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PRESS RELEASE

India: Commutation of another death sentence must spur rethink on death penalty

A decision by India's Supreme Court today to commute the death sentence of Devender Pal Singh Bhullar, on the grounds of mental illness and delay in the disposal of his mercy petition, should lead authorities to reconsider the use of the death penalty in India, Amnesty International India said today.

“With this ruling, the Supreme Court has now commuted 19 death sentences in 2014. Authorities should use the momentum generated by these decisions to establish a moratorium on executions and move toward abolishing the death penalty altogether”, said Shashikumar Velath, Programmes Director, Amnesty International India.

Devender Pal Singh Bhullar was sentenced to death in August 2001 for his involvement in a bomb attack in New Delhi in 1993 that killed nine people. His trial fell far short of international standards for a fair trial. The President of India rejected Devender Pal Singh Bhullar's mercy petition in May 2011, eight years after the request was filed.

Devender Pal Singh Bhullar has been receiving treatment at a psychiatric facility in New Delhi since 2010. In May 2013, a medical panel set up to assess his condition stated that he was suffering from a form of psychosis. Another medical panel examined Devender Pal Singh Bhullar in December 2013, and found that his symptoms of psychosis had continued, and “chances of his full recovery remain poor.”

In January 2014, India's Supreme Court had commuted the death sentences of 16 people on the ground of delay in the disposal of their mercy petitions, and two persons on the ground that they suffered from mental illness. The Court said undue or inordinate delay in the execution of a death sentence would be a ground for commutation, and that the execution of people suffering from mental illness would be unconstitutional.

International standards call on states to refrain from imposing the death penalty against persons with mental disabilities. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that "international law prohibits the capital punishment of mentally retarded or insane persons".

Case Background:

Devender Pal Singh Bhullar was arrested in January 1995 under the Terrorist and Disruptive Activities (Prevention) Act (TADA), a law that subsequently lapsed, and contained provisions

incompatible with international fair trial standards. The Supreme Court confirmed the conviction and death sentence in March 2002, although one of the three judges found him not guilty, saying there was no evidence to convict him.

He had no access to a lawyer during his initial detention and trial. He was found guilty on the basis of an unsubstantiated confession made to the police, which he later retracted, claiming it was a false confession made under police pressure.

Devender Pal Singh Bhullar challenged the President's rejection of his mercy petition before the Supreme Court, seeking commutation of his death sentence on the grounds of inordinate delay in its consideration. The Supreme Court rejected his plea in April 2013, stating that prisoners convicted of terrorism-related offences could not appeal for commutation on grounds of inordinate delay.

However, in January 2014, a larger bench of the Supreme Court declared this decision to be bad in law. Following this judgement, the Supreme Court allowed the hearing of another petition filed by Devender Pal Singh Bhullar seeking commutation of his sentence. A fresh mercy petition seeking commutation of his sentence is also pending before the President of India.

In January 2014, the Lieutenant Governor of Delhi recommended that Devender Pal Singh Bhullar's death sentence be commuted, saying, "On principles of human morals and natural justice I cannot bring myself to recommend the rejection of the mercy petition."

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