

THE TRAVESTY OF JUSTICE IS HIGHLIGHTED IN THE PRESS CONFERENCE HELD BY LFHRI

PRESS RELEASE

The rejection of the mercy petition of Devinder Pal Singh Bhullar by the Hon'ble President of India and recent dismissal of the petition by the Hon'ble Supreme Court of India has thrown many important issues open to the public domain.

The decision of the Hon'ble Supreme Court of India dated 22.3.2002, when one out of the Hon'ble three judges who upheld the death sentence of Devinder Pal Singh Bhullar, namely Justice M.B. Shah acquitted Bhullar of his offences was an serious error of law. Moreover the conviction being based on a confessional statement made by Bhullar while in police custody, which he had recanted later on in the court on the allegations of the same being outcome of coercion and torture, is also a matter of great criticism in the legal circles.

That the mercy petition of Bhullar was dismissed in May 2011 which was during the time when Bhullar had already moved the Hon'ble Supreme Court of India for conversion of his death sentence to life imprisonment on the basis of Constitutional Bench of the Hon'ble Supreme Court of India namely Triveni Ben Versus State of Gujarat which laid down the law in 1989, that the courts had the powers to commute the death sentences to life imprisonment on the basis of in ordinate / long delay by the office of the Hon'ble President of India in deciding the mercy petition. Though the Hon'ble Supreme Court of India did not define what an in-ordinate delay would be, but the Hon'ble Supreme Court of India and various High Courts of the Country have been converting the death sentence of prisoners to life imprisonment just on the basis of the delay in decision of the President's office on the mercy petitions.

That the recent judgment of the Hon'ble Supreme Court of India which has been delivered on 12.4.2013 through which the case of Devinder Pal Singh Bhullar has been rejected by the Hon'ble Supreme Court of India raises certain questions which are worth consideration and areas below:

i) When the Five Judge Constitutional Bench of the Hon'ble Supreme Court of India decided in 1989 that in ordinate / long delay in execution of death sentences gives a right to the accused to invoke the jurisdiction of the court for protection of his fundament rights as enshrined under Article 21 of Constitution of India, so how a two judges bench of the Hon'ble Supreme Court could dilute the spirit of the judgment by giving reasons that the cases which involved terrorism could not be given such concessions of conversion of their death sentence to life imprisonment. Did the Hon'ble Judges want to say that the people who are accused of acts of terrorism have no fundamental rights and cannot claim protection of their rights as enshrined under Article 21 of Constitution of

India. Can their life and liberty be jeopardized by taking the plea of them falling in exceptional classes ?. Till date the Hon'ble Supreme Court through its Constitutional Benches and specially to quote the judgment of the case of Kartar Singh Vs. State of Punjab in 1994 which was a Five Judges Constitutional Bench and which though upheld the TADA Act to be Constitutional but still held that the accused of TADA offences enjoyed fundamental rights under Article 21 of Constitution of India, while dealing with the issues like, Right of speedy trial and How confessional statements are to be recorded.

ii) That the Hon'ble Supreme Court of India failed to take cognizance of the fact that Devinder Pal Singh Bhullar was admitted in the Mental Hospital since last more than two years as he was mentally sick and the sickness had been an outcome of his long solitary confinement in the dingy cells of Tihar Jail. The Hon'ble Judges failed to take cognizance of this fact and have merely considered the medical certificate and the record of the mental hospital to be not serious enough to reach to a conclusion that Bhullar was seriously mentally sick and therefore cannot be hanged. Devinder Pal Singh Bhullar is admitted in Mental Hospital New Delhi since January 2011 and this fact seems to have been missed by the Hon'ble judges.

That the procedure being adopted by the Central Government which recommends the cases of death sentence victims to the President of India also needs to be reviewed, as the office of the Hon'ble President of India is totally dependent upon the information being supplied by the Home Ministry to the President's office and in the case of Devinder Pal Singh Bhullar this has come on record that the mental health of Devinder Pal Singh Bhullar and his physical deceases had not been put before the Hon'ble President of India, due to which the decision of the President of India could not be made while taking into consideration all the facts which are necessary to be considered by the office of the President in reaching to a just decision of a particular case.

That the powers of President of India under Article 72 of Constitution of India as have been rightly referred by the Hon'ble Supreme Court is dependent upon the facts placed before the President of India by the Home Ministry and in the case of Devinder Pal Singh Bhullar and even the case of Dharam Pal another accused facing death penalty in Haryana, who had been acquitted of the rape charges, which formed bases of his being given death sentence was not brought to the notice of the Central Government by the State of Haryana and was also not placed before the Hon'ble President of India and so these two cases have shown that the Central Government as well as the State governments are not performing their duties in the right manner and the office of the President of India being dependent upon Central and State authorities are not being informed of the full facts, resulting into injustice to the victims of death penalty.

NAVKIRAN SINGH

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ADVOCATE

GENERAL SECRETARY

LAWYERS FOR HUMAN RIGHTS INTERNATIONAL.