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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 02nd JULY, 2024

IN THE MATTER OF:

\+ **W.P.(C) 4927/2024**

HARISH RANA ..... Petitioner

Through: Mr. Neeraj Gupta, Mr. Manish Jain, Mr. Vikas Kumar Verma, Ms. Chelsi, Mr. Anchal, Mr. Rajesh Kumar and Mr. Shanky Jain, Advocates.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Abhinav Bhardwaj, Advocates for UoI.
Mr. Satya Ranjan Swain, Panel Counsel for AIIMS with Mr. Kautilya Birat, Advocate for R-2.
Mr. Udit Malik, ASC with Mr. Vishal Chanda, Advocates for R-4 and 5.

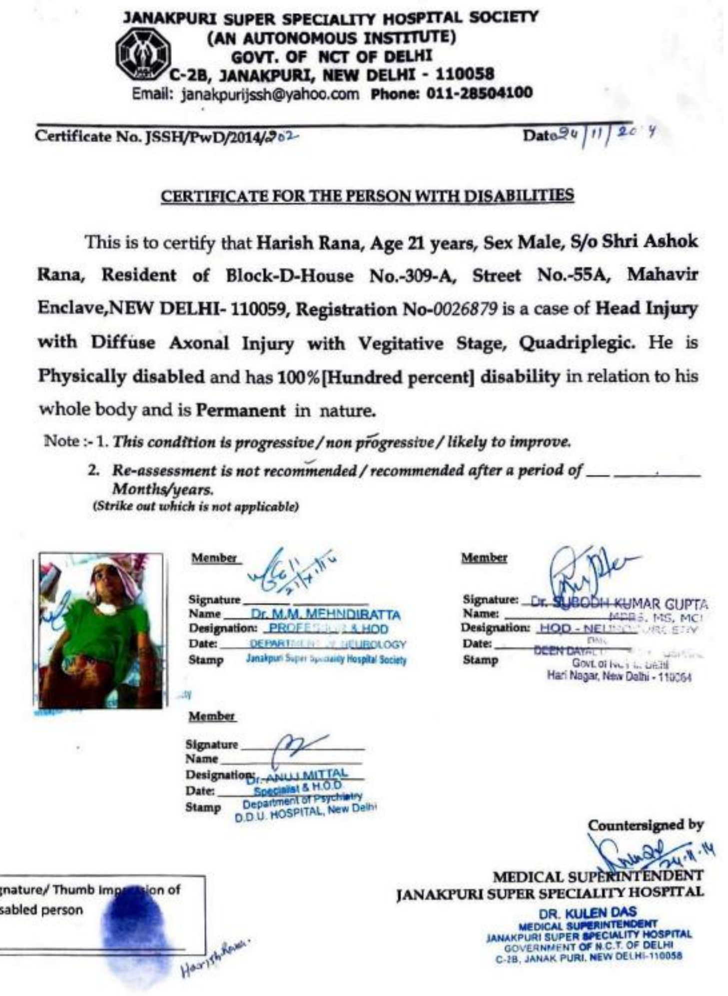
CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court for a direction in the nature of Certiorari to constitute a Medical Board to examine the health condition of the Petitioner for administration of passive euthanasia.

2. The facts of the case reveal that the Petitioner, who is about 30 years old, was a student of Punjab University. He suffered head injuries after falling from the fourth floor of his paying guest house. It is stated that the Petitioner's family has done their best to treat the Petitioner. However, the Petitioner has been confined to his bed since 2013 due to diffuse axonal

injury with Permanent Vegetative state, Quadriplegia with 100% disability. The certificate of disability given to the Petitioner by the Janakpuri Super Speciality Hospital Society reads as under:



JANAKPURI SUPER SPECIALITY HOSPITAL SOCIETY
(AN AUTONOMOUS INSTITUTE)
GOVT. OF NCT OF DELHI
C-2B, JANAKPURI, NEW DELHI - 110058
Email: janakpurijssh@yahoo.com **Phone: 011-28504100**

Certificate No. JSSH/PwD/2014/202 Date 24/11/2014

CERTIFICATE FOR THE PERSON WITH DISABILITIES

This is to certify that **Harish Rana, Age 21 years, Sex Male, S/o Shri Ashok Rana, Resident of Block-D-House No.-309-A, Street No.-55A, Mahavir Enclave, NEW DELHI- 110059, Registration No-***0026879* is a case of **Head Injury with Diffuse Axonal Injury with Vegitative Stage, Quadriplegic.** He is **Physically disabled** and has **100%[Hundred percent] disability** in relation to his whole body and is **Permanent** in nature.

Note :- 1. *This condition is progressive / non progressive / likely to improve.*

2. *Re-assessment is not recommended / recommended after a period of ___ Months/years.*

(Strike out which is not applicable)

Member
Signature
Name Dr. M.M. MEHNDIRATTA
Designation: PROFESSOR & HOD
Date: DEPARTMENT OF NEUROLOGY
Stamp Janakpuri Super Speciality Hospital Society

Member
Signature: Dr. SUBODH KUMAR GUPTA
Name: MBBS, MS, MCh
Designation: HOD - NEUROSURGERY
Date: DEEN DAYAL
Stamp Govt. of NCT of Delhi Hari Nagar, New Delhi - 110064

Member
Signature
Name
Designation: Dr. ANUJ MITTAL
Date: Specialist & H.O.D
Stamp Department of Psychiatry D.D.U. HOSPITAL, New Delhi

Signature/ Thumb Impression of Disabled person

Countersigned by
24.11.14
MEDICAL SUPERINTENDENT
JANAKPURI SUPER SPECIALITY HOSPITAL
DR. KULEN DAS
MEDICAL SUPERINTENDENT
JANAKPURI SUPER SPECIALITY HOSPITAL
GOVERNMENT OF N.C.T. OF DELHI
C-2B, JANAK PURI, NEW DELHI-110058

3. It is stated in the Writ Petition that the family of the Petitioner has consulted various doctors and they have been informed that there is no scope of recovery of the Petitioner from the present situation. It is stated that the Petitioner has not responded for the last 11 years, and has developed deep and large bed sores which have caused further infection. It is stated that the Petitioner's family has lost all hope for his recovery and are not in a position

to take care of the Petitioner as they are getting old. It is in this situation that the Petitioner has approached this Court for a direction to refer the Petitioner to a Medical Board to consider as to whether the Petitioner can be allowed to undergo passive euthanasia.

4. A Bench of five Judges of the Apex Court in Common Cause v. Union of India, **(2018) 5 SCC 1**, has dealt with the issue as to whether a person should be allowed to remain in such a stage of incurable passivity suffering from pain and anguish in the name of Hippocratic oath or, for that matter, regarding the suffering as only a state of mind and a relative perception or treating the utterance of death as a "word infinitely terrible" to be a rhetoric without any meaning. In contradistinction to the same, the question that arises is, should such a person not be allowed to cross the doors of life and enter, painlessly and with dignity, into the dark tunnel of death whereafter it is said that there is resplendence. In delineation of such an issue, there emerges the question in law — Should he or she be given such treatment which has come into existence with the passage of time and progress of medical technology so that he/she exists possibly not realising what happens around him/her or should his/her individual dignity be sustained with concern by smoothening the process of dying. The Apex Court has further observed as under:

> "*5. The legal question does not singularly remain in the set framework of law or, for that matter, morality or dilemma of the doctors but also encapsulates social values and the family mindset to make a resolute decision which ultimately is a cause of concern for all. There is also another perspective to it. A family may not desire to go ahead with the process of treatment but is compelled to do so under social pressure*

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especially in a different milieu, and in the case of an individual, there remains a fear of being branded that he/she, in spite of being able to provide the necessary treatment to the patient, has chosen not to do so. The social psyche constantly makes him/her feel guilty. The collective puts him at the crossroads between socially carved out "meaningful guilt" and his constant sense of rationality and individual responsibility. There has to be a legalistic approach which is essential to clear the maze and instil awareness that gradually melts the idea of "meaningful guilt" and ushers in an act of "affirmative human purpose" that puts humanness on a high pedestal.

6. There is yet another aspect. In an action of this nature, there can be abuse by the beneficiaries who desire that the patient's heart should stop so that his property is inherited in promptitude and in such a situation, the treating physicians are also scared of collusion that may invite the wrath of criminal law as well as social stigma. The medical, social and ethical apprehensions further cloud their mind to take a decision. The apprehension, the cultural stigma, the social reprehension, the allegation of conspiracy, the ethical dilemma and eventually the shadow between the individual desire and the collective expression distances the reality and it is here that the law has to have an entry to alleviate the agony of the individual and dispel the collective attributes and perceptions so that the imbroglio is clear. Therefore, the heart of the matter is whether the law permits for accelerating the process of dying sans suffering when life is on the path of inevitable decay and if so, at what stage and to what extent. The said issue warrants delineation from various perspectives."

5. In Common Cause (supra), the Apex Court has relied upon another

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Judgment of the Apex Court in Aruna Ramachandra Shanbaug v. Union of India, **(2011) 4 SCC 454**, which also discusses various nuances of Euthanasia. After referring to the Judgment of Aruna Ramachandra Shanbaug (supra), the Apex Court in Common Cause (supra) has observed as under:

> "*Euthanasia defined*
>
> *216.The Oxford English Dictionary defines "euthanasia" as "the painless killing of a patient suffering from an incurable and painful disease or in an irreversible coma". The word appears to have come into usage in the early 17th century and was used in the sense of "easy death". The term is derived from the Greek "euthanatos", with "eu" meaning well, and "thanatos" meaning death. In ancient Greece and Rome, citizens were entitled to a good death to end the suffering of a terminal illness. To that end, the City Magistrates of Athens kept a supply of poison to help the dying "drink the hemlock" [Michael Manning, Euthanasia and Physician-Assisted Suicide (Paulist Press, 1998).] .*
>
> *217. The above Greek definition of euthanasia apart, it is a loaded term. People have been grappling with it for ages. Devised for service in a rhetoric of persuasion, the term "euthanasia" has no generally accepted and philosophically warranted core meaning. It is also defined as : killing at the request of the person killed. That is how the Dutch medical personnel and civil authorities define euthanasia. In Nazi discourse, euthanasia was any killing carried out by medical means or medically qualified personnel, whether intended for the termination of suffering and/or of the burden or indignity of a life not worth living (lebensunwertes leben), or for some more*

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evidently public benefit such as eugenics (racial purity and hygiene), lebensraum (living space for Germans), and/or minimising the waste of resources on "useless mouths". Understandably, in today's modern democracies these Nazi ideas and practices cannot be countenanced. Racist eugenics are condemned, though one comes across discreet allusions to the burden and futility of sustaining the severely mentally handicapped. The popular conception which is widely accepted is that some sorts of life are not worth living; life in such a state demeans the patient's dignity, and maintaining it (otherwise than at the patient's express request) insults that dignity; proper respect for the patient and the patient's best interests requires that that life be brought to an end. In this thought process, the basic Greek ideology that it signifies "an easy and gentle death" still remains valid. Recognition is to the human rights principle that "right to life" encompasses "right to die with dignity".

218. In common parlance, euthanasia can be of three types, namely, "voluntary euthanasia" which means killing at the request of a person killed which is to be distinguished from "non-voluntary euthanasia", where the person killed is not capable of either making or refusing to make such a request. Second type of euthanasia would be involuntary euthanasia where the person killed is capable of making such a request but has not done so [These definitions of voluntary, non-voluntary and involuntary euthanasia correspond to those employed by the House of Lords Select Committee on Medical Ethics (Walton Committee).] . These terms can be described as under:

218.1.Voluntary euthanasia—People concerned to legalise the termination of life on medical grounds have always concentrated on voluntary euthanasia (this implies that the patient specifically requests that

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his life be ended). It is generally agreed that the request must come from someone who is either (a) in intolerable pain, or (b) who is suffering from an illness which is agreed as being terminal. It may be prior to the development of the illness in question or during its course. In either case it must not result from any pressure from relatives or those who have the patients in their care. Both active and passive euthanasia can be termed as forms of voluntary euthanasia.

218.2.Non-voluntary euthanasia—Seen by some as subvariety of voluntary euthanasia. This involves the death, ostensibly for his own good, of someone who cannot express any views on the matter and who must, therefore, use some sort of proxy request that his/her life be ended. This form of euthanasia is that which most intimately concerns the medical profession. Selective non-treatment of the newborn or the doctor may be presented with demented and otherwise senilely incompetent patients. In practice, non-voluntary euthanasia presents only as an arguable alternative to non-treatment.

218.3.Involuntary euthanasia—It involves ending the patient's life in the absence of either a personal or proxy invitation to do so. The motive "the relief from suffering" may be the same as voluntary euthanasia—but its only justification — "a paternalistic decision as to what is best for the victim of the disease". In extreme cases, it could be against the patient's wishes or could be just for social convenience. It is examples of the latter which serve as warnings as to those who would invest the medical professional with more or unfettered powers over life and death [See "Euthanasia and Its Legality and Legitimacy from Indian and International Human Right Instruments Perspectives" published in Human Rights & Social Justice by Muzafer Assadi.] .

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219. Contrary to the above, in legal parlance, euthanasia has since come to be recognised as of two distinct types : the first is active euthanasia, where death is caused by the administration of a lethal injection or drugs. Active euthanasia also includes physician-assisted suicide, where the injection or drugs are supplied by the physician, but the act of administration is undertaken by the patient himself. Active euthanasia is not permissible in most countries. The jurisdictions in which it is permissible are Canada, the Netherlands, Switzerland and the States of Colorado, Vermont, Montana, California, Oregon and Washington D.C. in the United States of America. Passive euthanasia occurs when medical practitioners do not provide life-sustaining treatment (i.e. treatment necessary to keep a patient alive) or remove patients from life-sustaining treatment. This could include disconnecting life support machines or feeding tubes or not carrying out life-saving operations or providing life-extending drugs. In such cases, the omission by the medical practitioner is not treated as the cause of death; instead, the patient is understood to have died because of his underlying condition.

220. In Aruna Ramachandra Shanbaug [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , the Court recognised these two types of euthanasia i.e. active and passive. It also noted that active euthanasia is impermissible, which was so held by the Constitution Bench in Gian Kaur [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] . Therefore, without going into further debate on differential that is assigned to the term "euthanasia", ethically, philosophically, medically, etc., we would be confining ourselves to the aforesaid legal meaning assigned to active and passive euthanasia. Thus,

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insofar as active euthanasia is concerned, this has to be treated as legally impermissible, at least for the time being. It is more so, as there is absence of any statutory law permitting active euthanasia. If at all, legal provisions in the form of Sections 306 and 307 IPC, etc. point towards its criminality. The discussion henceforth, therefore, would confine to passive euthanasia.

221. In Aruna Ramachandra Shanbaug [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , a two-Judge Bench of this Court discussed in much greater detail various nuances of euthanasia by referring to active and passive euthanasia as well as voluntary and involuntary euthanasia; legality and permissibility thereof; relationship of euthanasia vis-à-vis offences concerned under the IPC and doctor assisted death, etc.

222. The Court also took note of legislations in some countries relating to euthanasia or physician-assisted death. Thereafter, it discussed in detail the judgment in Bland [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] wherein the House of Lords had permitted the patient to die. Ratio of Bland [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] was culled out in the following manner : (Aruna Shanbaug case [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , SCC p. 507, para 84)

> *"84. Airedale [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] (1993) decided by the House of Lords has been followed in a number of cases*

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> *in UK, and the law is now fairly well settled that in the case of incompetent patients, if the doctors act on the basis of informed medical opinion, and withdraw the artificial life support system if it is in the patient's best interest, the said act cannot be regarded as a crime."*

223. The Court in Aruna Shanbaug case [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] was of the opinion that this should be permitted when the patient is in a persistent vegetative state (PVS) and held that it is ultimately for the court to decide, as parens patriae, as to what is in the best interest of the patient. The wishes of the close relatives and next friends and opinion of the medical practitioners should be given due weight by the court in coming to its decision. The Court then noted the position of euthanasia with reference to Section 306 (abetment of suicide) and Section 309 (attempt to commit suicide) IPC, inasmuch as, even allowing passive euthanasia may come in conflict with the aforesaid provisions which make such an act a crime. While making a passing observation that Section 309 should be deleted by Parliament as it has become anachronistic, the Court went into the vexed question as to who can decide whether life support should be discontinued in the case of an incompetent person e.g. a person in coma or PVS. The Court pointed out that it was a vexed question, both because of its likely misuse and also because of advancement in medical science. It noted : (SCC pp. 513-14, paras 104 & 105)

> *"104. It may be noted that in Gian Kaur case [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] although the Supreme Court has quoted with approval the view of the House of Lords in Airedale case [Airedale N.H.S.*

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Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] , it has not clarified who can decide whether life support should be discontinued in the case of an incompetent person e.g. a person in coma or PVS. ***This vexed question has been arising often in India because there are a large number of cases where persons go into coma (due to an accident or some other reason) or for some other reason are unable to give consent, and then the question arises as to who should give consent for withdrawal of life support. This is an extremely important question in India because of the unfortunate low level of ethical standards to which our society has descended, its raw and widespread commercialisation, and the rampant corruption, and hence, the Court has to be very cautious that unscrupulous persons who wish to inherit the property of someone may not get him eliminated by some crooked method.***

105. Also, since medical science is advancing fast, doctors must not declare a patient to be a hopeless case unless there appears to be no reasonable possibility of any improvement by some newly discovered medical method in the near future*. In this connection we may refer to a recent news item which we have come across on the internet of an Arkansas man Terry Wallis, who was 19 years of age and newly married with a baby daughter when in 1984 his truck plunged through a guard rail, falling 25 ft. He went into coma in the crash in 1984, but after 24 years he has regained consciousness. This was perhaps because his brain spontaneously rewired itself by growing tiny new nerve connections to replace the ones sheared apart in the car crash. Probably the nerve fibres from Terry Wallis' cells were severed*

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> *but the cells themselves remained intact, unlike Terri Schiavo, whose brain cells had died (see Terri Schiavo case on Google). However, we make it clear that it is experts like medical practitioners who can decide whether there is any reasonable possibility of a new medical discovery which could enable such a patient to revive in the near future."*

224. The Court in Bland [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] held that passive euthanasia would be permissible when a person is "dead" in clinical sense. It chose to adopt the standard of "brain death" i.e. when there is an "irreversible cessation of all functions of the entire brain, including the brain stem". The Court took note of President's Committee on Bioethics in the United States of America which had come up with a new definition of "brain death" in the year 2008, according to which a person was considered to be brain dead when he could no longer perform the fundamental human work of an organism. Three such situations contemplated in that definition are the following : (Aruna Shanbaug case [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , SCC p. 516, para 114)

> *"(1) openness to the world, that is receptivity to stimuli and signals from the surrounding environment,*
>
> *(2) the ability to act upon the world to obtain selectively what it needs, and*
>
> *(3) the basic felt need that drives the organism to act ... to obtain what it needs."*

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225. The Court held that when the aforesaid situation is reached, a person can be presumed to be dead. In para 115 of the judgment, the position is summed up as under : (Aruna Shanbaug case [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , SCC p. 516)

> ***"115. When this situation is reached, it is possible to assume that the person is dead, even though he or she, through mechanical stimulation, may be able to breathe, his or her heart might be able to beat, and he or she may be able to take some form of nourishment. It is important, thus, that it be medically proved that a situation where any human functioning would be impossible should have been reached for there to be a declaration of brain death—situations where a person is in a persistent vegetative state but can support breathing, cardiac functions, and digestion without any mechanical aid are necessarily those that will not come within the ambit of brain death." (emphasis in original)***

The Court clarified that brain death was not the same as PVS inasmuch as in PVS the brain stem continues to work and so some degree of reactions may occur, though the possibility of regaining consciousness is relatively remote.

226. The Court further opined that position in the case of euthanasia would be slightly different and pointed out that the two circumstances in which it would be fair to disallow resuscitation of a person who is incapable of expressing his or her consent to the termination of his or her life. These are : (Aruna Shanbaug case [Aruna Ramachandra Shanbaug v.

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Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , SCC p. 517, para 117)

> *"(a) When a person is only kept alive mechanically i.e. when not only consciousness is lost, but the person is only able to sustain involuntary functioning through advanced medical technology—such as the use of heart-lung machines, medical ventilators, etc.*
>
> *(b) When there is no plausible possibility of the person ever being able to come out of this stage. Medical "miracles" are not unknown, but if a person has been at a stage where his life is only sustained through medical technology, and there has been no significant alteration in the person's condition for a long period of time—at least a few years—then there can be a fair case made out for passive euthanasia."*

227. Taking a clue from the judgment in Vishaka v. State of Rajasthan [Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932] , the Court laid down the law, while allowing passive euthanasia i.e. the circumstances when there could be withdrawal of life support of a patient in PVS. This is stated in para 124 of the judgment, which we reproduce below : (Aruna Shanbaug case [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] , SCC pp. 518-19)

> *"124. 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 in this connection. We agree with Mr Andhyarujina that*

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passive euthanasia should be permitted in our country in certain situations, and we disagree with the learned Attorney General that it should never be permitted. Hence, following the technique used in Vishaka case [Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932] we are laying down the law in this connection which will continue to be the law until Parliament makes a law on the subject:

(i) A decision has to be taken to discontinue life support 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.

In the present case, we have already noted that Aruna Shanbaug's parents are dead and other close relatives are not interested in her ever since she had the unfortunate assault on her. As already noted above, 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 Pinki Virani who has only visited her on few occasions and written a book on her. Hence it is for the KEM Hospital staff to take that decision. KEM Hospital staff have clearly expressed their wish that Aruna Shanbaug should be allowed to live.

Mr Pallav Shishodia, learned Senior Counsel, appearing for the Dean, KEM Hospital, Mumbai, submitted that Ms Pinki Virani has no

locus standi in this case. In our opinion it is not necessary for us to go into this question since we are of the opinion that it is the KEM Hospital staff who is really the next friend of Aruna Shanbaug.

We do not mean to decry or disparage what Ms Pinki Virani has done. Rather, we wish to express our appreciation of the splendid social spirit she has shown. We have seen on the internet that she has been espousing many social causes, and we hold her in high esteem. All that we wish to say is that however much her interest in Aruna Shanbaug may be it cannot match the involvement of the KEM Hospital staff who have been taking care of Aruna day and night for 38 years.

However, assuming that the KEM Hospital staff at some future time changes its mind, in our opinion in such a situation KEM Hospital would have to apply to the Bombay High Court for approval of the decision to withdraw life support.

(ii) Hence, even if a decision is taken by the near relatives or doctors or next friend to withdraw life support, such a decision requires approval from the High Court concerned as laid down in Airedale case [Airedale N.H.S. Trust v. Bland, 1993 AC 789 : (1993) 2 WLR 316 : (1993) 1 All ER 821 (CA & HL)] .

In our opinion, this is even more necessary in our country as we cannot rule out the possibility of mischief being done by relatives or others for inheriting the property of the patient."

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228. It can be discerned from the reading of the said judgment that the Court was concerned with the question as to whether one can seek right to die. This question has been dealt with in the context of Article 21 of the Constitution, namely, whether this provision gives any such right. As is well known, Article 21 gives "right to life" and it is guaranteed to all the citizens of India. The question was as to whether "right to die" is also an integral part of "right to life". In Gian Kaur [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] this "right to die" had not been accepted as an integral part of "right to life". The Court in Aruna Shanbaug [Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294] maintained this position insofar as an active euthanasia is concerned. However, passive euthanasia, under certain circumstances, has been accepted."

(emphasis supplied)

6. The Apex Court has lastly concluded as under:

"*Conclusions*

629. From the above discussions, we arrive on following conclusions:

629.1. The Constitution Bench in Gian Kaur case [Gian Kaur v. State of Punjab, (1996) 2 SCC 648 : 1996 SCC (Cri) 374] held that the "right to life : including right to live with human dignity" would mean the existence of such right up to the end of natural life, which also includes the right to a dignified life up to the point of death including a dignified procedure of death. The above right was held to be part of fundamental right enshrined under Article 21 of the Constitution which we also reiterate.

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629.3. The Constitution Bench, however, noted a distinction between cases in which physician decides not to provide or continue to provide for treatment and care, which could or might prolong his life and those in which he decides to administer a lethal drug even though with object of relieving the patient from pain and suffering. The latter was held not to be covered under any right flowing from Article 21.

629.4. Thus, the law of the land as existing today is that no one is permitted to cause death of another person including a physician by administering any lethal drug even if the objective is to relieve the patient from pain and suffering.

*****

629.7. We are thus of the opinion that the right not to take a life saving treatment by a person, who is competent to take an informed decision is not covered by the concept of euthanasia as it is commonly understood but a decision to withdraw life saving treatment by a patient who is competent to take decision as well as with regard to a patient who is not competent to take decision can be termed as passive euthanasia, which is lawful and legally permissible in this country.

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630.2. We declare that an adult human being having mental capacity to take an informed decision has right to refuse medical treatment including withdrawal from life saving devices."

(emphasis supplied)

7. In the present case, the facts indicate that the Petitioner is not being

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kept alive mechanically and he is able to sustain himself without any extra external aid. The Petitioner is thus living and no one, including a physician, is permitted to cause death of another person by administering any lethal drug, even if the objective is to relieve the patient from pain and suffering.

8. The Apex Court, in the abovementioned Judgments, has held that active euthanasia is legally impermissible. The Petitioner is not on any life support system and the Petitioner is surviving without any external aid. While the Court sympathises with the parents, as the Petitioner is not terminally ill, this Court cannot intervene and allow consideration of a prayer that is legally untenable.

9. In view of the above, this Court is not inclined to accept the request of the Petitioner to refer the Petitioner to a Medical Board to consider as to whether the Petitioner can be allowed to undergo passive euthanasia.

10. Accordingly, the Writ Petition is dismissed along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

JULY 02, 2024
Rahul