

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
RAJYA SABHA
UNSTARRED QUESTION NO.2280
TO BE ANSWERED ON THE 12TH FEBRUARY, 2014/MAGHA 23, 1935 (SAKA)

GUIDELINES REGARDING CLEMENCY TO DEATH ROW CONVICTS

2280. DR. CHANDAN MITRA:

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether there are any guidelines to regulate grant of clemency to death row convicts under Article 72;
- (b) if so, the details thereof;
- (c) if not, the reasons therefor; and
- (d) the steps taken by Government to have a transparent procedure based on objectively verified parameters while examining and recommending such cases of clemency?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI MULLAPPALLY RAMACHANDRAN)

(a) to (d): No specific guidelines can be framed for examining the mercy petitions due to vast majority of different types of cases and varied circumstances. However, the broad guidelines generally considered while examining the mercy petitions in the Ministry of Home Affairs provide that clemency may be justified on the following grounds.

- i. Personality of the accused (such as age, sex or mental deficiency) or the circumstances of the case (such as provocation or other similar justification).
- ii. Cases in which the Appellate court has expressed its doubt as to the reliability of the evidence and has nevertheless decided on conviction.
- iii. Cases where it is alleged that fresh evidence is obtainable mainly with a view to seeing whether fresh enquiry is justified.

iv. Where the High Court has reversed on appeal an acquittal by a Session Judge or has on appeal enhanced the sentence.

v. Difference of opinion in a Bench of two Judges necessitating reference to the third Judge of the High Court.

vi. Consideration of evidence in fixation of responsibility in gang murder cases.

vii. Long delays in the investigations and trial etc.

The Government has always adopted a uniform and transparent procedure in dealing with mercy petition cases under Article 72 of the Constitution.
