

SC's Verdict on Passive Euthanasia and Living Will

Click [here](#) to know more on Euthanasia and Living Will

\n\n

Why in news?

\n\n

A Constitution Bench has made passive euthanasia and living will permissible.

\n\n

\n

A dignified death should follow a meaningful existence

\n

\n\n

What is SC's rationale?

\n\n

\n

- **Right to Die** - The Supreme Court has upheld that the fundamental right to life and dignity includes right to refuse treatment and die with dignity.
- It observed that the fundamental right to a "meaningful existence" includes a person's choice to die without suffering.
- But it is held that active euthanasia was unlawful.
- **Dignified death** - Lack of legal backing sometimes lead to suffering and undignified death of the patient.
- As, societal pressure and fear of criminal liability by relatives and medical doctors hamper them from making the needed decision.
- Religion, morality, philosophy, law and society have differing opinions on whether right to life included right to death or not.

\n

- However, they all unanimously share the idea that a person should die with dignity.
\n
- **Individual Liberty** - The issue of death and when to die transcended the boundaries of law.
\n
- But the court had intervened because the sanctity of life included the dignity and autonomy of the individual.
\n
- The search for a meaningful existence, the pursuit of happiness included the exercise of free will which includes the right of a person to refuse medical treatment.
\n
- A person need not give any reasons nor is answerable to any authority on why he/she should write an advanced directive.
\n

\n\n

What are SC's guidelines on living will?

\n\n

- A Living Will is a healthcare directive, in which people can state their wishes in advance for their end-of-life care, in case they are not in a position to make a decision then.
\n
- **Who** - An adult with a sound and healthy mind can make a Living Will.
\n
- It should be voluntarily executed and based on informed consent.
\n
- It should be expressed in specific terms in a language “absolutely clear and unambiguous”.
\n
- **Content** - The Living Will should contain the circumstances in which medical treatment should be withheld or withdrawn.
\n
- It should give the name of the “guardian or close relative” who will give the go-ahead for starting the procedure of passive euthanasia.
\n
- It should specify that the Will can be revoked any time.
\n
- An individual has the right to withdraw or alter the Living Will, but only in writing.
\n

- So, if there are more than one Living Will, the latest one will be valid.
\n
- **Validity** - The Will shall be attested by two independent witnesses.
\n
- It should preferably be counter-signed by the Judicial Magistrate First Class (JMFC) who is assigned the jurisdiction by the District Court.
\n
- **JFMC** - The JMFC shall preserve one hard copy, along with one in the digital format, in his/her office.
\n
- JMFC shall forward a copy of the Will to the Registry of the District Court.
\n
- JMFC shall inform the immediate family of the executor, if not informed.
\n
- A copy will be handed over to an official in the local government or Municipal Corporation or Municipality or Panchayat concerned.
\n
- This authority shall nominate a custodian for the Living Will.
\n
- Besides the guidelines, it was observed that modern medical science should balance its quest to prolong patient's life.
\n
- **Exception** - The court held that a Living Will shall not be applicable to the 'treatment in question'.
\n
- This is when there are reasonable grounds for believing that circumstances exist which the person did not anticipate at the time of making the advance directive.
\n
- And necessarily which would have affected his/her decision had he/she anticipated such circumstances.
\n

\n\n

\n\n

Source: The Hindu

\n\n

\n\n

Quick Fact

\n\n

Aruna Shanbaug case

\n\n

\n

- Aruna Shanbaug is an Indian nurse who spent around 40 years in a vegetative state as a result of a sexual assault.
- In 2011, the Supreme Court, in a landmark judgement, issued a set of broad guidelines legalizing passive euthanasia in India.
- However, the present judgement observed that the previous judgement had complex procedure to get approval for passive euthanasia.
- This consequently made the dignity of a dying person dependent on the whims and will of third parties.
- The present judgement, allowing individual Living Will and framing the appropriate guidelines, has addressed the earlier shortfalls with taking forward passive euthanasia.

\n

\n



SHANKAR
IAS PARLIAMENT
Information is Empowering