

The Supreme Court has held that the power of the President under Article 72 and the power of the Governor under Article 161 of the Constitution of India to grant pardons, respites, remissions, reprieves, or to suspend, remit, or commute a sentence is unfettered and absolute in nature. The bench of Chief Justice N.V. Ramana, Justice Surya Kant and Justice Aniruddha Bose observed: "The power of the... The Supreme Court has observed that the power of the President and Governor to grant pardons, remissions, respites, rep In this context, in Kehar Singh (supra), this Court held: "The position, therefore, is undeniably that judicial review of the orders of the President or the Governor under Articles 72 or 161 as the case may be is available and their orders can be challenged on the following grounds : (a) that the order had been passed without application of mind ; (b) that the order was mala fide ; (c) that the order had been passed on extraneous and wholly irrelevant considerations ; (d) that relevant materials had been kept out of consideration ; (e) that It is the plea of the petitioners that after exhausting the proceedings in the courts of law the aggrieved convicts get the right to make a mercy plea before the Governor and the President highlighting their grievance. If there is undue, unreasonable, and prolonged delay in the disposal of their mercy plea, the convicts are entitled to approach this court by way of a writ petition under article 32 of the constitution. It is vehemently argued that the execution of the death penalty in the face of such inordinate delay would infringe the fundamental right to life under article The Supreme Court observed that undue, inordinate, and unreasonable delay in the execution of the death sentence amounts to torture which violates Article 21 of the Constitution and can be a ground for commutation of the sentence. The bench of Justices L. Nageswara Rao, BR Gavai and Krishna Murari observed that the nature of delay in execution of the death sentence has to be appreciated on a case-to-case basis and no exhaustive guidelines can be laid down in this regard. The bench was dealing with a batch of petitions seeking commutation of death sentence on the ground of The Supreme Court has held that unexplained delay in disposal of mercy petitions is one of the grounds for commuting the death sentence into life imprisonment. The bench of Justices L. Nageswara Rao, BR Gavai and Krishna Murari observed that the supervening circumstance of unexplained delay is applicable to all types of cases, including the offences under the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA). "The only aspect the Courts have to satisfy is that the delay is unreasonable and It was further submitted that they were kept in solitary confinement for safety purposes. However, the respective States in their counter affidavits, and in oral submissions, outrightly denied having kept any of the petitioners in solitary confinement, in violation of existing laws. In other words, it was submitted that they were kept separately from other prisoners for safety purposes. It was further submitted that the petitioners were not kept in solitary confinement, but in statutory segregation, and not per se, in solitary confinement. In view of the well-established laws both at national as well as On 18.02.2002, the Governor rejected the mercy petition. On 22.02.2003, the President of India rejected the mercy petition. On 05.03.2003, the Petitioner filed a Writ Petition (Criminal) before the High Court of Judicature at Allahabad. The High Court dismissed the Writ Petition. The Petitioner filed a Special Leave Petition before the Supreme Court. The Supreme Court dismissed the Special Leave Petition on 28.01.2004. On The Supreme Court has commuted the death sentence of four convicts to life imprisonment on the ground that there was an unexplained delay of 12 years in the disposal of their mercy petitions by the President of India and the Governor of the State. The bench of Justices L. Nageswara Rao, BR Gavai and Krishna Murari observed that the delay of 12

years in disposal of the mercy petitions is unexplained and unreasonable. The convicts are Suresh, Ramji, Shamik Narain and Praveen Kumar. The Supreme Court has commuted the death sentence of a convict to life imprisonment on the ground that there was a delay of 7 years and 8 months in disposal of his mercy petition by the President and the Governor. The bench of Justices L. Nageswara Rao, B.R. Gavai and Krishna Murari was dealing with a plea filed by Gurmeet Singh, who was convicted for the murder of 13 members of his family in 1986. He was sentenced to death by the trial court in 1992, which was upheld by the All India Bench. In the reply affidavit filed by the Uttarakhand Government, it was stated that Sundar Singh was examined by medical officers of the HMM District Hospital and thereafter, on the recommendation of the doctors of the State Mental Health Institute, he was sent to the Mental Hospital, Varanasi for examination and treatment. After his treatment, the Board of Visitors under the Chairpersonship of the District Judge, Varanasi, found him fit and discharged him along with certain prescription and advice. In pursuance of the advice of the doctors of the Mental Hospital, a panel of three doctors visited him. The Supreme Court has commuted the death sentence of Jafar Ali, a death row convict, to life imprisonment on the ground of undue delay in disposal of his mercy petition by the President and the Governor of U.P. The bench of Justices L. Nageswara Rao, B.R. Gavai and Krishna Murari noted that the mercy petition was rejected by the President after 7 years and 4 months and after 16 reminders were sent by the State Government. "On 17.8.2006, the President advised the Governor to reject the mercy petition. In view of the same and in light of the principles enunciated by this Court in various decisions, we are of the view that the petitioners have made out a case for the commutation of their sentence from death to life imprisonment. Guidelines: In view of the disparities in the implementation of the already existing laws, the Court framed the following guidelines to safeguard the interest of the death-row convicts: 1. Solitary confinement 2. Legal aid 3. Procedure in placing mercy petition before the President 4. Communication of rejection of mercy petition by the Governor 5. Commutation. The Supreme Court has observed that the right to seek mercy under Article 72 of the Constitution is a constitutional right, and not at the discretion of the executive. The bench of Justices L. Nageswara Rao, B.R. Gavai and Krishna Murari observed that every constitutional duty must be fulfilled with care and diligence; otherwise, judicial intervention is the command of the constitution for upholding its values. "Remember, retribution has no constitutional value in our largest democratic country. In India, even an accused has de facto protection under the constitution and it is the court's