

FOR PERARIVALAN, TURNING POINT WAS COMMUTING OF DEATH PENALTY

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

Sense of relief:A.G. Perarivalan celebrates at his residence in Jolarpet, Tamil Nadu, on Wednesday.c. VENKATACHALAPATHY

The wheel began turning in favour of Rajiv Gandhi assassination convict A.G. Perarivalan on February 18, 2014, when a three-judge Bench of the Supreme Court led by then Chief Justice of India P. Sathasivam commuted the death penalty of his and two others to life sentence and made a strong observation in the verdict that “apex constitutional authorities” like the President and the Governor must exercise their clemency powers under Articles 72 and 161, respectively, within the “bounds of constitutional discipline” and in an “expeditious manner”.

Prior to the February 18, 2014 judgment, Perarivalan was facing death which never came despite decades of waiting for it behind the walls of the Vellore prison. His pleas against the death penalty had met with failure.

The apex court had, in May 1999, upheld the TADA court’s verdict of death for Perarivalan. The court had also quickly dismissed his review petition five months later. The Tamil Nadu Governor had dismissed the mercy petitions of the convicts the same October. The Governor repeated the act of rejection of mercy in April 2000.

The President took 11 whole years to reject his mercy plea on August 12, 2011. Perarivalan and two of his co-convicts, Murugan and Santhan, had filed writ petitions in the Madras High Court against the prolonged delay of over a decade before the rejection. They said they had “swung between life and death” every day of the waiting.

The three petitions were transferred by the Supreme Court to itself from the High Court. Bringing the first ray of hope to Perarivalan, the Bench of Chief Justice (as he was then) Sathasivam, Ranjan Gogoi and Shiv Kirti Singh agreed that “inordinate delay” caused at the hands of the executive to decide the convicts’ mercy petitions was a violation of their fundamental right under Article 21 and was reason enough to commute their capital punishment to life sentence. The Bench agreed with an earlier decision of the Supreme Court in the *Shatrughan Chauhan* case that such delay amounted to “torture”.

In a short but poignant judgment which reproduced several letters from three convicts to the government describing how the delay was killing them and every day was a “living death”, Chief Justice Sathasivam, who authored the verdict, chastised that “mercy petitions filed under Articles 72/161 can be disposed of at a much faster pace than what is adopted now, if the due procedure prescribed by law is followed in verbatim”.

“The fact that no time limit is prescribed to the President/Governor for disposal of the mercy petition should compel the government to work in a more systematised manner to repose the confidence of the people in the institution of democracy...” Justice Sathasivam noted.

Though Justice Sathasivam’s judgment dealt with commutation of Perarivalan’s death penalty to life and Justice L. Nageswar Rao’s judgment on Wednesday was regarding his release from the case itself, the spirit and message of both judgments are the same, that is, decisions under

Articles 72 and 161 should be swift.

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