

DELAY IN BALWANT SINGH'S MERCY PETITION

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

A file picture of Balwant Singh Rajoana, who is sentenced to death in the murder case of former Punjab CM Beant Singh. | Photo Credit: AKHILESH KUMAR

The [Supreme Court has extended the deadline of April 30 by two months](#) for the Centre to make a decision on [Balwant Singh Rajoana's mercy petition](#), which is pending, with excruciating cost on the prisoner, for the last decade. Balwant Singh was awarded death sentence in the case of former Chief Minister of Punjab Beant Singh' assassination in 1995. A mercy petition was submitted by the Shiromani Gurdwara Parbandhak Committee (SGPC) on his behalf in 2012. President of India Ram Nath Kovind is to decide the fate of the petition after receiving a proposal from the Central government. The backdrop of the political history of this case indicates that the Centre may continue to avoid propelling the fate of Balwant Singh's mercy petition either way. In such a case, it may very well rest on the Apex Court to take the matter in its hands and end the pendency in line with the death penalty jurisprudence in India.

During his trial, Balwant Singh chose not to defend himself. In his statements, justifying his actions, he stated that Beant Singh was targeted as he was accountable for numerous deaths and disappearance of Sikh men in police custody during his tenure as the Chief Minister of Punjab. The High Court judgment records that Balwant Singh expressed his remorse over the killings of other "innocent persons", who died along with Beant Singh. Nevertheless, the death sentence was imposed on him first by the trial court in 2007, and confirmed by the Punjab and Haryana High Court in 2010. The sentencing carried out by these courts neglected the Supreme Court's mandate in *Bachan Singh vs State of Punjab* on stating special reasons before imposing the extreme punishment of death, as opposed to the norm of sentence of life, after their assessment of aggravating factors and mitigating circumstances, i.e. circumstances related to the crime and the convict's life history which exasperate and alleviate respectively, the death worthiness of the convict. However, in this case, the discussion on sentence by the two courts was limited to the act of crime and expression of remorse. No mitigating circumstances including jail conduct, were recognised and appreciated.

After March 31, 2012 was fixed for his execution, political wrangling took centre stage. In the uproar among the Sikh community, the community institutions swung into action to find ways to stall Balwant Singh's hanging. Shiromani Akali Dal's (SAD) government in Punjab expressed its inability to find a hangman and pointed out that the decision on pardoning him would be taken by the Central government as the crime took place in Chandigarh, a Union Territory. The SGPC filed the mercy petition on Balwant Singh's behalf which has remained pending for all these years.

Balwant Singh has spent 15 years on death row out of the total 27 years of his incarceration. In these years, he sent several applications under the Right to Information Act to the offices of the President of India, Central and State governments requesting a speedy decision on the mercy petitions filed on his behalf.

While the time spent by a prisoner incarcerated should be critical, it is often ignored in the face of political considerations. In Balwant Singh's case, the issue of pardoning him by accepting his mercy petition is taking the risk of appearing in support of a terrorist. Punjab's politico-religious movement of the 1980-90, along with an active militancy, brought the Sikh community in a conflict with larger nationalist sentiments. Balwant Singh's action is a part of this context. Hence,

the decision on the mercy petition is rife with dual semantics of hurting a minority community, which is both a majority and politically powerful in Punjab, or appearing in support of a terrorist amidst State-propelled hyper nationalism, further amplified by the majoritarian politics of the BJP.

The findings of Project 39A's report 'Deathworthy', a study on mental health of prisoners on death row in India, show that the segregated, alienated and stigmatised experiences of being on a death row may even result in mental illnesses. Balwant Singh has endured a delay of 10 years in the decision of his mercy petition. Altogether, he has been imprisoned for 27 years, with severe toll on his physical and mental health. Yet, the indecision from the executive is likely to continue, with political considerations dwarfing any legal precepts that are core to decisions on death penalty cases. In this light, the Supreme Court can step in and commute Balwant Singh's death sentence on account of undue delay in disposal of the mercy petition, amounting to torture and violation of his right to life under Article 21 of the Indian Constitution.

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