



## ARUNA SHANBAUG V. UNION OF INDIA

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### INTRODUCTION

*"No life that breathes with human breath has ever truly longed for death"*

*-Alfred Tennyson (The Two Voices)*

The Right to Life is the most heightening fundamental right granted by our Constitution. It is an astoundingly expanded right which has diverse shades to its essentials and synchronizes the word play of other rights through its interpretation. In other words it is the heart and soul, and is an exceptional standout amongst the other fundamental rights treasured in Article 21 of the Constitution of India. Article 21 out of sense is vast in its degree as it represents everything that a man requires going ahead with a quality life, so he can shoulder the cost of the odds to enhance his life more gainful and secure.

But, the request rising here is whether this benefit with various estimations can be given another estimation called Right to Die? 'Life' as indicated under Article 21 implies not simply living or the physical showing of inhaling and exhaling. So, the question that evaporates here is whether this fundamental right to "Life" can also include right to 'Die' in the same provision.

The Constitution of India guarantees 'Right to Life' to each one of its citizens. The consistent, routinely persisting verbal encounter on whether 'Right to Die' can in

like manner be scrutinized into this game plan still holds up mixed-thoughts all around. Of course, with more highlight being laid on the informed consent of the authorities in the medical field, the possibility of Euthanasia in India has gotten a heterogeneous comeback from one of the major landmark judgment in the history by the honorable Supreme court i.e. Aruna Shanbaug v. UOI<sup>3</sup>.

### BETWEEN LIFE AND DEATH- SNIPPET OF THE CASE

The petitioner, Aruna Ramachandra Shanbaug, 25, was working as a junior nurse at King Edward Memorial Hospital, Mumbai.

On the evening of 27<sup>th</sup> November 1973 she was brutally assaulted by a sweeper, Sohanlal Bhartha Walmiki, who wrapped a dog chain around her neck and assaulted her. He tried to rape her but on finding that she was menstruating, sodomized her. The suffocation cut off the oxygen to her cerebrum, bringing about brain stem contusion damage, cervical line damage, and cortical visual impairment. The following morning she was discovered by a cleaner with blood splattered all over.

From the day of the ambush till the day died, she could only survive on mashed nutrition supply. She couldn't move her hands or legs, couldn't talk or play out the fundamental elements of an individual.<sup>4</sup>

One of the next friend of Aruna, Writer Activist Pinki Virani filed a writ petition under article 32 of the constitution in the Supreme Court of India requesting the legitimization of euthanasia so Aruna's



continuous suffering could be ended by pulling back medical support. She contended that the patient had been in a perpetual vegetative state for the past numerous years and did not show any chance of recuperation whatsoever. The court dismissed the appeal to on 7 March 2011, but made a landmark change by allowing passive euthanasia in the country.

To be able to adjudicate upon the previously mentioned issues, the court explained as to what is euthanasia is: Active Euthanasia which is the act of killing a patient by some lethal substance which includes injecting while Passive Euthanasia means withdrawal of life support system or stopping the treatment given to the patient.<sup>5</sup>

Shanbaug finally died from pneumonia on 18 May 2015<sup>6</sup> in the wake of being in a tenacious vegetative state for almost 42 years but leaving traces of a landmark change in the course of future.

#### COMMENT

The judiciary was meticulous that without proper legislation, legalizing euthanasia can become another corrupted arm of law which can be exploited by individuals.

Therefore, it is for the lawmaking body to make fitting law administering euthanasia and furthermore keep up the said strategy as set up by Supreme Court like in the present case of Aruna to guarantee that there is no abuse of law or strategy. Further, Aruna was sleeping, languishing over in excess of three longed decades. A judgment for terminating her life care was very much reasonable from public point of view but the bone of contention was that there was no innovation

that can read and comprehend what her psyche and body needed right then and there of time, or whether she herself wanted to be alive or not.

Since, there was no family member to look after her particularly, nor did she have any unremitting visitor who could relate to her, it was enormously difficult for the court to articulate who ought to choose her fate.

The court stated that the privilege to take choice for the benefit of Aruna was vested with the hospital not Ms. Pinki. So to guarantee that there is no abuse of this method, the Supreme Court has vested the power with the High Court to choose if life is to be ended or not.

Subsequently, in the wake of the matter the Supreme Court permitted passive euthanasia, subject to the order by the High Court with an established procedure of by-laws set aside to be followed.

But the core quandary is that there exists no enactment setting out the technique to allow someone to take his/her own life as seen in the present case. The absenteeism of any law administering the subject outcomes in individuals taking plan of action to courts to look for 'consent' to end their own lives, or the lives of others over whom they have some control. These would incorporate petitions for euthanasia recorded by people who don't wish to live, or by relatives for the benefit of the individuals who endure outrageous torment or serious distress. The courts progress toward becoming mediators of the destiny of such individuals. What happens now is that the courts are called upon to choose, without having the advantage of enactment to direct their basic



leadership. Such extraordinarily delegated decisions encounter the evil impacts of intervention and helplessness — two attributes that make for horrendous law.

### CONCLUSION

To conclude we can say that the landmark case can be looked with another facet that whether the sanctity of human life under article 21 which includes right to life can encapsulate right to die as well, by the prerogative of right of choice. The argument extends to whether this fundamental right of choice gives right to die as well, because there is no indisputable exhibit required to be performed to live life. The judiciary is yet to come up with a solution.

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