

## COMMON CAUSE v. UNION OF INDIA<sup>1</sup>

The issue at stake in *Common Cause v. Union of India* (2018) was whether the principle of Right to Life in [Article 21](#) of the Indian Constitution included the right to a **dignified death**. In this case, the Apex Court of India ruled that medical treatment should not be prolonged against the patient's desires, highlighting the importance of consent and patient autonomy. The Apex Court of India ruled in a number of instances, such as [K.S. Puttaswamy v. Union of India](#) and [Aruna Ramchandra Shanbaug v. Union of India](#) (2011), that the right to die with dignity is a basic right guaranteed by the Article 21 of the Indian Constitution.

### **Facts of the Case**

Common Cause, a registered society, first raised the issue of the right to die with dignity in 2002 by writing to various Union Ministries and State Governments. In 2005, it filed a petition before the Supreme Court under [Article 32](#), seeking recognition of the right to die with dignity as part of Article 21. It requested legal permission for terminally ill patients to execute "living wills," or alternatively, the Court's guidelines or an expert committee to frame them. Common Cause argued that forcing terminally ill individuals to endure prolonged, painful treatment violates dignity, and that they should be allowed an informed, compassionate choice regarding end-of-life care.

Therefore, the matter began with the ruling in *P. Rathinam vs. Union of India* (1994), which determined that Section 309 of the Indian Penal Code, 1860 (IPC) was unconstitutional inasmuch as it made suicide attempts illegal. The right to die was deemed to be included in the right to live, even though Section 309 of the IPC was found to violate the basic rights outlined in [Articles 14](#) and 21 of the Constitution. In *Gian Kaur v. The State of Punjab* (1996), a five-judge Supreme Court bench overturned this ruling, holding that Article 21 of the Constitution does not grant the freedom to die. But much later in 2011, in *Aruna Ramachandra Shanbaug vs. Union of India and Ors.*, the Supreme Court authorized passive euthanasia in extraordinary situations by establishing stringent rules that must be adhered to in each such instance.

In addition to ensuring that individuals who were terminally ill or in bad health may execute a living will or an Advance Medical Directive, this writ petition sought a declaration that the "right to live with dignity" includes the "right to die with dignity" in line with Article 21. This case was first heard by a three-judge Supreme Court bench, but it was transferred to a Constitution Bench due to conflicting legal rulings about the right to death.

---

<sup>1</sup> AIR 2018 SC 1665

## Question of Law

In *Common Cause v. Union of India* (2018), the Supreme Court considered several pivotal issues relating to the constitutional validity of euthanasia and end-of-life choices. The first issue concerned the distinction between **active and passive euthanasia**, specifically whether withholding or withdrawing life-sustaining treatment (passive euthanasia) could be legally and ethically distinguished from actively causing death (active euthanasia). The second issue was whether the **right to die with dignity** forms an integral part of the **right to live with dignity** under Article 21, particularly for terminally ill or permanently incapacitated patients. The Court also examined whether passive euthanasia could be lawfully incorporated into Living Wills or Advance Medical Directives, allowing individuals to predetermine their end-of-life care. Further, it considered whether a competent individual possesses the **right to refuse medical treatment**, including the withdrawal of life support, as an aspect of bodily autonomy. Finally, the Bench evaluated whether the Law Commission of India had recommended the recognition of euthanasia, especially passive euthanasia, as a legitimate means to alleviate the suffering of terminally ill patients.

## Judgement

The Court reaffirmed that the right to die with dignity is a fundamental right, as held in *Gian Kaur*, but clarified that *Gian Kaur* did not itself introduce passive euthanasia. It distinguished active euthanasia, involving a deliberate act to end life, from passive euthanasia, which refers to withholding or withdrawing life-sustaining treatment. The Bench held that Aruna Shanbaug erred in requiring legislation for passive euthanasia, noting that constitutional principles surrounding dignity and autonomy were sufficient to recognise it.

On **Advance Medical Directives** or living wills, the Court observed a clear movement in Indian jurisprudence towards their acceptance. It held that allowing individuals to execute such directives flows from their autonomy, bodily integrity, and right to self-determination. When patients cannot communicate or make informed decisions, a best-interest standard enables a guardian or close relative to make decisions regarding withdrawal of treatment.

The judgment placed significant reliance on the right to privacy articulated in *Justice K.S. Puttaswamy*, emphasising that privacy protects personal autonomy and intimate choices, including decisions about one's medical treatment and manner of dying. To reinforce this view, the Court examined foreign precedents. In *In re Quinlan*, the New Jersey Supreme Court held that as a patient's prognosis worsens, the State's interest weakens while the individual's privacy and bodily autonomy gain prominence, which a guardian may assert when the patient cannot. In *Pretty v.*

*United Kingdom*, the European Court of Human Rights affirmed that an individual's choice to avoid an undignified death is safeguarded under **Article 8(1) of the ECHR**, which protects the right to respect for private life.

Ultimately, the Court held that privacy, dignity, and autonomy constitutionally protect an individual's right to make end-of-life decisions.