Supreme Court's Legal Status to Advance Medical Directives

Why in news?

In a recent order, Supreme Court (SC) modified the directions of passive euthanasia thus simplifying the procedure.

What is Euthanasia?

- **Euthanasia** is a painless killing of a patient suffering from an incurable and painful disease or in an irreversible coma.
- It is also known as Mercy killing or assisted suicide.
- There are two different types of euthanasia
- In **active euthanasia**, medical professionals, or a relevant authority, deliberately act upon a patient's desire (such as giving an injection or medication) to cause the patient to die.
- In **passive euthanasia**, the patient dies because the mechanism that keeps the patient alive is removed (life-support machines, feeding tube, a life-extending operation, and drugs).

Aruna Shanbaug case - *In 2011, the Supreme Court, in a landmark judgement, issued a set of broad guidelines legalizing passive euthanasia in India.*

What is the decision of the SC on passive euthanasia?

- **2018 Direction -** The Supreme Court granted legal status to the concept of 'advance medical directives' in 2018 and allowed passive euthanasia subject to stringent safeguards.
- The executor should name a guardian or a close relative who would be authorised to give consent to refuse or withdraw medical treatment in the event of the executor becoming incapable of a decision.
- The magistrate was tasked with informing family members about the document, in case they are not present at the time of its being executed.
- The district Collector should constitute the second medical board.
- **Current Order**- Supreme Court modified the directions of passive euthanasia that no more needs to be countersigned by a judicial magistrate.
- Instead it could be attested before a notary or a gazetted officer.
- Now, the executor could name more than one guardian or relative to give consent to refuse or withdraw medical treatment.
- The persons themselves have to hand over a copy of the advance directive to the guardians or close relatives named in it, as well as to the family physician.
- **Primary medical board** - The new guidelines require the hospital to constitute a

primary medical board to certify whether the instructions on refusal or withdrawal of treatment is carried out.
- **The secondary board** – It should formed by the hospital consisting of a doctor nominated by the district's chief medical officer and district collector is not needed to form the it.

How significant is the current SC directive?

- **Right to die** - The apex court had recognised the right to die with dignity as a fundamental right and laid down guidelines for terminally-ill patients to enforce the right.
- **Aid in framing a legislation** - Guidelines included are useful in the advanced recent directive so the time has come for the Parliament to came out with a comprehensive law to provide for the above.
- **Addressed the shortfalls** - Allowing individual living will and framing the appropriate guidelines has addressed the earlier shortfalls with taking forward passive euthanasia.
- **Simplified procedure** - The present judgement observed that the previous judgement had complex procedure to get approval for passive euthanasia.
- This consequently made the dignity of a dying person dependent on the whims and will of third parties.

Quick facts

- **Advanced directives-** the directions of passive euthanasia that need not to be countersigned by a judicial magistrate instead it could be attested before a notary or a gazetted officer.
- This consequently made the dignity of a dying person dependent on the whims and will of third parties.
- **Living will –** if the executor is incapable to make decisions for his/her living will it can be decided by their close relatives or guardians.

Reference

1. The Hindu | SC's legal status to advance medical directives

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