



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>