

# GUIDELINES ISSUED BY HON'BLE SUPREME COURT FOR EXPEDITING EXECUTION OF DEATH SENTENCE

By Institutional Article

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The Hon'ble Supreme Court in **State of Maharashtra & ors. v. Pradeep Yashwant Kokade & anr., 2024 INSC 947** has issued directions regarding curbing delay in execution of death sentence. The judgment entails guidelines for various stakeholders. The guidelines pertaining to the Sessions Court are reproduced below:

The Sessions Court shall endeavor to follow the following guidelines:

- a. As soon as the order of the High Court confirming or imposing the death sentence is received by the Sessions Court, a note thereof must be taken, and the disposed of case shall be listed on the cause list. The proceedings can be numbered as Misc. Application depending upon the applicable Rules of the procedure. The Sessions Court shall immediately issue notice to the State Public Prosecutor or the investigating agency calling upon them to state whether any appeal or special leave petition has been preferred before this Court and what is the outcome of the said petition/appeal;
- b. If the State Public Prosecutor or the investigating agency reports that the appeal is pending, as soon as the order of this Court confirming or restoring the death sentence is received by the Sessions Court, again, the disposed of case or miscellaneous applications should be listed on the cause list and notice be issued to the State Public Prosecutor or the investigating agency to ascertain whether any review/curative petitions or mercy petitions are pending. If information is received regarding the pendency of review/curative petitions or mercy petitions, the Sessions Court shall keep on listing the disposed of case after intervals of one month so that it gets the information about the status of the pending petitions. This will enable the Sessions Court to issue a warrant for the execution of the death sentence as soon as all the proceedings culminate;
- c. However, before issuing the warrant, notice should be issued to the convict, and the directions issued by the Allahabad High Court in the case of **People's Union for Democratic Rights (PUDR) v. Union of India, AIR 1982 SC 1473**, and as elaborated above, shall be implemented by the Sessions Court;
- d. The Sessions Courts shall consider what is held in Paragraph 25 above; (which is reproduced hereunder)

The proceedings for issuing a warrant for executing a death sentence under Sections 413 and 414 of the CrPC do not require any judicial adjudication. Before issuing the warrant, the Sessions Court must satisfy itself that the order of death sentence has attained finality and the review/curative or mercy petitions, if filed, have been finally rejected. Before issuing a warrant, the Sessions Court has to issue notice to the convict so that even the convict can state whether any other proceedings are pending before the Courts or Constitutional authorities. In a given case, the convict may not be interested in pursuing remedies. The Sessions Court can verify this aspect after issuing a notice to the convict. The Sessions Court, in such a case, must appraise the convict of the remedies available and, if required, provide legal aid to enable the convict to take recourse to such remedies. After the convict has been made aware of the remedies available, reasonable time be granted to the convict to consider, weigh and even consult a member of his family or friend to finally take a decision on adopting remedies as the possibility of thinking logically and rationally may be impeded or hampered because of the situation being faced by the convict. The Sessions Court can issue a warrant only after providing such reasonable time to the convict and after satisfying itself that the convict has taken a conscious decision of not pursuing the available remedies. The reasonable time can be of seven days. The Sessions Court can direct the counselling of the convict if it is not satisfied that the decision is a well-informed, considered and conscious decision. If such a procedure is followed, it enables the convict to take recourse to the available legal remedy. Moreover, if an order of issue of warrant of execution is passed after notice to the convict, it enables the convict to challenge the order of issuing a warrant of execution. But after the convict exhausts all remedies, including filing mercy petitions or after the Sessions Court is satisfied that the convict has taken a conscious decision of not availing the remedies, the execution warrant must be issued without any delay. It is the responsibility of the trial court to take up and conclude the proceedings of issuing a warrant of execution as expeditiously as possible. The trial court must give necessary out of turn priority.

- e. Copies of the order issuing the warrant and the warrant shall be immediately provided to the convicts, and the Prison authorities must explain the implications thereof to the convicts. If the convict so desires, legal aid be immediately provided to the convicts by the Prison authorities for challenging the warrant. There shall be a gap of fifteen clear days between the date of the receipt of the order as well as warrant by the convict and the actual date of the execution; and,
- f. It shall also be the responsibility of the concerned State Government or the Union Territory administration to apply to the Sessions Court for the issuance of a warrant immediately after the death penalty attains finality and becomes enforceable.