

VARIOUS JUDGMENTS ON THE RIGHTS OF PERSONS AFFECTED BY HIV/AIDS



Presented by:
The District and Sessions Court, Balod

RIGHT TO HEALTH UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA

- Article 21 guarantees right to life and personal liberty, which means something more than mere animal existence and includes right to live with human dignity and decency.
- The Hon'ble Supreme Court in the matter of **CERC and Ors v. Union of India and Ors.** has held that the right to health and medical care is a fundamental right. Right to health is an integral facet of meaningful right to life;
- The Hon'ble Supreme Court in the case of **Vincent v. Union of India and Ors.** has held that in a welfare state it is the obligation of the State to ensure the creation and the sustaining of conditions congenial to good health.

RIGHT TO HEALTH UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA

The Hon'ble Supreme Court in the matter of *Paschim Banga Khet Mazdoor Samity and Ors. v. State of West Bengal and Ors.* has held that it is the constitutional obligation of the State to provide adequate medical services to the people to preserve human life and failure of the government hospital to provide a patient timely treatment results in violation of patient's right to life.

JUDGMENTS ON RIGHTS OF PERSONS AFFECTED BY HIV/AIDS

→ Right to Employment and Right against Discrimination at workplace

- The Hon'ble Bombay High Court in the matter of *MX v. ZY and Anr.* has held that no person could be deprived of his or her livelihood except by procedure established by law. A public sector employer cannot deny a person employment solely because he is HIV positive.
- The Hon'ble Bombay High Court in the matter of *G. v. New India Assurance Co.* has held that a person's HIV status cannot be a ground for rejection of employment as it would be discriminatory and would violate Article 14,16 and 21 of the Constitution of India.
- The Hon'ble AP High Court in the matter of *Mr.X v. Chairman State Level Police Recruitment Board and Ors.* has held that treating all HIV positive people as one homogenous class, irrespective of the stage of disease to deny appointment in police force is in violation of Article 14 and 16 of the Constitution of India.

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→ Right to Confidentiality

- The Hon'ble Supreme Court in the case of *Mr. X v. Hospital Z* has held that although the doctor-patient confidentiality is an important part of medical ethics but patient's right of confidentiality was not enforceable in case, he stood the risk of spreading it to his prospective spouse.

JUDGMENTS ON RIGHTS OF PERSONS AFFECTED BY HIV/AIDS

→ Right to Marry

- The Hon'ble Supreme Court in the matter of Mr. X v. Hospital Z has held that the person who is HIV positive has a right to get married . Although it doesn't take away the duty of such persons to take informed consent from their prospective spouse prior to marriage.

JUDGMENTS ON RIGHTS OF PERSONS AFFECTED BY HIV/AIDS

→ Right to Treatment

- The Hon'ble Delhi High Court in the matter of **LX v. Union of India** wherein LX, an undertrial prisoner who was tested HIV+ was denied ART after he was released from prison, directed the Government to continue giving him the ART.
- The Hon'ble Patna High Court in the matter of **Sanjeet Singh v. Union of India and Ors.** directed the State Government to provide medical facilities to HIV+ patients across the State of Bihar.

THANK YOU