



Differential Pricing for Covid-19 Vaccines

Why in News

Recently, the Supreme Court has asked the government to clarify in its affidavit the basis and rationale for pricing of [Covid-19](#) Vaccines.

- The court noted that “different manufacturers are quoting different prices”. There are powers under the **Drugs Control Act and Patents Act**, and this is the time to invoke such powers.

Key Points

▪ Pricing Regulation for Drugs in India:

- The pricing of essential drugs is regulated centrally through [The Essential Commodities Act, 1955](#).
- Under **Section 3 of the Act**, the government has enacted the **Drugs (Prices Control) Order (DPCO)**.
 - The [DPCO](#) lists **over 800 drugs** as “**essential**” in its schedule, and has capped their prices.
 - The capping of prices is done based on a formula that is worked out in each case by the **National Pharmaceutical Pricing Authority (NPPA)**, which was set up in **1997**.
- However, regulation through DPCO is **not applicable for patented drugs or fixed-dose combination (FDC) drugs**.
 - This is why the price of the antiviral drug **remdesivir**, which is currently in great demand for the treatment of serious cases of Covid-19, is **not regulated by the government**.
- An **amendment is required to bring Covid-19 vaccines or drugs** used in the treatment of Covid-19 such as remdesivir under the DPCO policy.

▪ Other Legal Avenues Available to Address Differential Pricing for Vaccines:

- **The Patents Act, 1970:**
 - This law, which was mentioned by the Supreme Court, **has two key provisions** that could be potentially invoked to regulate the pricing of the vaccine.
 - **Section 100** of the Act gives the central government the power to authorise anyone (a pharma company) to use the invention for the “purposes of the government”.
 - This provision enables the government to license the patents of the vaccine to specific companies to speed up manufacturing and ensure equitable pricing.
 - **Under Section 92** of the Act, which deals with [compulsory licensing](#), the government can, without the permission of the patent holder, license the patent under specific circumstances prescribed in the Act.

◦ **The Epidemic Diseases Act, 1897:**

- This has been the main legal weapon for the government in dealing with the pandemic.
- **Section 2 of** this law gives the government “power to take special measures and prescribe regulations as to dangerous epidemic disease”.
- The broad, undefined powers under the Act, can be used to take measures to regulate pricing.

Way Forward

Apart from these legislative options, experts suggest that the **central government procuring directly from the manufacturers** could be the most beneficial route to ensure equitable pricing. As the sole purchaser, it will have greater bargaining power.

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