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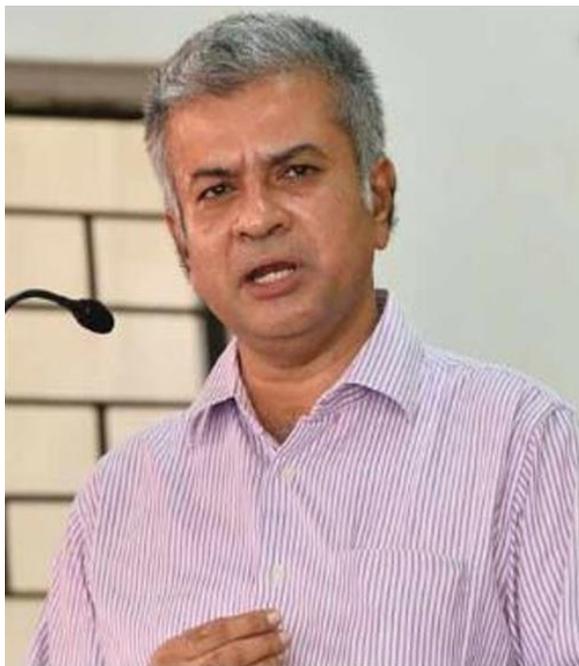
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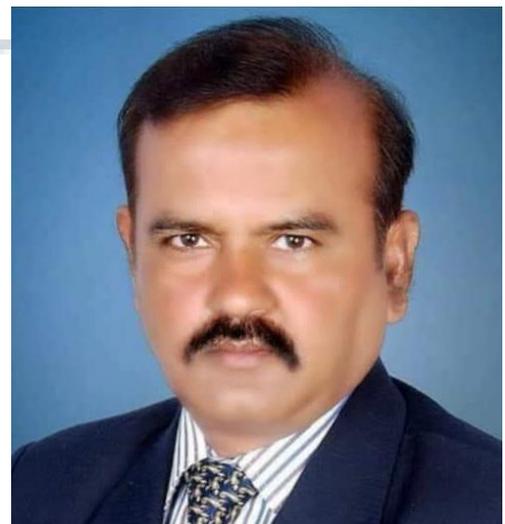
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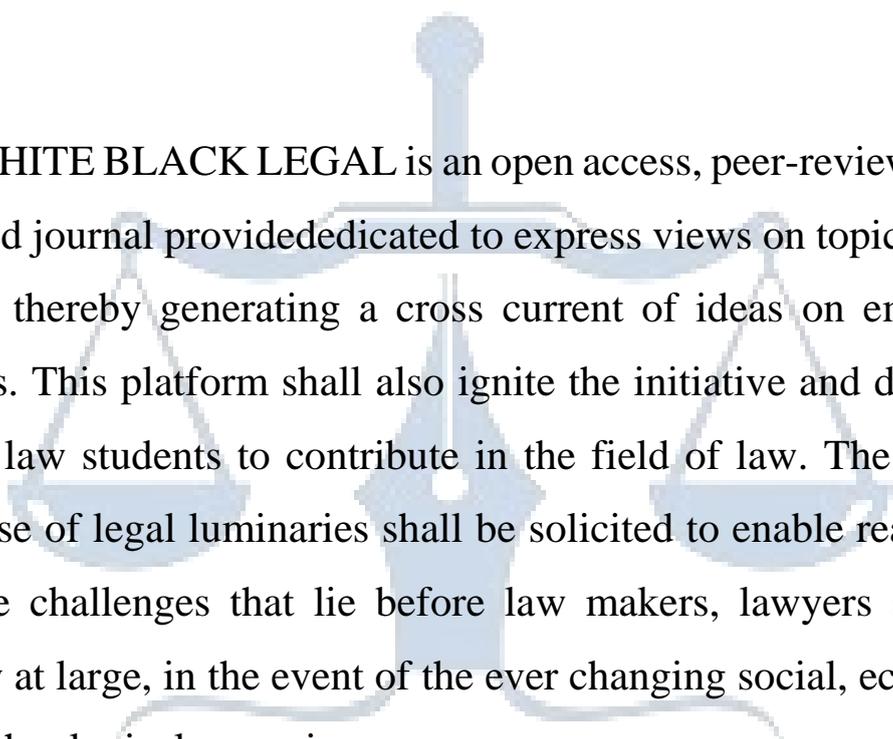


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With this thought, we hereby present to you

W H I T E B L A C K
L E G A L

"BALANCING COMPASSION AND AUTONOMY: STUDY OF ETHICAL AND LEGAL DIMENSIONS OF PASSIVE EUTHANASIA WITHIN INDIA"

AUTHORED BY - AYUSHI SRIVASTAVA & SUVIGYA VERMA

ABSTRACT

The term "suicide" refers to person taking their own life, whereas "euthanasia" or "mercy killing" refers to person's death at request of another person. This essay aims to explain euthanasia and its potential use within three distinct situations involving living individuals since birth. What was attitude toward annihilation of life of various religions, such as Hindu, Muslim, Christian, and Sikh, and how was self-destruction custom within ancient societies like Greece and India? Although self-destruction is goal of both suicide and euthanasia, there are several distinct differences between two. There are different ways to apply euthanasia, and it can be divided into five categories. within addition to sociologists' opinions on euthanasia, legal status of practice within India within light of Indian Constitution and other legislation currently within effect, as well as positions of other nations worldwide, are all discussed. Even if Supreme Court has already rendered ruling on this issue, there are still some questions that need to be thoroughly examined. paper concludes by discussing latest legal developments within India regarding passive euthanasia and applicability of new rules raised within this regard.

Keywords: *Passive Euthanasia, Life, Living Will, Vegetative state, Consent Mercy killing*

1.1 OVERVIEW

"Suicide" is term used to describe when someone ends their own life. "Euthanasia" or, within more straightforward version, "mercy killing" refers to taking of person's life at wish of deceased or at request of others.

There are five distinct categories for euthanasia, and there are many various ways it might be used. Supreme Court ruling within matter of **Aruna Shanbaug**,¹ has already rendered decision

¹ Aruna Ramachandra Shanbaug v. Union of India (2011) 4 SCC 454.

on this issue, but several questions remain that require careful consideration.

Voluntary euthanasia is term used when patient expressly requests to end their life. Numerous nations' governments have legalized this type or decriminalized it if they do not. Few nations consider it homicide, but if doctor satisfies certain legal standards, it is not deemed criminal homicide, and perpetrator will not face charges.²

The term "non-voluntary euthanasia" refers to situations within which an individual is unable to give consent for euthanasia process because they are comatose, legally incompetent, or unconscious. Non-voluntary euthanasia may even occur when patient has previously said that he or she will die but is currently incapable of doing so. Since children are incapable of making contracts, euthanasia is prohibited worldwide. within some extraordinary cases, it might be approved.

Sometimes people mistakenly believe that non-voluntary euthanasia is same as involuntary euthanasia. As opposed to involuntary euthanasia, which is performed against patient's will, non-voluntary euthanasia does not require patient's agreement.

within terms of procedural differences, there are two main types of euthanasia: active euthanasia and passive euthanasia. Active euthanasia is practice of violently ending life of person who is within vegetative state and whose condition cannot be improved. Lethal drugs, etc., are utilized within this sort of treatment to kill patient. within contrast, passive euthanasia involves removing person's life-sustaining supply so that they may finally pass away.

People who have terminal disease or who are disabled and do not want to suffer for remainder of their lives are main groups with which euthanasia is connected. freedom to decide whether or not to live should be granted to person who is terminally ill or severely disabled.³

1.2 MEANING AND DIFFERENT TYPES OF EUTHANASIA

Euthanasia is defined as act or practice of murdering or causing death of person who has an incurable sickness or condition, especially one that is painful, out of mercy, according to

² Garrard, E., and S. Wilkinson. "Passive Euthanasia." *Journal of Medical Ethics*, vol. 31, no. 2, 2005, pp. 64-68. *JSTOR*

³ Harris NM "The euthanasia debate" 147 (3) *J R Army Med Corps* 367-70 (2001).

Black's Law Dictionary (8th edition). Euthanasia is defined by Encyclopedia of "Crime and Justice" as an act of death that relieves stressful or unacceptable state of living. Euthanasia is simply act of compassionately taking person's life to relieve them of an incurable illness, unbearable pain, suffering, and misery. Greek terms "eu" and "thanatos," which translate to "good death" or "easy death," are origin of word "euthanasia." Another name for it is Mercy Killing. Euthanasia is defined as giving patient medication at their request with specific goal of ending their life². exact definition of euthanasia is act of putting person to death without causing them any pain, particularly when their suffering is unbearable or their existence has become meaningless due to physical or mental disability. practice of murdering someone to relieve them of unbearable pain or suffering, or to allow or cause painless death when life has become pointless and unpleasant, is known as euthanasia or mercy killing⁴. Nowadays, euthanasia only refers to practice of doctors ending patient's life at patient's request within order to relieve him of severe pain or fatal illness. Therefore, fundamental goal of euthanasia is to guarantee less agonizing death for person who would eventually pass away after enduring protracted period of suffering.⁴

Euthanasia falls into one of following categories:

1. Positive or active

within France, permitting patients to die is permitted by law under some circumstances, but active euthanasia—defined as deliberate act of causing death of patient facing significant suffering—is prohibited.

2. Negative or passive (also called letting-die)

According to Supreme Court's ruling within Aruna Shanbaug's case, "passive euthanasia" is intentional cessation of medical treatment with goal of accelerating terminally ill patient's demise.

3. Involuntary

1.3 HISTORICAL CONTEXT

Euthanasia means "good death" since it is derived from two Ancient Greek words: "Eu" means "good" and "thantos" means "death." It is act or practice of injecting person who has terminal illness or an incurable condition, or stopping normal medical care, within order to relieve him of unbearable agony or effects of his illness. deliberate killing of person whose life is deemed

⁴ Cica N, "Euthanasia - Australian Law within an International Context: Part 1: Passive Voluntary Euthanasia" 3 Parliamentary Research Service iv (1996-97)

unworthy of being lived is known as euthanasia. This practice, commonly referred to as "Mercy Killing," is when person who is within an irreversible condition or has no chance of surviving because of his agonizing life terminates his life without causing him any pain. Death is easy, painless, and peaceful. It suggests obtaining someone's death within order to prevent or put an end to their suffering, particularly if they have an incurable illness. Oxford dictionary defines it as painless killing of person who has an incurable disease or who is within an irreversible coma. According to House of Lords select Committee on Medical Ethics, it is "a deliberate intervention under taken with express intention of ending life to relieve intractable suffering".⁵ Therefore, euthanasia can be defined as willful and intentional killing of person by direct method, such lethal injection, by neglecting to provide even most basic medical treatment, or by turning off life support within order to relieve person from an agonizing existence. within essence, it is to cause disabled person or patient who is terminally ill to die. It is used to ensure that patient who has been afflicted with terminal illness or one that has rendered him incapacitated might pass away peacefully and with less suffering within his final days. Therefore, fundamental goal of euthanasia is to guarantee less agonizing death for person who would eventually pass away after enduring protracted period of suffering. purpose of euthanasia is to allow person to pass away with dignity. within nutshell, it refers to sending someone to painless end when they have an incurable illness or when their life has lost meaning or hope due to physical or mental disability.

2.1 NEED FOR PASSIVE EUTHANASIA

Euthanasia within Passivity When life-sustaining systems are turned off, euthanasia is passive method of death. It is accepted practice to remove life-sustaining equipment from patient who is near death and will eventually pass away naturally. doctors performing "passive euthanasia" are only not saving patient; they are not actively killing him. within order to practice passive euthanasia, standard medicines that are essential for life continuation, including antibiotics, must be stopped. When patient passes away, passive euthanasia is discussed. within Aruna Ramchandra Shanbaug v. Union of India, doctors fail to take action that might have kept patient alive, such turning off life-supporting equipment.

2.2 Euthanasia Reasons

Euthanasia is deliberate killing of dependent person for their purported benefit, either by act or

⁵ Spencer, J. R. "Assisted Suicide and Discretion to Prosecute." Cambridge Law Journal, vol. 68, no. 3, 2009, pp. 493- 495. JSTOR

omission. There are certain justifications for euthanasia advocacy. Under some conditions, people defend its use. Euthanasia can be done for number of reasons. Among them are:

i. Excruciating agony.

ii. "right to commit suicide" demand iii. Should individuals be made to remain alive?

i. Excruciating Pain

People who are within excruciating agony that cannot be relieved or treated want to pass away quietly. It is life that is sometimes devoid of dignity. development of 36 therapies and life-saving medications marks pinnacle of medical knowledge. It is fine to numb excruciating pain brought on by disease until you recover, but relying on painkillers for rest of your life is not desirable option. patient may develop tendency to end his life if such decision becomes essential to his daily existence. Death, however, does not end patient's suffering. within certain situations, feelings and emotions shouldn't be used to form opinions. within these situations, doctors do not support euthanasia. within patients with Permanent Vegetative State (PVS), passive euthanasia is acceptable.

ii. "right to commit suicide" is demanded.

The term "right" conveys sense of total finality within necessary decision. It is occasionally mistaken with fundamental right to life guaranteed by Article 21 of Indian Constitution. Here, that is not case. This relates to patient's required procedural right. Additionally taken into account are rights of family members and medical professionals. It is important to avoid confusing phrases with right to die within broad sense. Euthanasia is not about right to die, to put it another way. It concerns authority to cause someone's death. Furthermore, goal is to create legal provisions for peaceful and easy process of performing euthanasia, not to acknowledge right. Suicide and euthanasia shouldn't be used within tandem. There are no common elements among these words. Suicide is depressing, personal act. Euthanasia isn't personal act. It's about allowing someone to help another person die.

i. Should people be forced to stay alive?

This is third crucial query about when euthanasia should be carried out. Staying alive shouldn't be requirement. According to medical ethics and law, every effort must be made to keep person alive. It is against law and custom to continue to delay death within any way possible, even if patient does not want this to happen. It would also be cruel and cruel. Sometimes it is not

sensible, compassionate, or medically sound to keep trying to cure. Therefore, "only" all interventions should focus on reducing discomfort and offering support to patient and their loved ones. These justifications are both directive and suggestive within character. When contemplating euthanasia, they cannot be made mandatory. Since each case is unique, same standard cannot be used for all of them.⁶

LEGAL ASPECTS OF PASSIVE EUTHANASIA

3.1 EUTHANASIA AND INDIAN CONSTITUTION:

The Indian *Constitution* is presumed to be self-contained *Supreme lex* of land. *Constitution of India* is guarantor, protector, and promoter of Fundamental Rights for citizens and within certain circumstances even for non citizens within India.⁷ philosophy underlying *Constitution* is of paramount importance. within words of Pandit Nehru, "*Constitution* is something more than resolution. It is declaration, firm resolve, pledge, an undertaking and for all of us dedication".⁸ Preamble of Indian Constitution amply demonstrates this viewpoint. At this point, it is appropriate to look at Preamble's main characteristics, goals, and how its interpretation should be viewed within light of ongoing discussion around euthanasia legalization within India.

3.2 EUTHANASIA AND RIGHT TO EQUALITY:

Every citizen and non-citizen alike is guaranteed right to equality under Indian Constitution. "Equality before law" and "equal protection under law" are two manifestations of this right to equality. "Equal protection of law" encourages equal treatment under equal circumstances, whereas "equality before law" suggests that there are no special privileges for any one person. It was observed by Patanjali Sastri, C.J., within *State of West Bengal v. Anwar Ali Sarkar*,⁹ that statements signify same thing, and second is corollary of first. According to this ratio, equality clause is flagrantly broken when it comes to terminally ill people within euthanasia issue. Terminally ill patients are regarded as being on par with people within normal health or those with illnesses other than terminal illness. However, equal protection of laws provided by Article 14 does not mean that everyone within every situation should be subject to same laws.

⁶ Dixon N. On difference between physician-assisted suicide and active euthanasia. *Hastings Cent Rept.* 1998 Sep Oct;28(5):25-9

⁷ For e.g., Article 15, 16, 19 are available only for Indian citizens, whereas Article 14 and 21 provide constitutional protection to non-citizens along with citizens, see, Jain, M.P., *Indian Constitutional Law* 856-857, 1079, 5th edn., Nagpur: Wadhwa & Co., 2007. See also, *Chairman, Railway Board v. Chandrima Das*, AIR 2000 SC 988.

⁸ Basu, D. D., *Introduction to Indian Constitution* 20, 19th edn., Nagpur: Wadhwa and Co, 2001.

⁹ AIR 1952 SC 75.

3.3 EUTHANASIA AND INDIA CONSTITUTION'S ART. 21 RIGHT TO LIFE AND LIBERTY:

Life has always been valued, revered, inviolable, and deserving of respect and defense. Life begins at conception and is treated with same dignity until it ends. Humans hold life within highest regard since it is gift from God. within addition to being moral and ethical transgression, destruction of life is punishable by law everywhere within globe. Every democratic state upholds people's right to life. Similarly, "no person shall be deprived of his life or liberty except according to procedure established by law," according to Indian Constitution. Article 21 guarantees right to life.

The Apex Court of India's previous precedents have demonstrated that life is more than just an animal existence; it is dignified life. Euthanasia is not recognized by law as component of right to life since it appears to go against Article 21, which safeguards life. Consequently, it has been held within *Gian Kaur v. State of Punjab*,¹⁰ that extinguishing life by physician assistance cannot be read as part of right to life. issues before Court within this case were whether right to life includes right to die and whether Section 309 of IPC violates Article 21 of Constitution. five judge Constitution Bench of Supreme Court held that right to life under Article 21 of Constitution does not include right to die. Court made it very clear that right to live with human dignity would mean existence of such right up to end of natural life. However, right to die with dignity at end of life is not to be confused with right to die an unnatural death curtailing natural span of life. Court accordingly held that Section 309 of IPC is not violative of Article 21 of Constitution.

But, it should be noted that request for euthanasia is only within case of terminal illness, which can be treated as an exceptional case. State's duty to protect life is indisputable, but if life is not worth living, why should law force individuals to undergo inhuman and cruel phase of life. within fact, Supreme Court within few landmark judgments has stated that no person should be subjected to cruel and inhuman treatment. within *Sunil Batra v. Delhi Administration*,¹¹ convict was inhumanly treated by jail authorities. Supreme Court issued writ of *habeas corpus* for protecting prisoners from inhuman and barbarous treatment.¹² Similarly, within *Bandhu*

¹⁰ 1996 (2) SCC 648 : AIR 1996 SC 946

¹¹ AIR 1986 SC 1579

¹² *Ibid.*

Mukti Morcha v. Union of India,¹³ Supreme Court deemed forced and bonded labor to be cruel and inhumane treatment. Within this regard, there are various origins and degrees of cruel and inhumane treatment. To certain degree, judiciary has been successful within shielding people from cruel and inhuman treatment, and law can limit inhumane treatment of people. However, humans are powerless to stop Vis major's brutal and inhumane treatment of terminally ill patients. On one hand, even with most advanced medical technology, terminally ill individuals within rare instances do not receive any alleviation. On other hand, law prevents these sufferers from passing away quickly and painlessly. Because of this, terminally sick patient suffers from both sides' brutal and inhumane treatment.

Since human liberty is guaranteed by Constitution, why not right to die under exceptional circumstances? Although it is acknowledged that right to die with dignity may undermine sanctity of life and social values of life, it should be remembered that this right can only be provided within circumstances of terminal illness. Due to judiciary's broad reading of Article 21, number of rights have been elevated to rank of basic rights and included within right to life.¹⁴

JUDICIAL APPROACH

4.1 Legal recognition within india

4.1 Legal Aspects of Euthanasia within India

Several other nations' recommendations were incorporated into India's constitution, and courts have occasionally cited large number of international rulings. In many nations, including India, wisdom of legalizing euthanasia is hotly contested topic. Both aggressive and passive euthanasia are possible. former entails taking action to speed up person's demise. It is obviously illegal unless specifically allowed by law, and most nations treat it as such. Conversely, passive euthanasia entails "intentionally" or refusing to take any action to keep individual alive. It is well known that Supreme Court did not completely rule out legality of passive euthanasia within *Gian Kaur v. State of Punjab*, even though it held that right to life did not include right to die.

When person has been terminally sick for an extended period of time and all chance of recovery

¹³ AIR 1984 SC 1099.

¹⁴ Right to privacy, *R Rajgopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

has been ruled out, one of two types of euthanasia is claimed to be justified. majority of patients are discovered to have lost consciousness, and artificial techniques are frequently used to prolong their lives. It is maintained that it is preferable to let such person pass away within order to provide him with dignified release from suffering.

Although it was discovered that Aruna Ramchandra's brain was partially functional, she was within persistent vegetative state within this particular case. She had no family and was being cared for by personnel of KEM hospital within Mumbai, where she had previously worked as an anesthesiologist. Because of their emotional attachment to her, hospital personnel did not want her to be abandoned to perish. It was discovered that staff's care was excellent. It was decided that social activist who had petitioned court lacked locus standing. But because of case, two-judge Supreme Court panel made up of Markandey Katju and Gyan Sudha Mishra, JJ., gave whole question of allowing euthanasia careful thought. The bench rejected active euthanasia but maintained that, under certain restrictions, passive euthanasia might be permitted within appropriate circumstances. It is necessary to consider patient's requests if they are cognizant. However, desires of close family members (spouse, parents, kids, and others) must be considered if patient is within coma. KEM hospital personnel can step within if no close relatives are accessible or will be available within near future, as within this instance. case must then proceed to High Court, where minimum of two judges must decide case. To examine patient, bench will consist of three qualified medical professionals. bench should also find out patient's close relatives' opinions and State's. Supreme Court decided that until Parliament passed legislation on subject, this process should be followed.

4.2 Novel Aspect within Indian Legal Framework ---- Case of Aruna

The Supreme Court recently opened door for acceptance of passive euthanasia within case of Aruna Ramchandra Shanbaug v. Union of India. The Court denied Aruna Shanbaug's appeal, noting that while active euthanasia was remained illegal, passive euthanasia might be carried out under legal supervision within some exceptional situations. within this regard, Court has established rules that will remain within effect until law is passed by Parliament.

1. parents, spouse, or other close family members must decide whether to remove life support; if none of them are present, person or group of people acting as next friend may make choice. physicians who treat patient may also make it. Nonetheless, choice must to be made honestly and within patient's best interests.
2. High Court within question must approve any decision to remove life support, even if

it is made by close family members, medical professionals, or close friend.

3. Chief Justice of High Court should immediately assemble bench of at least two judges to consider whether to approve or deny such an application. Bench will designate committee of three reputable physicians who will report on patient's condition. State and close relatives should be notified about findings prior to rendering decision. High Court may render decision following parties' hearing.

4.3 CURRENT DEVELOPMENT AND STATUS

Draft guidelines for passive euthanasia were released by Ministry of Health and Family Welfare.

Guidelines for Withdrawal of Life Support within Terminally Ill Patients (Passive Euthanasia) is title of document.

Important points

- Removing conditions that require Life Sustaining Treatments (LST):
- Any person who has been declared brainstem dead under 1994 Transplantation of Human Organs Act.
- If aggressive therapy interventions are unlikely to be beneficial for patient.
- Informed refusal to LST was documented by patient or surrogate.
- Primary Medical Board (PMB) and Secondary Medical Board (SMB) constitutions.
- Members of PMB should agree to forego LST recommendations. PMB decision must be validated by SMB.

Hospitals form Clinical Ethics Committee to conduct audits, provide oversight, and resolve conflicts.

KARNATAKA'S PASSIVE EUTHANASIA ORDER

The Supreme Court's judgment allowing passive euthanasia for terminally ill patients was implemented by Karnataka within January 2025, making it second Indian state after Kerala to do so. This important action highlights how India's laws and moral standards pertaining to end-of-life care are changing.

By allowing terminally ill patients to decline life-sustaining therapies, Karnataka's ruling on passive euthanasia guarantees their right to pass away with dignity while maintaining stringent legal and medical protections.

1. Putting Supreme Court's directive into practice • Karnataka government's decision also

complies with Supreme Court's updated 2023 guidelines, which made it easier to execute living wills and passive euthanasia. • Karnataka became second state within India (after Kerala) to implement Supreme Court's 2018 ruling on passive euthanasia.

2. Establishment of Medical Boards :In order to assess patients who qualify for passive euthanasia, hospitals throughout state must set up medical boards. Registered medical professionals will be appointed by district health officers to serve on these boards, which will be within charge of certifying situations within which life-support withdrawal is appropriate.
3. Living Wills and Advance Medical Directives (AMDs): Under order, individuals can draft Living Wills or AMDs outlining their preferences for medical care within event of incapacitation. Medical boards will examine and abide by living will before making any judgments.
4. How to Authorize Passive Euthanasia : A primary medical board will assess patient's health first, and secondary board will review case if passive euthanasia is judged appropriate. Strict legal and ethical rules will be followed to prevent misuse before final clearance is granted.
5. Order's Goals • To respect patient autonomy and enable those who are near death to avoid excruciating pain.
 - To guarantee ethical protections against abuse or coercion;
 - To give medical personnel managing end-of-life care legal certainty.

THE SUPREME COURT UPDATED GUIDELINES WITHIN 2023.

The Supreme Court reinforced its Article 21 jurisprudence within number of cases within 2023. It streamlined burdensome requirements to obtain passive euthanasia within support of right to die with dignity.

In October 2023, Court issued series of guidelines to alleviate plight of manual scavengers, which was Justice S.R. Bhat's last ruling before retiring. Simplified procedure for passive euthanasia

A five-judge Constitution Bench amended 2018 Euthanasia Guidelines on January 24, 2023, to make it easier to allow terminally ill individuals to have passive euthanasia. Withholding artificial life support or treatment from terminally ill patient for balance of their life is known as passive euthanasia.

A Constitution Bench recognized freedom to die with dignity and passive euthanasia as fundamental rights under Article 21 within 2018 case of Common Cause v. Union of India. Court ruled that "Advance Medical Directives," which are orders to stop life-sustaining care when patient is within condition where they are unable to express their desires, could be used to carry out passive euthanasia. These advance directions were codified within 2018 standards.

CONCLUSION

It is impossible to guarantee that law of this kind would not be subject to abuse, which would primarily affect lives of other sick people who did not wish to be taken. fact that such exploitation could be readily made invisible is particularly risky feature. As result, while mercy killing looks morally acceptable, it is almost impossible to carry out within practice. Suicide has been outlawed within general since Gian Kaur case, although euthanasia has not been. Later judgment of our Supreme Court within Aruna Ramchandra Shanbaug v. Union of India legalized passive euthanasia and observed that passive euthanasia is permissible under supervision of law within exceptional circumstances but active euthanasia is not permitted under law. within process of making euthanasia (Passive Euthanasia) legal within India, Supreme Court legalized passive euthanasia within inida on matter of living will on 8th March 2018. two judges bench comprising Chief Justice of India Dipak Misra and Justice M Khanwilkar observed that demand for euthanasia is rising within country debate is taking blow over matter of legalization of euthanasia and its proper legislation. court gave very clear guidelines and over process of administering euthanasia to any person within country. hon'ble bench mentioned that Right to Life under Article 21 of constituion of india includes right to die with dignity.

The long discussion over matter permitting of euthanasia within country came to and end and now it is permitted within india (Passive Euthanasia). It was not easy to make it leagl as there was lots of controversies over matters as it was not only matter of releiving someone from his painful (PVS) life as it includes morals of many religions and his beliefs. It is very sensitive issue as there is chance of wide misuse of this legislation but supreme court left no stone unturned and covered every aspect from its legalization to admisnistration and put bars over its misuse.