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EDITORIAL ANALYSIS

Right to Die with Dignity — Five Years After Common Cause, Still Inaccessible

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Right to Die with Dignity — Five Years After Common Cause, Still Inaccessible

The Hindu 16 March 2026 GS2 GS4

TH The Hindu | MAINS RELEVANCE: GS Paper 2 GS Paper 4 |

INTERVIEW ANGLE

"The Supreme Court in Common Cause (2018) recognised passive euthanasia and advance directives as part of the right to die with dignity under Article 21 — five years later, most hospitals and patients are unaware of or unable to exercise this right. What does this implementation failure tell us about the gap between constitutional rights and lived reality?"

WHY IN NEWS

The Hindu editorial of March 16, 2026 revisits the Supreme Court's landmark *Common Cause v. Union of India* (2018) judgment on the right to die with dignity — noting that despite the SC further simplifying procedures in 2023, the advance directive (living will) framework remains practically inaccessible to most Indians due to hospital reluctance, lack of awareness, and absence of a central registry.

THE EDITORIAL'S ARGUMENT

The Hindu makes a rights-implementation argument:

1. The SC has done its part; the state has not. *Common Cause (2018)* is a landmark constitutional moment — it extended Article 21's right to life and personal liberty to encompass dignity in dying. The 2023 SC order simplified the advance directive process further (replacing magistrate attestation with notary/gazetted officer). Yet public awareness is near-zero and hospital compliance mechanisms do not exist.

2. The state-hospital nexus perpetuates undignified dying. Hospitals have a financial interest in continued treatment; families face social and religious pressure to maintain life support regardless of patient wishes or prognosis. Without a statutory framework compelling hospitals to honour advance directives and a central registry to make them accessible, the right exists only on paper.

3. The absence of legislation creates a legal vacuum. India has no statute on passive euthanasia or advance directives — the framework rests entirely on SC guidelines. Parliament has not enacted a law despite 8 years since *Common Cause*. The editorial calls for a dedicated Advance Directive Act to give the right legislative teeth.

THE LEGAL FRAMEWORK

Common Cause v. Union of India (2018)

The landmark **five-judge Constitution Bench** judgment held:

Right to die with dignity is a fundamental right under **Article 21** (Right to Life and Personal Liberty)

Passive euthanasia — withdrawal or withholding of life-sustaining treatment for terminally ill patients — is **legally permissible**

Advance Directive (Living Will) — a document by which a mentally competent person records their wish about medical treatment in case of future incapacity — is **legally valid**

What Is Permitted vs. Prohibited

Category	Status in India
Passive euthanasia (withdrawing life support for terminally ill)	**PERMITTED** — *Common Cause 2018*
Advance Directive (Living Will)	**VALID** — *Common Cause 2018*
Active euthanasia (lethal injection to end life)	**NOT PERMITTED** — remains illegal
Physician-assisted suicide	**NOT PERMITTED**
Attempt to suicide	Decriminalised — Mental Healthcare Act 2017, Sec 115

Procedure for Advance Directive — Post-2023 Simplification

The SC's **2023 modification** (to address impracticality of 2018 guidelines) now requires:

Written document (advance directive) in the presence of two witnesses

Countersigned by a **Notary** or **Gazetted Officer** (earlier required Judicial Magistrate — onerous)

Intimated to the treating doctor and the next of kin

No central registry exists — document accessibility remains a practical challenge

Earlier Jurisprudence

Aruna Ramchandra Shanbaug v. Union of India (2011):

Aruna Shanbaug — Mumbai nurse who was in a **persistent vegetative state for 42 years** after a sexual assault in 1973

SC allowed passive euthanasia in specific cases; permitted close associates/family to petition courts for withdrawal of treatment

Aruna Shanbaug died naturally in 2015 — case became the foundation for *Common Cause*

P. Rathinam v. Union of India (1994): SC held Section 309 IPC (attempt to suicide) was unconstitutional — reading right to die into Art. 21 **Gian Kaur v. State of Punjab (1996):** Five-judge bench reversed *P. Rathinam* — held right to life doesn't include right to die

Decriminalisation of Suicide Attempt

Mental Healthcare Act, 2017, Section 115: Person who attempts suicide is presumed to be under severe stress — shall not be tried under Section 309 IPC. A rebuttable presumption in favour of mental illness replaces criminal liability.

IMPLEMENTATION GAP — WHY THE RIGHT REMAINS THEORETICAL

No central registry — advance directives are paper documents; inaccessible to doctors treating an unconscious patient in an emergency

Hospital culture — doctors and hospitals reluctant to act on advance directives; fear of liability; institutional pressure to "do everything"

Family dynamics — families often override patient wishes; no mechanism for doctors to protect patient autonomy against family pressure

Religious and social norms — death is heavily ritualised; allowing a person to die is perceived as abandonment rather than dignity

Medical education gap — palliative care is not mainstreamed; most medical curricula do not train doctors in end-of-life conversations

International Comparison

Country	Status
Netherlands	Active euthanasia legal (since 2002); strict safeguards; 8,000+ cases/year
Belgium	Active + physician-assisted suicide legal; extended to children (2014)
UK	Passive euthanasia/withdrawal of treatment permitted; **Mental Capacity Act 2005** gives statutory force to advance directives
USA	*Washington v. Glucksberg (1997)*: No constitutional right to assisted suicide; state-by-state laws
Canada	MAID (Medical Assistance in Dying) legal since 2016 — Bill C-14; expanded 2021

UPSC RELEVANCE

Common Cause v. UoI (2018) — 5-judge bench; Art. 21; passive euthanasia; advance directive / living will; *Aruna Shanbaug v. UoI (2011)*; Mental Healthcare Act 2017, Sec 115; Sec 309 IPC (attempt to suicide) decriminalised.

MAINS GS-2:

Fundamental rights — Art. 21 evolution; judicial vs. legislative roles in rights protection; implementation gap.

MAINS GS-4:

Bioethics — euthanasia; patient autonomy vs. state interest; medical ethics.

ESSAY:

"The quality of a nation's humanity is measured not only by how it treats the living, but how it permits the dying to die."

📌 FACTS CORNER — KNOWLEDGEPEDIA

COMMON CAUSE V. UNION OF INDIA (2018):

Bench: **5-judge Constitution Bench**

Held: Right to die with dignity = fundamental right under **Art. 21**

Recognised: **Passive euthanasia** (withdrawal of treatment) + **Advance Directive (Living Will)**

Did NOT permit: Active euthanasia, physician-assisted suicide

ARUNA SHANBAUG CASE (2011):

Full name: *Aruna Ramchandra Shanbaug v. Union of India*

Aruna Shanbaug: Mumbai nurse; **vegetative state for 42 years** after 1973 assault

SC allowed passive euthanasia by court order in specific cases

Shanbaug died naturally in **May 2015**

ADVANCE DIRECTIVE — POST-2023 PROCEDURE:

Signed in presence of **2 witnesses** + countersigned by **Notary or Gazetted Officer**

Earlier requirement (2018): Judicial Magistrate attestation — **simplified in 2023**

No central registry (major implementation gap)

SUICIDE — LEGAL POSITION:

Sec 309 IPC: Attempt to suicide (punishable) — effectively decriminalised by MHA 2017

Mental Healthcare Act 2017, Sec 115: Attempt to suicide = presumption of severe mental stress; no prosecution

P. Rathinam (1994): SC read right to die into Art. 21 — **overruled** by *Gian Kaur (1996)*

Common Cause (2018): Distinguished right to die **with dignity** (permitted) from right to suicide (not permitted)

TYPES OF EUTHANASIA:

Passive euthanasia: Withholding/withdrawing treatment — **PERMITTED in India**

Active euthanasia: Administering lethal dose — **NOT permitted**

Voluntary: At patient's request; **Involuntary**: Without patient consent; **Non-voluntary**: Patient cannot consent

Physician-Assisted Suicide (PAS): Doctor provides means; patient acts — NOT permitted

OTHER RELEVANT FACTS:

India has **no statute** on passive euthanasia/advance directives — framework is entirely SC guideline-based

Palliative care: WHO estimates 40 million people need palliative care annually; India's coverage is very low

Dignitas (Switzerland): Organisation assisting non-citizens with assisted dying — several Indians have sought access

ICMR ethical guidelines: Some guidance on end-of-life care but not legally binding

Netherlands: First country to legalise euthanasia (2002); ~8,000+ cases annually

🔴 LATEST UPDATE — HARISH RANA V. UNION OF INDIA (MARCH 11, 2026)

Eight years after *Common Cause* and five years after the 2021 SC order urging legislation, Parliament has still not acted. On **March 11, 2026**, the Supreme Court converted theory into lived reality for the first time — permitting the withdrawal of life support from **Harish Rana**, a 32-year-old who had been in a Persistent Vegetative State (PVS) for 13 years after a 2013 building fall.

New Case Facts

Parameter	Details
Case	*Harish Rana v. Union of India (2026)*
Bench	Justice **J.B. Pardiwala** + Justice **K.V. Viswanathan**
Date	March 11, 2026
Patient	32 years; PVS for 13 years; sustained by PEG (feeding) tube
Original denial	Delhi High Court rejected petition — held PVS ≠ terminal illness
SC ruling	Permitted withdrawal; CANH = **medical treatment** (not basic care); waived 30-day cooling period
Post-ruling	Patient transferred to **AIIMS Delhi palliative care** department

What This Ruling Adds to the Legal Framework

1. PVS confirmed as qualifying condition: The Delhi HC had drawn a line between terminal illness and vegetative state. The SC ruled that the absence of terminal illness does not bar passive euthanasia — what matters is irreversibility and the patient's best interests. This directly resolves the most common definitional ambiguity courts had faced.

2. CANH = medical treatment: The Court firmly classified Clinically Assisted Nutrition and Hydration (feeding tubes, IV fluids) as medical treatment requiring professional expertise — not as "basic care" like washing or positioning a patient. This matters because hospitals had argued that withdrawing nutrition is different from withdrawing a ventilator.

3. Parens Patriae invoked: Since Rana could not consent, the Court exercised its *Parens Patriae* jurisdiction (court as guardian for those who cannot protect themselves) — important precedent for future cases where patients leave no advance directive.

4. 30-day cooling period waived: The *Common Cause* guidelines require a 30-day waiting period after a medical board decision. The SC waived this given unanimous agreement among all parties — showing that procedural requirements can be adapted to individual circumstances.

5. Repeated call for legislation: The bench again urged Parliament to enact a comprehensive statute — noting that requiring Supreme Court petitions for individual cases is unsustainable, expensive, and inaccessible to ordinary Indians.

What Remains Unresolved

Despite the Harish Rana breakthrough, the **legislative vacuum persists**:

- Still no **Medical Treatment of Terminally Ill Patients Act**
- Still no **digital Living Will registry** — a patient's advance directive may never reach the treating doctor in an emergency
- Still no **standardised Medical Board protocol** across states and hospitals
- Still no **legal immunity provision** for doctors who withdraw life support in compliance with court guidelines — creating a chilling effect on medical compliance
- **Palliative care** remains critically underfunded — India has approximately 1 palliative care specialist per 1 million patients

The Updated Interview Angle

The Harish Rana case adds a new dimension to the standard interview question: *"For the first time, India has a court-approved passive euthanasia death. The SC's repeated call for legislation has gone unheeded for 8 years. Why has Parliament been unable or unwilling to legislate on this issue — and what would a good law look like?"*

📌 LATEST FACTS — HARISH RANA UPDATE:

First court-approved passive euthanasia in India: **March 11, 2026**

Bench: Justice J.B. Pardiwala + Justice K.V. Viswanathan

CANH newly confirmed as **medical treatment** (not basic care)

Parens Patriae doctrine: court as guardian for incapacitated patients

30-day cooling period: waivable by SC where all parties agree

Transferred to: AIIMS Delhi palliative care department

Delhi HC had rejected: distinguished PVS from terminal illness — SC overruled

Net sequence: P. Rathinam (1994) → Gian Kaur (1996) → Aruna Shanbaug (2011) → Common Cause (2018) → 2023 simplification → **Harish Rana (2026) — first application**

Source: The Hindu, Vajiram & Ravi, Al Jazeera, SCC Online

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