



## Living Will and Passive Euthanasia

[Source: IE](#)

Recently, a judge serving on the **Goa Bench of the Bombay High Court**, registered a living will' - an advanced medical directive for his family for when he cannot make his own decisions.

- The background of "**Living Wills**" can be traced back to the Supreme Court ruling in the case **Common Cause vs Union of India (2018)**.
  - In 2018, the SC reaffirmed the right to die with dignity as a **fundamental right under Article 21 (passive euthanasia contingent upon 'living will')**.
    - Previously in 2011, the SC recognised passive euthanasia in the Aruna Shanbaug case for the first time.
    - **Passive euthanasia** refers to the practice of allowing a person to die by **withholding or withdrawing medical treatments** that are necessary to maintain life.
- In **2023**, the Supreme Court eased the process for passive euthanasia by changing certain existing guidelines for living wills. According to the guidelines, a person who wants to make a "living will" must draft it as per the reference format in the presence of two witnesses.
  - The will then has to be duly certified by a **gazetted officer or a notary** and forwarded to the main Mamlatdar of the taluka, who shall then send it to the nodal officer appointed by the **District Collector** for safe custody.

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# EUTHANASIA

## ABOUT

- The practice of an individual deliberately ending their life; to get relief from an incurable condition/intolerable pain

## ACTIVE EUTHANASIA

- An active intervention to end a person's life with substances or external force, (e.g. - by a lethal injection)

## PASSIVE EUTHANASIA (PE)

- Withdrawing essential life support/treatment keeping a terminally ill person alive

## ARGUMENTS FOR

- Patient's freedom of choice
- Right to die with dignity
- More humane to end the suffering
- Shortens the grief of patient's loved ones

## ARGUMENTS AGAINST

- Unacceptable from moral, religious perspectives
- Euthanasia cannot be properly regulated
- Guilt-ridden patients may feel bound to give consent

## EUTHANASIA - LEGALITY IN INDIA

### P RATHINAM V UNION OF INDIA (1994)

- SC challenged the constitutional validity of IPC Section 309 (penalty for attempt to suicide)

### SMT. GIAN KAUR VS THE STATE OF PUNJAB (1996)

- SC overturned its 1994 judgement and held that Right to Life (Article 21) did not include the Right to Die (which must **not be mistaken with Right to Die with Dignity**)

### ARUNA RAMCHANDRA SHANBAUG V UNION OF INDIA (2011)

- SC allowed PE for Aruna Shanbaug and made a distinction between 'active' and 'passive', and allowed the latter in "certain situations"

### COMMON CAUSE V UNION OF INDIA & ANR. (2018)

- SC legalised Passive Euthanasia claiming it contingent upon the person having a **'living will'**
- If a person does not have a living will, his/her family members can make a plea before the HC to seek permission for PE

*Recently, the SC has agreed to significantly ease the procedure for passive euthanasia by altering the existing guidelines for 'living wills' (laid down in 2018 case)*

**Read More:** [SC Eases Norms for Passive Euthanasia](#)

PDF Reference URL: <https://www.drishtias.com/printpdf/living-will-and-passive-euthanasia>