

Centre's Plea on Death Row Convicts

Why in News?

The Ministry of Home Affairs (MHA) moved the Supreme Court (SC) to frame guidelines to execute death penalty of condemned prisoners of the 'Nirbhaya' case.

Why this move was made?

- The move comes amid various pleas filed by convicts in the 2012 Nirbhaya gang-rape case that has delayed their hanging.
- The four convicts are on death row since 2013 after a trial court ruled against them.
- Multiple curative petitions and mercy pleas filed before the President of India have been rejected.

What does this move mean?

- The MHA essentially seeks the incorporation of measures aimed at **reducing** the scope for death row convicts to adopt **dilatory tactics**.
- There may be some evidence to believe that convicts tend to file review petitions, mercy petitions and curative petitions in such a way that their execution is indefinitely delayed.
- But, it is difficult to attribute their conduct to the supposedly "accused-centric" nature of the guidelines laid down by the SC in Shatrughan Chauhan (2014).

What are the existing guidelines?

- These guidelines were aimed at protecting the constitutional rights of prisoners in the context of a sound body of jurisprudence that maintains that such rights extend right up to the moment of their execution.
- The court was anxious about enforcing their right to be informed about the scope for filing petitions for
 1. Clemency and for being given legal assistance in drafting them,
 2. Exploring judicial remedies even after their appeals for mercy are rejected.
- Further, the **14-day time lag** between the closure of the clemency route and their hanging is aimed at preventing secret executions.

- The court was concerned about the right of the convicts' family members to be informed, as well as the time needed by the prisoners for settling their affairs and preparing themselves mentally.

Why the government wants the SC to frame this rule?

- It is strange that the government wants the SC to frame a rule imposing a **7-day limit** on the time that convicts have to file a mercy petition after a death warrant is issued.
- And that courts, governments and prison authorities should all be mandated to issue death warrants within 7 days of the rejection of mercy petitions and to carry out the sentence within 7 days thereafter.
- To believe that these are matters that contribute to substantive delay in carrying out death sentences is misconceived.
- Nothing prevents the government from introducing rules to address such situations.

Why these convicts could be allowed to exhaust all possibilities?

- On the need for a time limit for filing curative petitions, the government is right in believing that the absence of such a stipulation gives scope for convicts in the same case to take turns to file such petitions.
- However, there is no sign that the apex court delays disposal of curative petitions.
- If and when one is filed, it results in no more than a few days' delay.
- In a country that unfortunately retains the death penalty, there is no excuse for delaying the disposal of any petition, either in court, or before constitutional functionaries.
- Nor is there any need to expedite executions by revisiting sound guidelines.
- As the death penalty is limited to the "rarest of rare" cases, nothing is lost if those facing execution are allowed to exhaust all possible remedies.

Source: The Hindu