



## JUDICIAL JURISPRUDENCE SHAPED THE LEGALITY OF PASSIVE EUTHANASIA IN INDIA

Dr. Kairali VS

Vels School of Law, Chennai

### KEYWORDS :

The term "Euthanasia" translates to "Good death" and is often referred to as mercy killing. It pertains to the deliberate act of ending someone's life to alleviate extreme pain or suffering, typically in cases of terminal illness or irreversible conditions.

#### Types of Euthanasia

Euthanasia is broadly categorized into Active and Passive forms. Active euthanasia consists of intentional actions, like administering a lethal injection, aimed at directly causing death. On the other hand, Passive euthanasia, also known as negative euthanasia, involves refraining from such actions; it includes the withdrawal or withholding of life-sustaining treatments, such as ventilators or feeding tubes, that would otherwise prolong a patient's life.

Passive euthanasia can be further divided into voluntary, non-voluntary, and involuntary categories. Voluntary euthanasia occurs with the patient's consent, while non-voluntary occurs when consent cannot be obtained due to the patient's condition, such as being in a coma. Involuntary euthanasia takes place without the patient's consent and is illegal.

#### Legal Framework

In India, there is a clear distinction between Active and Passive euthanasia under the law. Active euthanasia is explicitly banned under the *Bhartiya Naya Sanhita 2023*, with intentionally causing death classified as an offense under Section 100 (Culpable Homicide) or Section 101 (Murder). However, the Supreme Court has permitted passive euthanasia in the case of *Common Cause v. Union of India* by recognizing the right to die with dignity as a fundamental right under Article 21 of the Indian Constitution. The court also acknowledged living wills (Advanced Medical Directives), allowing individuals of sound mind to state in advance which medical treatments they wish to refuse if they become incapacitated.

#### Law Commission Report

The 241st Law Commission of India highlighted that a competent patient's decision to refuse life-sustaining treatment is legally valid, protecting doctors from being charged with abetment or culpable homicide for respecting this choice.

#### Judgments Influencing Euthanasia in India

##### Maruthi Shripathi v. State of Maharashtra

The Bombay High Court determined that the right to die is an inherent part of Article 21, permitting terminally ill or severely suffering patients to choose to end their lives.

##### Gian Kaur v. State of Punjab

In this case, the Supreme Court overturned the previous ruling and asserted that the right to life does not encompass the right to die, emphasizing the importance of preserving life.

##### Aruna Shanbaug v. Union of India

A significant turning point occurred in 2011 when the court officially recognized passive euthanasia as legal, provided it is conducted under strict judicial oversight, even for patients who are unable to provide consent.

#### Further Developments

##### Common Cause [A Registered Society] v. Union of India

This case established that the right to die with dignity is an integral part of the right to life as outlined in Article 21. It made a clear distinction between active euthanasia, which is not allowed, and passive euthanasia, which is permitted, while also legally recognizing living wills (Advanced Medical Directives).

#### Common Cause [Modified Guidelines], 2023

The court simplified the process for implementing Advance Medical Directives by easing the procedural requirements set in its 2018 guidelines. This change addressed practical issues brought up by citizens, healthcare professionals, and legal experts. By modifying the framework, the court reduced the involvement of judicial officers and introduced a two-tier system comprising primary and secondary medical boards. This ultimately enables individuals to make end-of-life decisions in a more compassionate and accessible way.

#### Harish Rana v. Union of India and its Significance

This marks the first instance of a constitutional right being put into action in 2018, allowing for passive euthanasia through the withdrawal of life support and acknowledging the right to die with dignity.

The central question considered by the court was: Can life-sustaining treatment be stopped for a patient who is either terminally ill or in a permanent vegetative state?

The Supreme Court of India permitted passive euthanasia for Harish Rana, a 32-year-old who had been in a permanent vegetative state for over 13 years, allowing for the cessation of life-sustaining treatment under medical supervision. This decision aligns with previous guidelines that affirm the right to die with dignity as stated in Article 21, marking the first judicial approval of passive euthanasia in India.

#### About the Case

Harish Rana, a 19-year-old student from Chandigarh, suffered a fall from the fourth floor of a building in August 2013. The incident resulted in severe brain injuries, rendering him in a permanent vegetative state with complete paralysis of all limbs for almost 13 years. He had relied entirely on clinically assisted nutrition and hydration through PEG tubes surgically inserted, showing no signs of recovery. In 2024, after the Delhi High Court rejected his father's request, the family turned to the Supreme Court. The court determined that clinically assisted nutrition and hydration, including feeding tubes, are considered medical treatments that may be discontinued if they no longer benefit the patient.

#### Best Interest Test Principle in Euthanasia

The Best Interest Test is the guiding principle that medical boards use to decide the preferred treatment for a patient who cannot make decisions for themselves, taking into account the patient's wishes, values, medical state, and likelihood of recovery.

#### CONCLUSION

Indian courts have gradually developed a viable legal framework regarding dignified death. The judgment in Harish Rana's case acknowledges that without proper legislation, decisions at the end of life can be unintentionally influenced by a family's financial strain. The discrepancy between the current legal allowances and what families can practically discern cannot be resolved merely through additional rulings. This responsibility lies solely with parliament, which has opted not to address this issue for nearly twenty years. In the meantime, the judiciary's role acts as a beacon, helping to align ethical healthcare practices with constitutional principles.

#### REFERENCES

1. The Jurisprudence of Dignity: Evolution of Passive Euthanasia in India. Available at: <http://www.livelaw.in>
2. Common Cause [A Registered Society] v. Union of India and Anr [A Case of Passive Euthanasia]. Available at: <http://www.pencliams.com>
3. Common Cause [Modified Guidelines] 2023 — What is a Living Will and Supreme Court's New Order on Passive Euthanasia Procedure, Feb 15, 2023. Available at: <http://www.livelaw.in>
4. Supreme Court Allows 1st Passive Euthanasia in Harish Rana Case. Available at: <http://www.drishtias.com>

5. Maruthi Shripathi Dubal v. State of Maharashtra, 1987 CrIj 743
6. Gian Kaur v. State of Punjab, AIR 1996 SC 1257
7. Aruna Shanbaug v. Union of India and Others, 2011 (4) SCC 345
8. Harish Rana v. Union of India, 2026 SCC Online 358. Available at: <http://www.drishhtias.com>
9. Passive Euthanasia in India: What the Harish Rana Case Means for End-of-Life Care. Available at: <http://www.visionias.in>
10. What the Harish Rana Judgment Means for the Right to Die with Dignity in India. Available at: <http://www.thehindu.com>