

Supreme Court disallows friend's plea for mercy killing of Aruna Shanbaug

Bench lays down norms for passive euthanasia; hospital staff say she should be allowed to live

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NEW DELHI: The Supreme Court on Monday allowed passive mercy killing of a patient in a permanent vegetative state (PVS) by withdrawing the life support system with the approval of a medical board and on the directions of the High Court concerned.

A Bench of Justices Markandey Katju and Gyan Sudha Misra, however, did not accept the plea of Pinky Virani seeking permission to withdraw life support to her friend, Aruna Ramachandra Shanbaug, who has been lying in a PVS in the KEM hospital Mumbai for 37 years. Though it dismissed the petition filed by Ms. Pinky Virani of Bombay on the ground that she did not have the locus standi and that only the hospital could make such a request, the Bench allowed passive euthanasia and laid down guidelines.

The Bench, however, held illegal active mercy killing of a patient suffering acute ailment with a poisonous injection or by other means.

Writing the judgment, Justice Katju said: "There is no statutory provision in our country as to the legal procedure for withdrawing life support to a person in PVS or who is otherwise incompetent to take a decision. We agree with [senior counsel] Mr. T.R. Andhyarujina that passive euthanasia should be permitted in our country in certain situations, and we disagree with the learned Attorney General [G.E. Vahanvati] that it should never be permitted."

The Bench pointed out that in the absence of a law against sexual harassment at work places, the Supreme Court in the Visakha case had laid down guidelines. Similarly, "we are laying down the law in this connection which will continue to

be the law until Parliament makes a law on the subject. A decision has to be taken to discontinue life support [to a patient in PVS] either by the parents or the spouse or other close relatives, or in the absence of any of them, such a decision can be taken even by a person or a body of persons acting as a next friend. It can also be taken by the doctors attending the patient. However, the decision should be taken bona fide in the best interest of the patient."

The Bench said: "If we leave it solely to the patient's relatives or to the doctors or the next friend to decide whether to withdraw life support to an incompetent person, there is always a risk in our country that this may be misused by some unscrupulous persons who wish to inherit or otherwise grab the property of the patient. Considering the low ethical levels prevailing in our society to-

day and the rampant commercialisation and corruption, we cannot rule out the possibility that unscrupulous persons with the help of some unscrupulous doctors may fabricate material to show that it is a terminal case with no chance of recovery."

In the present case, "Aruna Shanbaug's parents are dead and other close relatives have not been interested in her ever since she had the unfortunate assault on her. It is the KEM Hospital staff, who have been amazingly caring for her day and night for so many long years, who really are her next friends, and not Ms. Pinky Virani, who has only visited her on a few occasions and written a book on her. Hence it is for the KEM Hospital staff to take that decision. The KEM hospital staff have clearly expressed their wish that Aruna Shanbaug should be allowed to live."



A TV grab of 62-year-old nurse Aruna Shanbaug who, for the past 37 years, has been living in a Mumbai hospital. – PHOTO: PTI