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Why Bombay High Court said banks can't stop debtors from going abroad

[#LookOutCirculars](#) [#PublicSectorBanks](#) [#Article14](#) [#Article21](#) [#LoanDefaulters](#) [#Debtors](#)
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The **Bombay High Court** has held that **public sector banks (PSBs)** cannot recommend or request the issuance of **Look Out Circulars (LOCs)** against **loan defaulters** and has set aside the provisions of the central government's Office Memoranda (OM) that empowered PSBs to do so.

On April 23, a **division Bench** of Justice Gautam S Patel (who has since retired) and Justice Madhav J Jamdar **quashed LOCs** issued to restrain PSB debtors from travelling abroad, saying they are “**strong-arm tactics**” used to get around legal processes, and violative of fundamental rights guaranteed under Articles 14 and 21 of the Constitution.

The legal challenge

The **LOCs under challenge** were issued by the **Bureau of Immigration of the Ministry of Home Affairs (MHA)**, and allowed the authorities at any port of departure to prevent a debtor to a PSB from leaving India. The LOCs were based on OMs issued by the Ministry from October 27, 2010 onward.

In **September 2018**, a ground was introduced to issue an LOC to restrain a person from going abroad if their departure was detrimental to the “**economic interest**” of the country. The following month, a new clause was introduced empowering the chairperson of the **State Bank of India (SBI)** and the managing director and chief executive officers of all other PSBs to request immigration authorities to issue LOCs against default borrowers.

The **default borrowers** included not only the borrowers but also the guarantors for repayment of loans, and the principal officers or directors of corporate entities in debt.

Petitioners' argument

The **aggrieved petitioners** contested the portion of OMs that allowed PSBs to request an LOC against a “**defaulting borrower**”.

Senior advocate **Birendra Saraf** (who is now Advocate General for Maharashtra) argued that the OMs infringed upon the petitioners' fundamental rights, including the right to life with dignity under Article 21.

The **petitioners** argued that the “**economic interest of India**” cannot be the same as “**financial interests**” of a PSB, and that the government's action was a “**classic case**” of “**improper and impermissible**” classification between public sector and private banks, both of which are regulated by the Reserve Bank of India (RBI).

Centre's submission

Senior advocate Anil Singh, who was Additional Solicitor General at the time, argued for the MHA that **deprivation of life or personal liberty can be done only through procedure established by law, and the impugned circulars contained such "checks and balances"**.

Singh argued that the steps were taken after a surge in the number of wilful defaulters and economic offenders, some of whom had fled the country after "usurping" public money.

What the court said

The court observed that the **government had failed to show that debt had been recovered because the person had been denied permission to travel abroad**. "...The LOCs boil down to nothing but a strong-arm tactic to bypass or leapfrog what public sector banks clearly see as inconveniences and irritants — the courts of law," it said. (*Viraj Chetan Shah v Union Of India & Anr*)

The court held that the **fundamental right to travel abroad cannot be curtailed by executive action without any government statute or controlling statutory provision**:

"The fact that the public sector bank is directly concerned with the recovery of debt and is yet armed with this unilateral power only makes matters worse... The right to Article 21 cannot be abrogated in this fashion. Here, the public sector bank becomes judge and executioner at once.

"...In effect, the Chairpersons, MDs and CEOs have been elevated to the same status as high-ranking police officers. This is simply incomprehensible," the court said.

The court noted that except SBI, there is no PSB among India's top five banking companies. It noted that "If a borrower arranges its or her or his affairs so that the dealings are only with non-public sector banks, no LOC can ever be issued against the borrower... But if there is even one public sector bank, then there is a risk of an LOC being issued."

It is not that only PSBs were affected, the court said. The entities that Nirav Modi and Vijay Mallya, whom the Centre had mentioned in its written submissions, controlled "also had exposure to other banks", it said. The court disagreed with the "wholly artificial distinction between those who borrow from one or more public sector banks and those who borrow only from private sector banks".

Thus, the **"inclusion of only PSBs is ultra vires Article 14 as being an impermissible and invalid classification, and being manifestly arbitrary", the court held.**

What happens now

The court clarified that its order would not affect any existing restraint order issued by a competent authority, court, Debt Recovery Tribunal, or investigative or enforcement agency. "The invalidation of the present LOCs cannot and will not affect such orders," it said.

The court said **banks were "always at liberty" to apply to any court or tribunal for an order against an individual borrower, guarantor, or indebted person, restraining them from travelling overseas. Banks can also invoke their powers under the Fugitive Economic Offenders Act, 2018, where applicable.**

The Bench turned down the Centre's request to stay the operation of the verdict, but the **Centre has the option of challenging the judgment in the Supreme Court.**

The **HC also clarified that its judgment will not prevent the central government from framing an appropriate law and establishing procedure consistent with Article 21 of the Constitution.**

Covid vaccine link to blood clots: the lawsuit in UK on Covishield

[#Covishield](#) [#Astrazeneca](#) [#Thrombosis](#) [#TTS](#) [#HealthIssue](#) [#ScienceandTechnology](#) [#GS3](#)

Global pharmaceutical giant AstraZeneca has said that its AZD1222 vaccine against Covid-19, which was made under licence in India as Covishield, could cause low platelet counts and formation of blood clots in “very rare” cases.

AstraZeneca has accepted a link between the vaccine and Thrombosis with Thrombocytopenia Syndrome (TTS), a medical condition characterised by abnormally low levels of platelets and the formation of blood clots.

AstraZeneca’s vaccine formula was licensed to Pune-based vaccine maker Serum Institute of India (SII) during the coronavirus pandemic for the manufacture of Covishield. More than 175 crore doses of Covishield have been administered in India.

What exactly has AstraZeneca said?

AstraZeneca spoke about TTS in court documents following a suit brought against the company in the United Kingdom. The pharmaceutical giant is being sued over health claims related to the vaccine that it developed in collaboration with the University of Oxford amid the Covid-19 pandemic in 2020.

The report said that in all, “fifty-one cases have been lodged in the High Court (in the UK), with victims and grieving relatives seeking damages estimated to be worth up to £100 million”.

In court documents from February, AstraZeneca denied that “TTS is caused by the vaccine at a generic level”. However, it admitted to the possibility of TTS as a result of its vaccination in “very rare cases”.

What are the symptoms of TTS?

A range of symptoms are associated with TTS, including **breathlessness, pain in the chest or limbs, pinhead-size red spots or bruising of the skin in an area beyond the injection site, headaches, numbness in body parts, etc.** TTS could mean a restriction in the flow of blood due to clotting.

The website of Johns Hopkins Medicine says, “**Thrombosis can block the blood flow in both veins and arteries. Complications depend on where the thrombosis is located. The most serious problems include stroke, heart attack, and serious breathing problems.**”

Why have these concerns surfaced now, four years after the outbreak?

Before the Covid-19 vaccines were rolled out in India, the **Indian government had issued a fact sheet in January 2021, in which it specifically said that Covishield (the Indian variant of AstraZeneca’s vaccine) should be given with “caution” to individuals with thrombocytopenia, that is, a condition of low platelet counts.** Covishield and Covaxin were the two Covid vaccines given to Indians.

Then, in **March 2021, the European countries France, Germany, Italy, Netherlands, Denmark, Norway, Iceland, Austria, Estonia, Bulgaria, Romania, Estonia, Lithuania, Luxembourg, and Latvia temporarily paused the use of the AstraZeneca vaccine after a few cases of blood clotting were reported.**

The following month, the **World Health Organisation (WHO) said TTS was being reported in some cases after vaccinations with Covishield and Vaxzevria (which was the other trade name for AstraZeneca’s vaccine).**

However, the WHO had added, “Based on latest available data, the risk of TTS with Vaxzevria and Covishield vaccines appears to be very low. **Data from the UK suggest the risk is approximately four**

cases per million adults (1 case per 250,000) who receive the vaccine, while the rate is estimated to be approximately 1 per 100,000 in the European Union (EU).”

Were incidents of blood clots reported in India as well?

The Indian government said in May 2021 that 26 potential thromboembolic events, or formation of clots in blood vessels, had been reported since Covishield began to be administered.

India started administering the vaccines on January 16, 2021, and considering the total number of doses that had been administered until then, the number of potential thromboembolic events worked out to 0.61 cases per million doses, or a percentage of 0.000061.

According to more recent data, the government’s committee on Adverse Events Following Immunization (AEFI) said at least 36 cases of TTS have been vetted and confirmed to have been caused due to Covishield. The committee’s last report, which was made public in June last year, showed that of these cases 18 deaths were reported. Almost all of these TTS cases pertain to 2021, which was the first year of Covid-19 vaccination in the country.

The Union Health Ministry had termed this possibility as “minuscule”, and said that Covishield “continues to have a definite positive benefit-risk profile” with “tremendous potential to prevent infections and reduce deaths” due to Covid-19.

In the case of Covaxin, which was India’s indigenous vaccine manufactured by Bharat Biotech, it said “no potential thromboembolic events” had been reported.

The Ministry had added that scientific literature suggests “this risk (of blood clotting) is almost 70% less in persons of South and Southeast Asian descent in comparison to those from European descent”.

In 2023, the WHO incorporated vaccine-induced immune thrombotic thrombocytopenia (VITT) into its classification of TTS.

Heatwaves in several parts of India: Why has April been hotter than usual?

#Heatwaves #ElNino #AntiCyclonicSystems #IMD #Weather #Climatology #Geography #GS1

So far, April has been abnormally hot. In the first 26 days of the month, either a small pocket or a considerably large geographical area in India experienced heatwave conditions, according to the India Meteorological Department (IMD).

While the southern peninsular and the southeastern coast areas have been the worst affected, the northern plains are yet to experience heatwave conditions this season.

Which areas in India are prone to heatwaves?

The Core Heatwave Zone (CHZ) spanning central, north, and peninsular India between Gujarat and West Bengal is prone to heatwave conditions every year, during the summer season March to June and occasionally in July.

Rajasthan, Punjab, Haryana, Chandigarh, Delhi, West Madhya Pradesh, Uttar Pradesh, Chhattisgarh, Odisha, Vidarbha in Maharashtra, parts of Gangetic West Bengal, coastal Andhra Pradesh, and Telangana are the most heatwave-prone states or regions.

When does IMD declare a heatwave?

IMD declares a heatwave when maximum temperature at a station in the plains reaches 40 degree Celsius or more, 37 degree Celsius or more in the coast, and 30 degree Celsius or more in the hills.

The severity of a heatwave is determined by its departure from normal temperature. 'Normal' heatwave is declared if the departure is 4.5-6.4 degree Celsius; a 'severe' heatwave is when the departure is more than 6.4 degree Celsius.

A heatwave could also be declared based on actual maximum temperature. If it is more than 45 degree Celsius, a heatwave is declared. If it is more than 47 degree Celsius, a 'severe' heatwave is declared.

What led to the heatwaves this April?

Large parts of India have witnessed heatwaves and high temperatures for two reasons.

One, 2024 is a year that began in an El Niño state. El Niño, a weather pattern, refers to an abnormal warming of surface waters in the equatorial Pacific Ocean, which leads to extreme heat in many parts of the world and the ocean. It developed in June 2023 and generally, the years which begin in an El Niño state, experience extreme temperatures, harsh, multiple and extended heatwave spells, and lack of pre-monsoon rainfall.

Two, the persistent presence of anticyclone systems over southern peninsular and southeastern coastal areas is also partly responsible for such a hot April. These high-pressure systems, which exist at about the altitude of 3 km and extend between 1,000 and 2,000 km in length, push the air underneath them towards the Earth, in a process called *air subsidence*. As a result, the forcefully sunk air generates more heat on the surface closer to the Earth.

The presence of anticyclone systems also leads to wind flow from land towards the sea and prevents the incoming cooler sea breeze, which is otherwise responsible for cooling land from time to time.

El Niño and anticyclone systems collectively created sweltering hot conditions and heatwaves during April, especially over Gangetic West Bengal, Odisha, Andhra Pradesh, Telangana, Tamil Nadu, Kerala, Karnataka, and Maharashtra.

What has been the extent of heatwaves this April?

Except for four days (April 1, 10, 11 and 12), a small pocket or a considerably large geographical area of the country experienced either heatwave or severe heatwave conditions, according to the IMD.

The worst affected were southern peninsular India and the southeastern coast areas, including Odisha, Andhra Pradesh, and Tamil Nadu along with large areas of Karnataka, Kerala, Sikkim, Bihar, Jharkhand, and Gangetic West Bengal.

Odisha and Gangetic West Bengal have remained under heatwave to severe heatwave conditions since April 15 and April 17, respectively.

The inclusion of Kerala and Sikkim to the list of heatwave-affected areas indicates that the temperatures are rapidly rising during summers over regions outside that of the CHZ.

M Rajeevan, former secretary, the Ministry of Earth Sciences said, "The Intergovernmental Panel on Climate Change (IPCC) reports and analysis of weather models clearly indicate that heatwaves in India shall no longer remain contained over only those regions traditionally believed to be prone. Newer areas, especially from the southern peninsular India, are already experiencing heatwaves."

New Chief of Naval Staff

#NavyChief #DineshKumarTripathi #Navy #PersonInNews #Defence #GS3

Admiral **Dinesh Kumar Tripathi** assumed the charge of **26th Chief of Naval Staff**. He replaced **Admiral R Hari Kumar**.

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