

**No. VII-17013/1/2014-PR**  
**Government of India**  
**Ministry of Home Affairs**  
**(CS Division)**

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**5<sup>th</sup> Floor, NDCC-II Building**  
**Jai Singh Road, New Delhi**  
**4<sup>th</sup> February 2014**

**To**

**The Additional Chief Secretary/  
Principal Secretary (Home Dept.)/  
Principal Secretary (Prisons) of all States/UTs.**

**Sub:-Guidelines for safeguarding the interest of the Death Row Convicts.**

Sir/Madam,

I would like to draw your kind attention to the judgment of the Hon'ble Supreme Court in the case of Shatrughan Chauhan and Another vs. U.O.I. & Others in Writ Petition (Cri.) No. 55 of 2013 dated 21.1.2014<sup>1</sup>.

2. In the instant case, the court had examined whether it would be in violation of right to life given under Article 21 of the Constitution to execute the levied death sentence on the accused notwithstanding the existence of supervening circumstances. The court examined each of the individual death row cases and commuted the death penalty of the petitioners to imprisonment for life. The Court also inter-alia gave guidelines for safeguarding the interest of the death row convicts which need to be adopted by all States/UTs.

3. They are in brief as follows:

a) **Solitary confinement:** The Supreme Court in the Sunil Batra Case had declared that solitary or single cell confinement prior to rejection of the mercy petition by the President is unconstitutional. Even though Prison Manuals of States do have necessary rules the Court

<sup>1</sup><http://judis.nic.in/supremecourt/imgs1.aspx?filename=41163>

felt that the rules should not be interpreted to run counter to the above ruling and violate Article 21 of the Constitution.

b)**Legal Aid:** Legal aid should be provided to the convict at all stages even after the rejection of a mercy petition. Hence, Superintendent of Jails are directed to intimate the rejection of mercy petitions to the nearest Legal Aid Centre apart from intimating the convicts.

c)**Procedure in placing the mercy petition before the President:** As and when a mercy petition is received or communicated by the State Government after its rejection by the Governor, all necessary materials such as Police records, judgments of the trial court, High Court and the Supreme Court and all other connected documents should be called at once fixing a time limit without fail for rendering the same to the Ministry of Home Affairs in one-go and not in a piece-meal manner.

d)**Communication of Rejection of Mercy Petition by the Governor:** As a convict has a constitutional right under article 161 to make a mercy petition to the Governor, he is entitled to be informed in writing of the decision on that mercy petition. The rejection of the mercy petition by the Governor should forthwith be communicated to the convict and his family in writing or through some other available mode of communication.

e)**Communication of Rejection of the Mercy Petition by the President:** Similarly the convict has a constitutional right under article 72 to make a mercy petition and hence the rejection of the mercy petition by the President should forthwith be communicated to the convict and his family in writing.

f) Death convicts are entitled as a right to receive a copy of the rejection of the mercy petition by the President and the Governor.

g)**Minimum period for execution of death sentence:** A minimum period of 14 days was stipulated by the Supreme Court between the receipt of the communication of the rejection of the mercy petition and the scheduled date of execution. This is to enable the convict to prepare himself and settle his affairs and meet his family members for one last time or to avail any judicial remedy.

h)**Mental Health Evaluation:** As it is quite possible that some death row convicts might lose their mental balance, there should be regular

mental health evaluation and appropriate medical care should be given to those in need.

i) **Physical and Mental Health Reports:** After the execution warrant is issued, the Prison Superintendent should satisfy himself on the basis of medical reports by Government doctors and psychiatrists that the prisoner is in a fit physical and mental condition to be executed. If the Superintendent is of the opinion that the prisoner is not fit, he should forthwith stop the execution, and produce the prisoner before a Medical Board for a comprehensive evaluation and shall forward the report of the same to the State Government for further action.

j) **Furnishing documents to the convict:** Death row convicts should be provided with copies of relevant documents within a week of conviction by the prison authorities to assist in making mercy petition and petitioning the courts.

k) **Final Meeting between convict and his family:** It would be mandatory for prison authorities to facilitate and allow a final meeting between the prisoner and his family and friends prior to his execution.

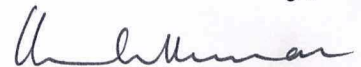
l) **Post-mortem reports:** After the execution of death penalty, post-mortem would need to be mandatorily performed to ascertain the exact cause of death.

4. You are requested to take urgent suitable action for implementing the orders of the Supreme Court in your State/UT.

5. Home (Prisons) Departments of the States/UTs may issue necessary instructions in the light of the above advisory to the DG/ADG/IG Prisons so that all the Superintendents of Jails are made aware of the contents of the advisory.

6. The receipt of the same may kindly be acknowledged.

Yours faithfully,



**(S. Suresh Kumar)**

Joint Secretary to the Govt. of India

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