State Of Maharashtra & Ors. Vs. Pradeep Yashwant Kokade & Anr.

(MANU/SC/1305/2024; 2024 INSC 947)

The Three Judge Bench of Supreme Court on 9th December, 2024 issued directions to tackle the problem of delay in executing the death sentence.

Guidelines issued by the Supreme Court in the present case:

- Undue, unexplained, and inordinate delay in execution of the sentence of death will entitle the convict to approach this Court under Article 32 of the Constitution.

- Prolonged delays in deciding mercy petitions by the Governor or President cause significant physical and psychological stress to convicts. Under Article 32 read with Article 21 of the Constitution, the court shall consider the effect of inordinate delay in disposal of the clemency petition by the highest Constitutional authorities.

- Article 21 of the Constitution does not end with the pronouncement of the sentence but extends to the stage of execution of that sentence.

- These principles shall be applicable to cases where there is a delay on the part of the Sessions Court in issuing the warrant of execution. After the order of rejection of mercy petitions is communicated to a convict, the sword of Damocles cannot be kept hanging on him for an inordinately long time.

- A convict can invoke jurisdiction of High Court under Article 226 of the Constitution in the event there is an inordinate and unexplained delay in the execution of the death sentence, post confirmation of the sentence.

- No hard and fast rule can be laid down as regards the length of delay, which can be said to be inordinate. What delay is inordinate must depend on the facts of the case.

- Executives to promptly process the mercy petitions invoking Articles 72 or 161 of the Constitution and forward the petitions along with requisite documents to the concerned constitutional functionary without undue delay.

The Supreme Court observed that while executing the death sentence, it is mandatory to follow the procedure laid down by the **Allahabad High Court in People's Union for Democratic Rights (PUDR) v. Union of India & Ors. (MANU/UP/0242/2015)**.

Following are the key points laid down in the above stated case:

- Sufficient notice to be given to convict before issuance of a warrant for the execution of the death sentence by the Sessions Court.
- Warrant for the execution of the death sentence must specify the exact date and time of the execution.
- A copy of the warrant must be immediately supplied to the convict.
- If the convict is not represented by an advocate, legal aid should be provided to them after issuing a notice but before issuing a warrant of execution.