

Source: <https://greatgameindia.com/withdraw-ban-unvaccinated-trains/>

Withdraw Ban On Unvaccinated Using Local Train : Bombay High Court Tells Maharashtra Govt

April 30, 2022

Earlier, the Delhi and Kerala High Courts also declared that vaccines could not be made mandatory. The latest to follow suit is the [Bombay High Court](#) who told the Maharashtra government to withdraw ban on the unvaccinated using local trains.



Since the Covid-19 situation has indeed stabilized, the [Bombay High Court](#) recommended that the Maharashtra government revoke an August 2021 order and let unvaccinated people to commute the local rail.

It ordered the State to notify the court by tomorrow if it intends to retract the circular, and noted that prima facie due process had not been followed before issuing the order.

The bench of CJ Datta and Justice MS Karnik was reviewing two PILs seeking to overturn two circulars, one of which was issued by then-Chief Secretary Sitaram Kunte and barred anyone who had not received both doses of the Covid-19 vaccination from riding the local train.

“The Chief Secretary has to withdraw the order. Whatever has been done by his predecessor (Sitaram Kunte) is not in accordance with law. Withdraw this decision and allow people. Now the Covid situation has improved. Maharashtra handled it beautifully. Why are you inviting a bad name?” In response to the State’s counsel’s recommendation that a new decision be made, the CJ stated.

During the last hearing, the State informed the court that no minutes or records of the State Executive Committee (SEC) meeting held under the Disaster Management (DM) Act were kept. The Chairman of this committee is the Chief Secretary.

As a result, the State requested extra time to record the information or data on which the Chief Secretary had chosen to apply the restrictions. Senior Advocate Anil Anturkar filed documents from the State Task Force on Monday, in which it was stated that population restrictions could be implemented by August 15, 2021.

The Chief Justice, on the other hand, was opposed to surrender for two reasons. The recommendation, according to the CJ, was for passengers traveling by rail from other states, not for local train travel. Furthermore, there appeared to be no evidence of the material

on which the CS based his decision or of the urgency with which the CS made this decision without consulting the SEC.

The CS could have used his powers to impose such a restriction without the SEC, but only after demonstrating severe urgency, according to the Disaster Management Act and Rule 12(2) thereunder.

The court pointed out that no such urgency was mentioned in the August 2021 notice. Feroze Mithiborewala, an activist, and Yohan Tengra, a member of the Awaken India Movement, had lodged the motions.

They claimed that the Circulars discriminate against people who have not received the vaccine, infringing on Articles 14 (equality), 19 (freedom of speech and expression), and 21 (right to life) of the Constitution.

According to the Centre's answer given in Lok Sabha on March 19, 2021 – "Vaccination is completely voluntary," said activist Feroze Mithiborwala – "There is no provision of compensation for recipients of Covid-19 vaccine against any kind of side effects or medical complications that may arise due to inoculation. The Covid-19 vaccination is entirely voluntary for the beneficiary."

In light of this, they claimed that "any direct or indirect method to coerce the citizens to get vaccinated is not only illegal but violative of fundamental rights..."

Various High Court decisions from states such as Guwahati, Meghalaya, Mizoram, Arunachal Pradesh, and Nagaland have decided that vaccination cannot be made necessary as a condition of access to employment, travel, educational institutions, or public places.

Prior to the Covid-19 issue, the Delhi and Kerala High Courts also declared that vaccines could not be made mandatory. Furthermore, a person has a fundamental right to pick his or her own medication, according to the appeal.

The Union Government, represented by Additional Solicitor General Anil Singh, had stated that the Union did not have a policy that discriminated against the unvaccinated. As a result, that field remained vacant, and the State was not prevented from making a decision.