monitoring Group and NTF have now recommended the prophylactic use of HCQ in the following categories:

1. All asymptomatic healthcare workers involved in containment and treatment of COVID19 and asymptomatic healthcare workers working in non-COVID hospitals/non-COVID areas of COVID hospitals/blocks
2. Asymptomatic frontline workers, such as surveillance workers deployed in containment zones and

paramilitary/police personnel involved in COVID-19 related activities.

3. Asymptomatic household contacts of laboratory confirmed cases.”

17. Therefore, the Advisory dated 22.5.2020 too does not mention the prophylactic medicines and measures available in Ayurveda and other systems of medicine and does not offer any choice to the intended persons to choose the system of medicine they prefer or to reject any form of medicine/treatment.

**Ayurveda recognized throughout India as helpful in the treatment of Covid-19 related symptoms**

18. Ayurveda is one of the oldest of the traditional systems of medicine (TSMs) accepted worldwide. The ancient wisdom in this traditional system of medicine is still not exhaustively explored. Ayurvedic medicine is an example of a well-organized system of traditional health care, both preventive and curative, that is widely practiced in parts of Asia. Ayurveda has a long tradition behind it, having originated in India as much as 3,000 years ago. Today it remains a favoured form of health care in large parts of the Eastern world, especially in India, where a large percentage of the population uses this system exclusively or combined with modern medicine.

19. Like modern medicine, Ayurveda has both preventive and curative aspects. The preventive component emphasizes the need for a strict code of personal and social hygiene, the details of which depend upon individual, climatic, and environmental needs. Bodily exercises, the use of herbal preparations, and Yoga form a part of the remedial measures. The curative aspects of Ayurveda involve the use of herbal medicines, external preparations, physiotherapy, and diet. It is a principle of Ayurveda that the preventive and therapeutic measures be adapted to the personal requirements of each patient.

20. The current therapy for Covid-19 involves only symptomatic treatment, supportive care and prevention of complications; however, no specific drug or targeted intervention is available yet. Ayurveda recommends local and

systemic prophylaxis measures for respiratory diseases that may be beneficial in COVID-19 prevention.

21. The "Guidelines for Ayurveda Practitioners for Covid-19" (**Annexure C at page no. 65 to 107**) dated NIL issued by the Ministry of AYUSH, Government of India, lists the following Ayurveda medications for management/treatment of Covid-19 symptoms:

Mild Symptoms:

Sl. No.	Clinical presentation	Medicines
1.	Fever, cough, sore throat, nasal congestion, malaise and headache	<ul style="list-style-type: none"> <li>• Mahasudarshana GhanVati –</li> <li>• Sanjeevani Vati*</li> <li>• Samshamni Vati</li> <li>• Talishadi churna+</li> <li>• Yastimadhu churna</li> <li>• Sitopaladi churna</li> <li>• Lozenges- Vyoshadivati*/ Lavangadivati/</li> <li>• Yashtimadhughanvati</li> <li>• ChaturthakaJvaraharakwatha( Giloya stem either dry or wet - 5gms+ Amalaki-Dry-5gms+ Nagarmotha-5gms decoction with 200ml of water and reduced it up to 100ml)</li> <li>• PathyadiKashayam /GuduchyadiKashayam / BharangyadiKashayam</li> <li>• Trikatu Siddha jala*</li> <li>• Vyaghri Haritakileha *</li> <li>• Agastya Rasayana</li> <li>• Kantakari Avaleha *</li> <li>• Gargle with warm water mixed with rock salt and turmeric</li> <li>• Shadanga –paniya</li> <li>• Amritarishta</li> <li>• Gargling with YashtimadhuPhanta -3 to 4 times daily (200 ml lukewarm water +</li> </ul>

		5gms Yashtimadhuchurna) <ul style="list-style-type: none"> <li>• Shwasakuthara Rasa + NaradiyaLakshmivilasa Rasa</li> </ul>
2.	For Myalgia	<ul style="list-style-type: none"> <li>• Ashwagandharishta and / or Balarishta</li> <li>• Rasnasaptakakwatha*</li> </ul>
3.	Mild Pneumonia (Difficulty in breathing/ fast breathing >40 breaths/min)	<ul style="list-style-type: none"> <li>• Dhanwantara Gutika</li> <li>• Sameerapannaga Rasa* / Shrunigarabhra Rasa</li> <li>• Marsha Nasya* (Shirovirechana) with AnuTaila / Shadbindu Taila / Sarshapa Taila</li> <li>• Steam inhalation with Ajwain / Pudina / Eucalyptus oil</li> <li>• Somasava*</li> <li>• Dashmularishta*</li> <li>• Dashamoolakwatha* with Pippalichoorna prakshepa (1gm)</li> </ul>

Severe Symptoms:

Sl. No	Clinical presentation	Medicines
1.	Dashamoolakwatha* with Pippalichoorna prakshepa (1gm)	<ol style="list-style-type: none"> <li>1. MahaSudarshanghanVati*- 500 mg TDS with lukewarm water</li> <li>2. Amritarista 15-20 ml tid with water after food</li> <li>3. Amritottara Kashaya 15 ml tid with water before food</li> <li>4. Vishamajwarantakalauha* with gold - 125 mg bid with water - High fever with debility</li> <li>5. Mrityunjaya rasa* - 125 mg tid with water - Uncontrolled fever with myalgia</li> <li>6. Samshamanivati 500 mg. 2 tab BD after food</li> <li>7. ArkaYavani* - 10 – 25 ml QID with water - Deepanapachana Jwara, Aruchi</li> <li>8. Pathyadi Kashayam* /Guduchyadi</li> </ol>

		<p>Kashayam / Bharangyadi Kashaya* - freshly prepared 30 – 40 ml BD before food</p> <p>9. Chaturthaka Jvaraharakwatha( Giloya stem either dry or wet -5gms+ Amalaki-Dry-5gms+ Nagarmotha-5gms decoction with 200ml of water and reduced it up to 100ml)</p> <p>10. Tribhuvanakirti rasa* 125 mg BD after food with shunthijala or water</p> <p>11. Bilwativati 1 TDS</p>
2.	Sore throat	<p>1. Vyoshadivati/ LavangadiVati/ Khadiradivati -2 tab TDS</p> <p>2. Laxmivilasa rasa 125 mg tid with tamboolaswarasa after food</p>
3.	Nasal congestion (Pratishyaya)	<p>1. Haridrakhand- 3 - 5 gm BD with lukewarm water/ milk</p> <p>2. Laxmivilasa rasa 125 – 250 mg BD with tamboolaswarasa after food</p>
4.	Myalgia (Parshwa - shoola, Shirashoola, Angamarda)	<p>1. Rasnasaptak*- Kwath- 30 - 40ml BD before food</p> <p>2. Ashwagandharista 15 – 20 ml BD with water</p> <p>3. Balarishta 15 – 20 ml BD with water</p> <p>4. Devadaryadikwatha* 30 - 40 ml BD before food</p> <p>5. Dashamoolakwath* 30 - 40 ml BD before food</p> <p>6. Godantibhasma 500 mg – 1 gm BD/TDS daily with ghee, sugar, warm milk or water</p>
5.	Cough (Vataja Kasa)	<p>1. Talisadi Churna (4 g)+ Madhuyashtichurna (2 g) BD with honey/ lukewarm water</p> <p>2. Sitopaladichurna 3-6 gm with honey BD/ TDS or as required</p> <p>3. Tankanabhasma* – 250 – 500 mg BD</p> <p>4. Dashamoolakatutrayadi Kashaya* 20 – 30 ml TDS with water before food</p>
6.	Dehydration features	<p>1. Shadangapaneeya 40 ml tid/as per requirement</p>

	(Trishana due to Jwara)	
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#### Pneumonia – Shwasapradhanakasa

1. Sanjeevanivati\*- 125mg TDS/ Gorochanadivati\*- 125 mg TDS with luke warm water
2. Somasav/Pushkaramoolasava\*- 10 – 20 ml with equal amount of water BD
3. Talisadi (4g)+Madhuyashtichurna (2gms) + Sameerapannaga rasa\* 125 mg- twice in a day with honey / luke warm water
4. Pushkaramoolasava 15 – 20 ml BD/TDS with equal water
5. Agastya Haritaki\*/Vyaghriharitaki\*/Chitrakaharitaki Avaleha\* – 10 – 12 gm BD after food with water
6. Kantakariavaleha\*10 – 12 gm BD after food
7. Dashamoolakatutrayadi Kashaya\* 20 – 30 ml TDS with water before food
8. Vasakasava\* 15 – 20 ml TDS with water after food
9. Bharangyadikwatha\* 30 - 40 ml BD before food
10. Chandramrita rasa\* – 250 mg BD with honey or tamboolaswarasa or vasa swarasa or ardrakaswarasa

#### Acute Respiratory Distress Syndrome - Shwasa

1. Inhalation with Karpoora and Nilgiritaila
2. ShwasKuthar Rasa\* (125 - 250 mg) with Kantakari\* (2 g) and pippalichurna (1 gm) given with mustard oil and jaggery
3. Mallasindoora\* 125 mg + Talisadichurna 3gms + Shringabhasma 125 mg+ Abhrakabhasma 125 mg, with honey BD after food
4. Local application of saindhavaditaila to chest followed by Nadiswedana

#### Immunocompromised conditions – Reduced Vyadhikshamatwa

1. Samshamani Vati 500 mg tablet, 2 tablet BD after food
2. Agastya Haritaki Rasayana\* 10 -12 gm BD after food
3. ChitrakaHaritaki Rasayana\* 10 -12 gm BD after food
4. Chayavanaprashavaleha 10 -12 gm BD after food
5. Bramha Rasayana 10 -12 gm BD after food
6. Swarnamalinivasanta rasa 125 mg BD after food with water

## 7. Guduchi Rasayana

### Diabetes

- Nishamalaki Churna + Musta Churna – 3-6 gm BD with water before food
- Jambuchruna\* 3 -6 gm with water before food
- Guduchichurna 3-6 gm with water before food
- VasantaKusumakara Rasa - 125 – 250 mg BD with water after food
- Abhrakabhasma 125 – 250 mg twice a day with honey or ghee or triphalakwatha or guduchiswarasa or ardrakaswarasa

### Cardio-vascular diseases

- Ashwagandha Churna (3 gm)+ Arjuna Churna (3 gm)- BD with milk/water before food
- Prabhakar Vati\* 125 – 250 mg- 1 TDS after food - In patients with history of IHD/MI
- Hridayarnava rasa\* 125 mg BD after food
- Arjunarista 15 – 20 ml BD with water after food
- Saraswatarista 15 – 20 ml BD with water after food
- Kooshmanda Rasayana 10 -12 gm BD
- Dhanwantargutika\* 250 – 500 BD with decoction of Jeeraka or warm water
- Sarpagandhaghnavati\* 250 – 500 mg OD/BD a day with milk or water
- Navajeevana rasa\* 62.5 – 125 mg BD a day with milk

### Renal diseases

- Dashamula Kwath\* (freshly prepared 30 - 40 ml) BD before food
- Varunadikwatha\* - freshly prepared 30 – 40 ml BD with water - For renal compromised condition
- Trinapanchamoolakwatha – freshly prepared 30 – 40 ml BD - For renal compromised condition
- Chandraprabha Vati\* 2 tablets (250 mg) BD/TDS after food with water
- Shilajitwadi Lauha (250mg)- BD before food with warm water
- Vettumaran Gulika\* 250 – 375 mg twice or thrice daily with warm water

22. The Petitioner relies on several scientific research publications to demonstrate the efficacy and safety of using Ayurveda for treatment/management of Covid-



19, and to demonstrate the rationale for seeking the right to choose Ayurveda as the form of treatment and to reject allopathic treatment.

23. The Petitioner further relies upon a case report titled "Ayurvedic treatment of COVID-19/SARS-CoV-2: A case report" dated 10.6.2020 published in the Journal of Ayurveda and Integrative Medicine (**Annexure H at page no. 153 to 157**) detailing the first known case of a Covid-19 confirmed patient stationed in New York treated entirely with Ayurveda. This case report is of the patient who was familiar with the use of Ayurvedic Medicines and was fully aware that no proven cure exists in Modern Western Medicines, and decided to rely only on Ayurvedic Medicine. Despite the patient presenting with symptoms, namely high fever, severe body pain, severe cough along with other associated symptoms of Covid-19, the progress of the disease could be arrested in a short period, by being exclusively on Ayurvedic medicines. Following is an extract from the article:

"The regulated diet played an important supportive role in the cure. The diet was advised so that it did not further aggravate the doshas, it was easy to digest (laghu), it stimulated the digestive fire (Agni deepanam) and it nourished the patient [5, Chikitsa Sthana, 3/ 142-143, 3/163-164]. The diet recommended for the patient, namely soup made of mung dal and cooked parboiled rice are included in the recommended diet in management of fevers. These are two of several preparations as described in the texts, as part of a larger detailing of food preparations and their effects on doshas and diseases.

We report this case to show that COVID-19 is a condition where usage of Ayurvedic medicines & diet might have contributed to the case not turning critically ill."

24. The above case report illustrates that there is a wide scope to explore the variety of pertinent medicines present in Ayurveda Pharmacopoeia which can be used more rationally to suit every individual with different *prakruti* and *vikruti*, manifesting different stages of disease.

25. The Petitioner further places reliance on an article titled "COVID-19 pandemic: A pragmatic plan for ayurveda intervention" dated 18.4.2020 published in the Journal of Ayurveda and Integrative Medicines (**Annexure J at page no. 158 to 161**) detailing the proposed Ayurveda interventions in Covid-19 outbreak. Relevant portions of the article are as follows:

#### "4. With mild COVID-19 symptoms

This category relates to people found positive to SARS-CoV-2 and are having mild URTI symptoms. They are required to be carefully isolated and monitored for any progression of the disease, along with giving adequate therapy to arrest the symptoms and balancing the vitiated doshas to control disease progression. Formulations like Lakshmi Vilas Rasa [42], Pippali rasayana [43], Sanjeevani vati [35], C. vati, Go jihvaadi Kashaya, Vyaghri haritaki, Kantakaari Avaleha, Dashamul kwath, Sitopaladi [44], Talishadi, and Yashtimadhu may be the most suitable drugs to be used at this stage in an integrative model. Those patients showing progression of the disease may immediately require shifting to ICU.

#### 1. With moderate to severe COVID-19 symptoms

This category may be the population where the moderate to severe symptoms are already present and the patients also belong to high risk groups. These patients require tertiary care from the beginning itself but can also be co-prescribed with Ayurveda medicines in order to reduce the impact of the pathology and to buy more time to have intensive management [45]. Recommended formulations here may include P. rasayana [43], Laghu Vasant Malati, Sanjeevani vati, Tribhuvan keerti rasa [46], Brihata Vata Chintamni rasa, Mrityunjaya rasa, and Siddha makardhvaja rasa. The key criterion for choosing rasa aushadhi in category 3 and 4 as noted above is the urgency of initiation of therapeutic actions. Rasaaushadi are shown to have better

bioavailability and absorption through sublingual and oral route accounting to the nano size of their particles [47]. For example, suvarna bhasma has been found to get absorbed well through sublingual administration when mixed with black pepper powder and ghee [48].”

26. The Petitioners further place reliance on a research article titled “Immunomodulatory and anti-oxidant properties of methanolic extract of *Adhatoda vasica* Nees leaf after particulate antigen stimulation in mice” dated 19.10.2014 published in the Journal of Pharmacy Research (**Annexure K at page no. 162 to 179**) detailing the Immunomodulatory and anti-oxidant properties of methanolic extract of *Adhatoda vasica* Nees leaf after particulate antigen stimulation in mice. The study has validated the scientific rationale of the use of *Adhatoda vasica* leaf as immunomodulatory drug in traditional medicinal system. The relevant extracts of the report are as under:

“*Adhatoda vasica* has been used in traditional Indian medicinal system for treatment of inflammatory diseases, since several hundred years. The objective of the present study was to evaluate the immunomodulatory and antioxidant properties of the methanolic extract of the leaves of *Adhatoda vasica* in mice. The immunomodulatory properties of methanol extract of *Adhatoda vasica* (AVE) leaf at the doses of 50, 100 and 200mg/kg body weight was evaluated by determining the serum antibody titer, number of antibody producing plasma cells; delayed type hypersensitivity response, infiltration of neutrophils in spleen and serum level of cytokines after immunization with particulate antigen SRBC. The anti-oxidant properties of the extract was assessed by determination of tissue GSH, catalase and SOD enzyme activity and lipid peroxidations from different groups of mice. Oral administration of the AVE prior to SRBC challenge increased the serum antibody titer, number of plasma cells in spleen with a concomitant decrease in DTH response, MPO enzyme activity in spleen and serum level of TNF- $\alpha$ , IFN- $\gamma$  and IL-6 in comparison to SRBC challenged mice.

Increase in GSH, SOD and catalase enzyme activities and decreased lipid peroxidation as well as decreased COX-2, iNOS and NFκB expression was found in the spleen tissues examined in the AVE pre-treated mice when compared to SRBC challenge. Leaves of *Adhatoda vasica* possess potent immunostimulatory effect; free from undesired overstimulation of immune system along with its potent anti-oxidant effect which might contribute to its protective role during oxidative damage initiated by particulate antigen SRBC induced profound inflammatory response in mice.”

27. The Petitioners further rely on a research article titled “*Adhatoda Vasica* ameliorates cellular hypoxia dependent mitochondrial dysfunction in acute and severe asthmatic mice” dated 7.4.2020 (**Annexure L at page no. 180 to 212**) detailing that *Adhatoda Vasica* ameliorates cellular hypoxia dependent mitochondrial dysfunction in acute and severe asthmatic mice. In this study it has been found that *Adhatoda Vasica* (AV) is effective in reducing Th2 and Th17 cytokines. AV treatment is able to rescue all the severe asthma phenotypes including its effect on molecular markers like IL17, KC which were found to be non-responsive to the steroids (Dexamethasone which is included in conventional covid treatment protocol against cytokine storms) . The study has validated the scientific use of *Adhatoda Vasica* in inhibiting cytokine storms and ameliorating hypoxia even in cases where dexamethasone did not respond. The relevant extracts of the report are as under:

“In this study, we have tested the effect of *Adhatoda Vasica* (AV), commonly known as Malabar nut, an ayurvedic medicine indigenously used to treat various aspects of asthma. AV is from *Acanthaceae* family, a dense shrub founds in all parts of India. It has a bitter and astringent taste with *Pitta-Kapha* balancing action, and described for the treatment of asthma and respiratory conditions. Vasicine and vasicinone from AV have been shown to have strong bronchodilatory and anti-inflammatory effects (25–27). In this study, we

demonstrated that oral administration of aqueous extract of AV to the Ova-induced allergic mice reduces the cardinal features of asthma both at phenotypic as well as a molecular level. We also provide evidence for the mechanism of action of AV in asthma through modulation of the cellular hypoxic response. We observed that AV treatment to the asthmatic mice inhibits the increased hypoxic response by downregulating HIF-1 $\alpha$ . Decline in HIF-1 $\alpha$  also improved mitochondrial morphofunction. We further demonstrate that AV has therapeutic effect even in severe asthma condition that is augmented in mice by elevated hypoxic response and is non-responsive to steroids.”

28. The Petitioners further rely on an article titled “Immunosuppressive Activity of Saponin From The Leaves of *Adhatoda Vasica* Using Flow Cytometry” dated 17.2.2015 (**Annexure M at page no. 213 to 221**) published in the International Journal of Institutional Pharmacy and Life Sciences detailing the study of Immunosuppressive Activity of *Adhatoda Vasica*. The study has validated the scientific use of *Adhatoda Vasica* as immunosuppressant. The relevant extracts of the report are as under:

“In the present study, the immunosuppressant activity of *Adhatoda vasica*, an important plant in indigenous medicinal practice was explored. Administration of *Adhatoda vasica* was found to decrease in the level of monocytes in human whole blood and also confirmed through in mice where there is decline in CD3 count and macrophage activation.”

29. The Petitioners further rely on an article titled “*In-Vitro* Thrombolytic and Anti-inflammatory Activity of *Swertia chirata* Ethanolic Extract” dated 2012 published in Journal of Pharmacognosy and Phytochemistry (**Annexure N at page no. 222 to 227**) detailing *In-Vitro* Thrombolytic and Anti-inflammatory Activity of *Swertia chirata* Ethanolic Extract. The relevant extracts of the article are as under:

“The result of this work showed that the extract of *Swertia chirata* had mild to moderate anti-inflammatory activity (Table 1). The results of clot lysis was indicated that test samples showed different thrombolytic activity e at different concentration. The clot lysis of *Swertia chirata* was found to be increased with the increase with the concentration of the sample. The significant average percent of clot lysis (46.096%) of ethanol extract of *Swertia chirata* was found. Therefore, it is evident that the test sample and ethanol extract were thrombolytic and possess anti-inflammatory activity as well as biologically active.

In conclusion, it can be claimed that *Swertia chirata* possesses significant anti-inflammatory activity as well as thrombolytic activity. In addition, positive result in thrombolytic activity test led us to the interference that the plant extract may contain bioactive compounds, which may aid ongoing cardiovascular drug discovery from the floristic resources. Hence, further studies are suggested to be undertaken to pin point the exact compounds and to better, understand its actions scientifically.”

30. The Petitioners further place reliance on an article titled “Cheminformatics-Based Anticoagulant Study of Traditionally Used Medicinal Plants dated 29.1.2017 published in Iranian Biomedical Journal **(Annexure P at page no. 228 to 233)** detailing Cheminformatics-Based Anticoagulant Study of Traditionally Used Medicinal Plants. The study recognised that the three medicinal plants *Terminalia bellirica*, *Astragalus arbusculus*, and *Origanum vulgare* showed anticoagulant effect and are suitable candidates to be considered as candidate herbal medicines in the prevention and treatment of cardiovascular diseases, such as heart attacks and strokes. The relevant extracts of the article are as under:

"Results: Among the 15 selected medicinal plants, three plants, including Terminalia bellirica (P=0.0019), Astragalus arbusculus (P=0.0021), and Origanum vulgare (P=0.0014) showed a more promising anticoagulant effect in comparison to the control. Conclusion: The anticoagulant activity was identified for the first time in these three plants. Further in vivo study and mechanism of action assay are required to be performed on these three plants, which could be suitable candidates for use as natural anticoagulant medicines."

31. The Petitioners place reliance on an article titled "Anti-infective Properties of the Golden Spice Curcumin" dated 3.5.2019 published in the journal Frontiers in Microbiology (**Annexure Q at page no. 234 to 249**) detailing anti-infective properties of golden spice curcumin. The relevant extracts of the article are as under:

"Numerous *in vitro* and *in vivo* studies have shown that curcumin is active against different viruses, bacteria and fungi, including even highly pathogenic, emerging and multi-drug-resistant strains. The underlying mechanism seems to be complex and to differ from organism to organism, thus it has not always been elucidated. As curcumin is not toxic even at high oral doses and as it is already approved and widely used in the food industry, its broad-spectrum anti-infective activity makes it a promising drug candidate. Unfortunately, the molecule's poor solubility, low bioavailability, and rapid metabolism hamper its use in clinical settings and resulted in no observable therapeutic effects in many clinical trials. However, it should be kept in mind that most clinical trials were analyzing systemic applications of curcumin and were focused on general safety aspects or on the treatment of cancer; studies of curcumin's systemic activity against infectious diseases in humans are largely missing. Nevertheless, clinical

assessment showed that the topical oral or cervical application of curcumin had no toxic effect and led to the disaggregation of oral plaque (Leite et al., 2014) and to an enhanced HPV clearance (Basu et al., 2013; Gattoc et al., 2017), respectively. This suggests that at least the local treatment with curcumin is effective against bacteria and viruses in humans. The development of curcumin formulations in various nanocarrier systems could help to overcome the obstacles experienced in systemic curcumin application, paving the way to new (infectious disease) clinical trials with the natural product.”

32. The Petitioners further place reliance on an article titled “Delhi institute cures COVID-19 patients with Ayurvedic treatment protocol, records zero deaths” dated 28.7.2020 published by Financial Express (**Annexure R at page no. 250 to 251**), according to which:

“Majority of the patients admitted in CHC were administered stand-alone Ayurveda treatment protocol, including diet and Yoga.

“Patients were discharged at good health showing hundred percent recoveries without complications during the treatment period with SPO2 more than 90 per cent. No aggravation of symptoms was observed. It is also observed that there has been zero per cent mortality till now in admitted patients,” a statement by the AYUSH ministry said. All were tested negative before discharge, it added.”

### **Traditional systems used in China**

- 33.** Alternative systems of medicines are being used to tackle Covid-19 in China, where traditional TCM protocols involving 4 major concoctions showed efficacy including QPD, Gancaganjiang decoction, Sheganmahuang



decoction, and the QTF decoction. The Petitioners place reliance on an article titled "Traditional Chinese medicine for COVID-19 treatment" dated 1.3.2020 published in the journal Elsevier- Pharmacological Research **(Annexure S at page no. 252 to 253)**. The relevant extracts of the article are as under:

"Treatment practice of COVID-19 showed that early intervention of TCM is important way to improve cure rate, shorten the course of disease, delay disease progression and reduce mortality rate. Furthermore, the reason why TCM works is not only to inhibit the virus, but might block the infection, regulate the immune response, cut o the in ammatory storm, and promote the repair of the body. Moreover, the prevention and control measures of COVID-19 fully re ect the ideology of "preventive treatment of disease". Apart from the epidemic diseases recorded in the Han Dynasty should be isolated, the preventive measures of TCM also in- clude psychology, sports, diet, medication, *etc.*"

34.To summarise, therefore, in view of the fact that efficacy of the modern medicine is under severe doubt and at the same time the efficacy of the Ayurvedic treatment is no less efficacious or rather more efficacious than modern medicine, with no side effect unlike modern medicine which has proven dangerous side effect, then failure to inform the citizen about the efficacy of Ayurvedic medicine or any other alternate remedy is tantamount to forcing modern medicine with its adverse effects on citizens. This deprives citizens of the most fundamental among fundamental rights i.e. right to life enshrined under article 21 in which a person is forced to consent to the medicine which is not efficacious and has dangerous side effect rather than giving choice of a pathy which is equally or more efficacious and certainly has no side effects.

35.The right of patients to choose best treatment available should be preserved and that cannot be snatched under the pretext of pandemic as the right is so fundamental and inalienable that it cannot be taken away in any condition.

### **Harmful effects of allopathic drugs with no proven efficacy for treating Covid-19**

36. On 19.5.2020, a "Pharmacovigilance Memorandum" was published by Department of Human and Health Services, Public Health Service, Food and Drug Administration, Centre for Drug Evaluation and Research, Office of Surveillance and Epidemiology, United States of America (**Annexure T at page no. 254 to 268**), reviewing the effects of Hydroxychloroquine and Chloroquine identifying two emergency signals of cardiotoxicity and methemoglobinemia with Hydroxychloroquine and chloroquine. Key findings of the said memorandum based on 385 cases reporting use of hydroxychloroquine or chloroquine in the setting of COVID-19, including 377 cases reported use for treatment and 8 cases reported use for prophylaxis, are as follows:

"Key Findings:

- Eleven cases reported both cardiac and non-cardiac adverse events.
- Of all serious adverse events (cardiac and non-cardiac), QT prolongation was the most commonly reported adverse event for both hydroxychloroquine and chloroquine.
- Of the 109 hydroxychloroquine and chloroquine cases with a serious cardiac adverse event:
  - 80 (73%) reported QT prolongation.
  - 4 (4%) reported Torsades de Pointes (TdP)
  - 92 (84%) reported concomitant use of at least one other medication that prolongs the QT interval. 75 (69%) reported concomitant use of azithromycin.
- 14 (13%) reported ventricular arrhythmia, ventricular tachycardia or ventricular fibrillation.
- 25 (23%) had a fatal outcome. Fatal cardiac cases were considered those cases reporting death and a cardiac AE.
- 9/25 had a cardiac event that was assessed to have possibly or probably contributed to death.

- 22/25 reported use of a concomitant QT-prolonging medication.
- Of the 113 hydroxychloroquine and chloroquine cases with a serious non cardiac event of interest :
  - ◆ Hepatitis/increased liver enzymes / hyperbilirubinemia was the most commonly reported adverse event (59% of cases). These are labelled events for hydroxychloroquine and chloroquine.
  - ◆ The most commonly reported unlabelled adverse event acute kidney injury/renal failure.(5%)
  - ◆ Methemoglobinemia was reported in 4 cases (4%), two of these cases were fatal. Methemoglobinemia is currently not labelled for hydroxychloroquine or chloroquine.

37. Moreover, the United States Food & Drug Administration (FDA) has withdrawn the emergency-use authorization of HCQ and CQ, as per a letter dated 15.6.2020 (**Annexure U at page no. 269 to 283**) of the Chief Scientist, FDA, which reads as under:

“As explained in the attached memorandum, based on a review of new information and a reevaluation of information available at the time the EUA was issued, FDA now concludes that these criteria are no longer met. The bases for this decision include the following:

- We now believe that the suggested dosing regimens for CQ and HCQ as detailed in the Fact Sheets are unlikely to produce an antiviral effect.
- Earlier observations of decreased viral shedding with HCQ or CQ treatment have not been consistently replicated and recent data from a randomized controlled trial assessing probability of negative conversion showed no difference between HCQ and standard of care alone.

- Current U.S. treatment guidelines do not recommend the use of CQ or HCQ in hospitalized patients with COVID-19 outside of a clinical trial, and the NIH guidelines now recommend against such use outside of a clinical trial.
- Recent data from a large randomized controlled trial showed no evidence of benefit for mortality or other outcomes such as hospital length of stay or need for mechanical ventilation of HCQ treatment in hospitalized patients with COVID- 19.

FDA has concluded that, based on this new information and other information discussed in the attached memorandum, it is no longer reasonable to believe that oral formulations of HCQ and CQ may be effective in treating COVID-19, nor is it reasonable to believe that the known and potential benefits of these products outweigh their known and potential risks. Accordingly, FDA revokes the EUA for emergency use of HCQ and CQ to treat COVID-19, pursuant to section 564(g)(2) of the Act. As of the date of this letter, the oral formulations of HCQ and CQ are no longer authorized by FDA to treat COVID-19.”

Therefore, as can be seen from the above paragraphs, the use of HCQ which is being pushed by the Government of India is wrought with dangers and as per the Guidelines and Directives of the Government of India, Covid-19 patients and other high risk populations are being given no choice other than to consume these dangerous allopathic drugs which have severe well-established side effects and no proven efficacy in treating Covid-

**Right to choose or refuse treatment is a fundamental right: Five-Judge Supreme Court judgment**

38. This Hon'ble Court has held in unequivocal terms that a person's right to choose the treatment of their choice and to even reject treatment is an

integral feature of a person's fundamental right to privacy and right to life guaranteed by Article 21 of the Constitution of India. In *Common Cause v. Union of India*, (2018) 5 SCC 1 (**Annexure V at page no. 284 to 593**), a 5-judge Bench of this Hon'ble Court held that "The recognition of the freedom of competent adults to make choices about their medical care necessarily encompasses recognition of the right to make choices since individual free choice and self-determination are themselves fundamental constituents of life." This Court further held that "Any such person who has come of age and is of sound mind has a right to refuse medical treatment."

39. The relevant portions of the said judgment are as under:

168. The respect for an individual human being and in particular for his right to choose how he should live his own life is individual autonomy or the right of self-determination. It is the right against non-interference by others, which gives a competent person who has come of age the right to make decisions concerning his or her own life and body without any control or interference of others. Lord Hoffman, in *Reeves v. Commr. of Police of the Metropolis* [*Reeves v. Commr. of Police of the Metropolis*, (2000) 1 AC 360 : (1993) 3 WLR 363 (HL)] has stated: (AC p. 369 B)

"... Autonomy means that every individual is sovereign over himself and cannot be denied the right to certain kinds of behaviour, even if intended to cause his own death."

169. In the context of health and medical care decisions, a person's exercise of self-determination and autonomy involves the exercise of his right to decide whether and to what extent he/she is willing to submit himself/herself to medical procedures and treatments, choosing amongst the available alternative treatments or, for that matter, opting for no treatment at all which,

as per his or her own understanding, is in consonance with his or her own individual aspirations and values...

202.8. An inquiry into Common Law jurisdictions reveals that all adults with capacity to consent have the right of self-determination and autonomy. The said rights pave the way for the right to refuse medical treatment which has acclaimed universal recognition. A competent person who has come of age has the right to refuse specific treatment or all treatment or opt for an alternative treatment, even if such decision entails a risk of death. The "Emergency Principle" or the "Principle of Necessity" has to be given effect to only when it is not practicable to obtain the patient's consent for treatment and his/her life is in danger. But where a patient has already made a valid Advance Directive which is free from reasonable doubt and specifying that he/she does not wish to be treated, then such directive has to be given effect to...

305. In the context of euthanasia, "personal autonomy" of an individual, as a part of human dignity, can be pressed into service. In *National Legal Services Authority v. Union of India* [*National Legal Services Authority v. Union of India*, (2014) 5 SCC 438] , this Court observed: (SCC p. 491, para 75)

"75. Article 21, as already indicated, guarantees the protection of "personal autonomy" of an individual. In *Anuj Garg v. Hotel Assn. of India* [*Anuj Garg v. Hotel Assn. of India*, (2008) 3 SCC 1] (SCC p. 15, paras 34-35), this Court held that personal autonomy includes both the negative right of not to be subject to interference by others and the positive right of individuals to make decisions about their life, to express themselves and to choose

which activities to take part in. Self-determination of gender is an integral part of personal autonomy and self-expression and falls within the realm of personal liberty guaranteed under Article 21 of the Constitution of India.”

306. In addition to personal autonomy, other facets of human dignity, namely, “self-expression” and “right to determine” also support the argument that it is the choice of the patient to receive or not to receive treatment...

329. It is an undisputed fact that doctors' primary duty is to provide treatment and save life but not in the case when a person has already expressed his desire of not being subjected to any kind of treatment. It is a common law right of people, of any civilized country, to refuse unwanted medical treatment and no person can force him/her to take any medical treatment which the person does not desire to continue with. The foundation of the aforesaid right has already been laid down by this Court in *Aruna Ramachandra Shanbaug* [*Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] while dealing with the issue of “involuntary passive euthanasia”. ....

78. ... 'First, it is established that the principle of self-determination requires that respect must be given to the wishes of the patient, so that if an adult patient of sound mind refuses, however unreasonably, to consent to treatment or care by which his life would or might be prolonged, the doctors responsible for his care must give effect to his

wishes, even though they do not consider it to be in his best interests to do so...

...

470. Recognition of the right to accept or refuse medical treatment is founded upon autonomy. The *Stanford Encyclopaedia of Philosophy*... postulates that there is "a rough consensus in medical ethics on the requirement of respect for patient autonomy". ...

602. Right of self-determination also encompasses in it bodily integrity. Without consent of an adult person, who is in fit state of mind, even a surgeon is not authorised to violate the body. Sanctity of the human life is the most fundamental of the human social values. The acceptance of human rights and development of its meaning in recent times has fully recognised the dignity of the individual human being. All the above three principles enable an adult human being of conscious mind to take decision regarding extent and manner of taking medical treatment. An adult human being of conscious mind is fully entitled to refuse medical treatment or to decide not to take medical treatment and may decide to embrace the death in natural way...

611. The rights of bodily integrity and self-determination are the rights which belong to every human being. When an adult person having mental capacity to take a decision can exercise his right not to take treatment or withdraw from treatment, the above right cannot be negated for a person who is not able to take an informed decision due to terminal illness or being in a persistent vegetative state (PVS)."



40. Therefore, as can be seen from the above paragraphs, this Hon'ble Court has held clearly that a person has the fundamental right to privacy, dignity, self-determination and individual autonomy, which inherently includes the right to choose, refuse or reject treatment as per their own wishes. The Government directives mandating compulsory allopathic treatment or denying the right to adopt ayurvedic treatment as a stand-alone treatment for Covid-19 thus falls fowl of this Court's judgment and deserve to be quashed.

**Right to choose alternative treatment options:  
Recognized by the NHRC Patients' Bill of Rights**

41. The fundamental right to choose medical treatment and to reject or refuse treatment has also been recognized in the "Charter of Patients' Rights" dated 30.8.2020 prepared by the National Human Rights Commission (NHRC) **(Annexure W at page no. 594 to 621)**. The Charter, also known as the Patients' Bill of Rights, recognizes the "Right to choose alternative treatment options if available". The Charter recognizes a total of 17 rights, which are as under:

- i. Right to information
- ii. Right to records and reports
- iii. Right to emergency medical care
- iv. Right to informed consent
- v. Right to confidentiality, human dignity and privacy
- vi. Right to second opinion
- vii. Right to transparency in rates, and care according to prescribed rates wherever relevant
- viii. Right to non-discrimination
- ix. Right to safety and quality care according to standards
- x. Right to choose alternative treatment options if available
- xi. Right to choose source for obtaining medicines or tests
- xii. Right to proper referral and transfer, which is free from perverse commercial influences

- xiii. Right to protection for patients involved in clinical trials
- xiv. Right to protection of participants involved in biomedical and health research
- xv. Right to take discharge of patient, or receive body of deceased from hospital
- xvi. Right to patient education
- xvii. Right to be heard and seek redressal

42. With regard to the right to choose treatment, the Charter notes as follows:

“Patients and their caregivers have a right to choose between alternative treatment / management options, if these are available, after considering all aspects of the situation. This includes the option of the patient refusing care after considering all available options, with responsibility for consequences being borne by the patient and his/her caregivers. In case a patient leaves a healthcare facility against medical advice on his / her own responsibility, then notwithstanding the impact that this may have on the patient’s further treatment and condition, this decision itself should not affect the observance of various rights mentioned in this charter.”

43. As can be seen from the above paragraph, the Charter of Patients’ Rights prepared by the NHRC itself recognize the right to choose or refuse treatment as one of the basic rights of patients which cannot be violated by any government directives or actions. The Government directives mandating compulsory allopathic treatment and denying the right to adopt ayurvedic treatment as a stand-alone treatment for Covid-19 thus violate the rights of patients as recognized by the NHRC’s Charter and thus deserve to be quashed.

#### **GROUND**

44. Hence the Petitioner moves before this Hon’ble Court by way of this petition on, inter alia, the following grounds:

- A. BECAUSE the citizens of India have the fundamental right to life and right to privacy under Article 21 of the Constitution and this includes the right to choose any form of treatment and the right to reject any form of treatment.
- B. BECAUSE there is no known treatment of Covid-19 infection in Allopathy.
- C. BECAUSE there are well established uses of Ayurvedic medicines and other forms of medicine which are useful for management of symptoms of the Covid-19 infection without any side effects.
- D. BECAUSE the use of hydroxy chloroquine is known to have serious side effects.
- E. BECAUSE this Hon'ble Court has held in *Common Cause v. Union of India*, (2018) 5 SCC 1, that right of persons to choose the treatment that they desire and the right to refuse or reject any form of treatment is integral to the "right of self-determination and individual autonomy".
- F. BECAUSE this Hon'ble Court in *Common Cause v. Union of India*, (2018) 5 SCC 1, has held as under

168. The respect for an individual human being and in particular for his right to choose how he should live his own life is individual autonomy or the right of self-determination. It is the right against non-interference by others, which gives a competent person who has come of age the right to make decisions concerning his or her own life and body without any control or interference of others. Lord Hoffman, in *Reeves v. Commr. of Police of the Metropolis* [*Reeves v. Commr. of Police of the Metropolis*, (2000) 1 AC 360 : (1993) 3 WLR 363 (HL)] has stated: (AC p. 369 B)

"... Autonomy means that every individual is sovereign over himself and cannot be denied the

right to certain kinds of behaviour, even if intended to cause his own death.”

169. In the context of health and medical care decisions, a person's exercise of self-determination and autonomy involves the exercise of his right to decide whether and to what extent he/she is willing to submit himself/herself to medical procedures and treatments, choosing amongst the available alternative treatments or, for that matter, opting for no treatment at all which, as per his or her own understanding, is in consonance with his or her own individual aspirations and values...

202.8. An inquiry into Common Law jurisdictions reveals that all adults with capacity to consent have the right of self-determination and autonomy. The said rights pave the way for the right to refuse medical treatment which has acclaimed universal recognition. A competent person who has come of age has the right to refuse specific treatment or all treatment or opt for an alternative treatment, even if such decision entails a risk of death. The “Emergency Principle” or the “Principle of Necessity” has to be given effect to only when it is not practicable to obtain the patient's consent for treatment and his/her life is in danger. But where a patient has already made a valid Advance Directive which is free from reasonable doubt and specifying that he/she does not wish to be treated, then such directive has to be given effect to...

305. In the context of euthanasia, “personal autonomy” of an individual, as a part of human dignity, can be pressed into service. In *National Legal Services Authority v. Union of India* [*National Legal*

*Services Authority v. Union of India*, (2014) 5 SCC 438] , this Court observed: (SCC p. 491, para 75)

“75. Article 21, as already indicated, guarantees the protection of “personal autonomy” of an individual. In *Anuj Garg v. Hotel Assn. of India* [*Anuj Garg v. Hotel Assn. of India*, (2008) 3 SCC 1] (SCC p. 15, paras 34-35), this Court held that personal autonomy includes both the negative right of not to be subject to interference by others and the positive right of individuals to make decisions about their life, to express themselves and to choose which activities to take part in. Self-determination of gender is an integral part of personal autonomy and self-expression and falls within the realm of personal liberty guaranteed under Article 21 of the Constitution of India.”

306. In addition to personal autonomy, other facets of human dignity, namely, “self-expression” and “right to determine” also support the argument that it is the choice of the patient to receive or not to receive treatment...

329. It is an undisputed fact that doctors' primary duty is to provide treatment and save life but not in the case when a person has already expressed his desire of not being subjected to any kind of treatment. It is a common law right of people, of any civilized country, to refuse unwanted medical treatment and no person can force him/her to take any medical treatment which the person does not desire to continue with. The foundation of the aforesaid right has already been laid down by this Court in *Aruna Ramachandra Shanbaug* [*Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC

(Cri) 294] while dealing with the issue of “involuntary passive euthanasia”. ....

78. ... 'First, it is established that the principle of self-determination requires that respect must be given to the wishes of the patient, so that if an adult patient of sound mind refuses, however unreasonably, to consent to treatment or care by which his life would or might be prolonged, the doctors responsible for his care must give effect to his wishes, even though they do not consider it to be in his best interests to do so...

...

470. Recognition of the right to accept or refuse medical treatment is founded upon autonomy. The *Stanford Encyclopaedia of Philosophy* ... postulates that there is “a rough consensus in medical ethics on the requirement of respect for patient autonomy”. ...

602. Right of self-determination also encompasses in it bodily integrity. Without consent of an adult person, who is in fit state of mind, even a surgeon is not authorised to violate the body. Sanctity of the human life is the most fundamental of the human social values. The acceptance of human rights and development of its meaning in recent times has fully recognised the dignity of the individual human being. All the above three principles enable an adult human being of conscious mind to take decision regarding extent and manner of taking medical treatment. An adult human being of conscious mind is fully entitled to refuse medical treatment or to decide not to take medical treatment and may decide to embrace the death in natural way...

611. The rights of bodily integrity and self-determination are the rights which belong to every human being. When an adult person having mental capacity to take a decision can exercise his right not to take treatment or withdraw from treatment, the above right cannot be negated for a person who is not able to take an informed decision due to terminal illness or being in a persistent vegetative state (PVS)."

- G. BECAUSE the fundamental right to choose medical treatment and to reject or refuse treatment has also been recognized in the "Charter of Patients' Rights" prepared by the National Human Rights Commission (NHRC).
- H. BECAUSE the "Guidelines for Ayurveda Practitioners for Covid-19" dated NIL issued by the Ministry of AYUSH, Government of India, which limits the use of Ayurvedic treatment as only an "add on" to the line of management deserve to be quashed and set aside to the extent that it denies patients the right to adopt Ayurvedic treatment as a 'stand-alone' form of treatment.
- I. BECAUSE the RTI response dated 7.5.2020 of the Council of Scientific and Industrial Research (CSIR), Ministry of Science & Technology, Government of India to an RTI query dated 26.4.2020 deserve to be quashed and set aside since it denies a person's right to choose the treatment of their preference.
- J. BECAUSE the 'Guidelines on Clinical Management of Covid-19' dated 17.3.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India, which acknowledged that there is no known treatment for Covid-19 in Allopathy, and yet recommended only allopathic medicines for management of the infection, deserve to be quashed and set aside to the extent that it does not allow patients or health practitioners to use alternative systems of medicine such as Ayurveda.

- K. BECAUSE the "Clinical Management Protocol: Covid-19" dated 3.7.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India, which prescribes the protocol for symptomatic treatment/management of Covid-19 deserve to be quashed and set aside to the extent that it does not even mention the other available forms of treatment available in Ayurveda and other systems of medicine and does not respect the right of free choice of the patients to know about the different available forms of treatment and to choose the appropriate treatment as per their preference.
- L. BECAUSE the Advisory dated 22.3.2020 issued by the Indian Council of Medical Research deserve to be quashed and set aside to the extent that it mandates the use of HCQ and does not mention the prophylactic medicines and measures available in Ayurveda and other systems of medicine and does not offer any choice to the intended persons to choose the system of medicine they prefer or to reject any form of medicine/treatment.
- M. BECAUSE the Advisory dated 22.5.2020 issued by the Indian Council of Medical Research deserve to be quashed and set aside to the extent that it mandates the use of HCQ and does not mention the prophylactic medicines and measures available in Ayurveda and other systems of medicine and does not offer any choice to the intended persons to choose the system of medicine they prefer or to reject any form of medicine/treatment.
- N. BECAUSE the Revised Standard Operating Procedure for CCC' dated 20.7.2020 issued by the Commissionerate of Health & Family Welfare Services, Government of Karnataka deserve to be quashed and set aside to the extent that it does not leave the Covid patient with any opportunity or right to choose the treatment, to reject the allopathic treatment prescribed in the protocol, or to adopt any alternative system of treatment such as Ayurveda.

45. That the Petitioners have not filed any similar petition seeking similar reliefs before any High Court or this Hon'ble Court.



**PRAYERS**

46. In view of the facts and circumstances of this Petition, the Petitioners pray, therefore, that this Hon'ble Court may be pleased to:

- (a) Issue an appropriate writ, direction or order quashing and setting aside the 'Revised Standard Operating Procedure for CCC' dated 20.7.2020 issued by the Commissionerate of Health & Family Welfare Services, Government of Karnataka, to the extent that it mandates the use of allopathic drugs only and does not leave the patient with the right to choose or refuse any form of treatment.
- (b) Issue an appropriate writ, direction or order quashing and setting aside the "Guidelines for Ayurveda Practitioners for Covid-19" dated NIL issued by the Ministry of AYUSH, Government of India, to the extent that it limits the use of Ayurvedic treatment as only an "add on" to the line of management and denies patients and practitioners the right to adopt Ayurvedic treatment as a 'stand-alone' form of treatment.
- (c) Issue an appropriate writ, direction or order quashing and setting aside the RTI response dated 7.5.2020 of the Council of Scientific and Industrial Research (CSIR), Ministry of Science & Technology, Government of India to an RTI query dated 26.4.2020 to the limited extent that it allows only allopathic medicines and treatment to Covid-19 patients.
- (d) Issue an appropriate writ, direction or order quashing and setting aside the 'Guidelines on Clinical Management of Covid-19' dated 17.3.2020 issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India, to the extent that it recommends only allopathic medicines for management of the infection, not allowing patients or health practitioners to use alternative systems of medicine such as Ayurveda.
- (e) Issue an appropriate writ, direction or order quashing and setting aside the "Clinical Management Protocol: Covid-19" dated 3.7.2020

issued by the Directorate General of Health Services (EMR Division), Ministry of Health and Family Welfare, Government of India to the extent that it does not respect the right of free choice of the patients to know about the different available forms of treatment and to choose the appropriate treatment as per their preference.

- (f) Issue an appropriate writ, direction or order quashing and setting aside the Advisory dated 22.3.2020 issued by the Indian Council of Medical Research to the extent that it mandates the use of hydroxy chloroquine.
- (g) Issue an appropriate writ, direction or order quashing and setting aside the Advisory dated 22.5.2020 issued by the Indian Council of Medical Research to the extent that it mandates the use of hydroxy chloroquine.
- (h) Issue an appropriate writ, direction or order directing the Respondents to issue guidelines to ensure that all Covid-19 patients as well as other patients are guaranteed as well allowed to exercise the right to choose or refuse any form of treatment.
- (i) For any other order/ direction that this Hon'ble Court may deem fit.

Place: Bangalore

Date: \_\_\_\_/9/2020

ADVOCATE FOR PETITIONERS